



HIGH COURT BULLETIN

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A record of recent High Court of Australia cases: decided, reserved for judgment, awaiting hearing in the Court's original jurisdiction, granted special leave to appeal, refused special leave to appeal and not proceeding or vacated

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SUMMARY OF NEW ENTRIES

[1: Cases Handed Down](#)

Case	Title
Alqudsi v The Queen	Constitutional Law
Betts v The Queen	Criminal Law
Hall v Hall	Family Law
Robinson Helicopter Company Incorporated v McDermott & Ors	Torts

[2: Cases Reserved](#)

Case	Title
Cunningham & Ors v Commonwealth of Australia & Anor	Constitutional Law
Zefi v The Director of Public Prosecutions; Jakaj v The Director of Public Prosecutions;	Criminal Law

<u>Stakaj v The Director of Public Prosecutions; NH v The Director of Public Prosecutions</u>	
<u>Graham v The Queen</u>	Criminal Law
<u>Sio v The Queen</u>	Criminal Law
<u>Minister for Immigration and Border Protection & Anor v SZSSJ & Anor; Minister for Immigration and Border Protection & Ors v SZTZI</u>	Migration
<u>Deal v Kodakkathanath</u>	Workers Compensation

4: Special Leave Granted

Case	Title
<u>Bucca v The Queen</u>	Criminal Law
<u>Castle v The Queen</u>	Criminal Law
<u>New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act</u>	Land
<u>Kendirjian v Lepore & Anor</u>	Negligence
<u>Ainsworth & Ors v Albrecht & Anor</u>	Procedure
<u>Commissioner of State Revenue v ACN 005 057 379 Pty Ltd</u>	Taxation

1: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the June 2016 sittings.

Constitutional Law

Alqudsi v The Queen

S279/2015: [\[2016\] HCA 24](#).

Judgment delivered: 15 June 2016

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ.

Catchwords:

Constitutional law (Cth) – Trial by jury – Trial on indictment for offence against Commonwealth law – Where applicant pleaded not guilty in Supreme Court to charges on indictment under Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth) – Where applicant sought trial by judge order under State law empowering State courts to order trial by judge alone – Whether application of State law to applicant's trial inconsistent with Constitution, s 80.

High Court – Stare decisis – Whether *Brown v The Queen* (1986) 160 CLR 171 should be re-opened and overruled.

Words and phrases – "elective mechanism", "indictment", "interests of justice", "shall be by jury", "State court principle", "trial by judge alone", "trial by judge order", "trial by jury", "trial on indictment", "waiver of trial by jury".

Constitution – s 80.

Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth) – ss 7, 9A.

Judiciary Act 1903 (Cth) – s 68.

Criminal Procedure Act 1986 (NSW) – s 132.

Held: Questions answered.

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Criminal Law

Betts v The Queen

[S281/2015: \[2016\] HCA 25.](#)

Judgment delivered: 15 June 2016.

Coram: French CJ, Kiefel, Bell, Gageler and Gordon JJ.

Catchwords:

Criminal law – Sentencing – Where appellant appealed against severity of sentences – Where additional material produced by appellant admitted on "usual basis" that it may be taken into account if appellate court came to re-sentence – Where additional material contained evidence inconsistent with appellant's case at sentence hearing – Where appellate court found error, engaged in re-sentencing appellant and refused to take into account additional material – Whether miscarriage of justice occasioned.

Words and phrases – "fresh evidence", "miscarriage of justice", "power of remittal", "re-sentencing discretion", "supplemental powers", "usual basis".

Criminal Appeal Act 1912 (NSW) – ss 5(1)(c), 6(3), 12.

Appealed from NSWSC (CCA): [\[2015\] NSWCCA 39.](#)

Held: Appeal dismissed.

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Family Law

Hall v Hall

[A7/2016: \[2016\] HCA 23.](#)

Judgment delivered: 8 June 2016

Coram: French CJ, Gageler, Keane, Nettle and Gordon JJ.

Catchwords:

Family law – *Family Law Act 1975 (Cth)* – Spousal maintenance – Conditions for making or discharge of interim spousal maintenance orders – Interim spousal maintenance order in favour of wife – Application to discharge by husband – Where wife's father's will expressed wish that wife receive voluntary annual payment from family business controlled by wife's brothers – Meaning of "financial

resources" under s 75(2)(b) – Whether confined to present legal entitlements – Whether finding open on evidence that wife able to support herself adequately – Whether just cause for discharge of spousal maintenance order.

Courts and judges – Procedural fairness – Whether party on notice of possibility of factual finding being made – Whether party denied opportunity to lead further evidence.

Words and phrases – "financial resources", "source of financial support", "support himself or herself adequately".

Family Law Act 1975 (Cth) – ss 72, 74, 75, 83

Appealed from FamCA (FC): [\[2015\] FamCAFC 154](#).

Held: Appeal dismissed with costs.

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Torts

Robinson Helicopter Company Incorporated v McDermott & Ors
B61/2015: [\[2016\] HCA 22](#).

Judgment delivered: 8 June 2016

Coram: French CJ, Bell, Keane, Nettle and Gordon JJ.

Catchwords:

Torts – Negligence – Personal injury – Breach of duty of care – Duty to take precautions against risk – Where first respondent seriously injured in crash of helicopter manufactured by appellant – Where crash resulted from defect caused by third party – Where helicopter subject to multiple routine inspections but defect not detected – Whether appellant's maintenance manual for helicopter provided sufficient instruction to facilitate detection of defect – Whether appellant breached duty of care.

Torts – Negligence – Causation – Where majority of Court of Appeal found multiple possible causes of damage suffered – Whether open to majority of Court of Appeal to find one particular possibility more likely to have occurred than other possibilities – Whether causation established by failure to take precautions against risk other than that which in fact occurred.

Appeal – Rehearing – Where primary judge drew inferences and made findings of fact based on lay and expert evidence – Whether

majority of Court of Appeal erred by overturning primary judge's findings of fact.

Words and phrases – "causation", "contrary to compelling inferences", "glaringly improbable", "incontrovertible facts or uncontested testimony", "real review".

Civil Liability Act 2003 (Q) – ss 9(1)(c), 12.

Civil Aviation Regulations 1988 (Cth) – regs 31, 42V(1), 42ZC.

Appealed from QSC (CA): [\[2014\] QCA 357](#).

Held: Appeal allowed with costs.

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2: CASES RESERVED

The following cases have been reserved or part heard by the High Court of Australia.

Banking

Paciocco & Anor v Australia and New Zealand Banking Group Limited

M219/2015; M220/2015: [\[2016\] HCATrans 9](#); [\[2016\] HCATrans 10](#).

Date heard: 4 February 2016; 5 February 2016.

Coram: French CJ, Kiefel, Gageler, Keane and Nettle JJ.

Catchwords:

Banking and financial institutions – Consumer protection – *Australian Securities and Investments Commission Act 2001* (Cth) s 12CB – *National Consumer Credit Protection Act 2009* (Cth) s 76 and *Fair Trading Act 1999* (Vic) s 8 – Where first appellant was charged 26 late payment fees on two credit card accounts held with respondent – Where there was a disparity between the fee charged and the loss accrued as a consequence of late payment – Whether the terms “unconscionable”, “unfair” and “unjust”, as used in the statutory causes of action available, are intended to extend the common law in respect of standard form consumer contracts – Whether disproportion between the quantum of late payment fees and cost to respondent associated with late payment gives rise to statutory unconscionability, unjustness or unfairness if the fees were not exorbitant from respondent’s perspective.

Appealed from FCA (FC): [\[2015\] FCAFC 50](#).

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Constitutional Law

Murphy & Anor v Electoral Commissioner & Anor

M247/2015: [\[2016\] HCATrans 108](#); [\[2016\] HCATrans 111](#).

Date heard: 11 May 2016; 12 May 2016.

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ

Catchwords:

Constitutional law – Legislative power – Franchise – Constitutional limitations upon power of Parliament to regulate exercise of entitlement to enrol to vote – Date for close of Electoral Rolls in *Commonwealth Electoral Act 1918* (Cth) – Where Act suspends the enrolment or transfer of enrolment of electors in the period between the close of the Rolls and the close of the poll – Whether denial of enrolment effected by Act contravenes constitutional requirement that representatives be "directly chosen by the people" – Whether amendments operated as disqualification from entitlement to vote and, if so, whether disqualification for substantial reason – Relevance of *Roach v Electoral Commissioner* (2007) 233 CLR 162 – Relevance of *Rowe v Electoral Commissioner* (2010) 243 CLR 1.

Questions answered on 12 May 2016. Written reasons of the Court to be published at a future date.

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Cunningham & Ors v Commonwealth of Australia & Anor
S140/2015: [\[2016\] HCATrans 140](#)

Date heard: 16 June 2016

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ.

Catchwords:

Constitution – s 51(xxxi) – *Remuneration and Other Legislation Amendment Act 2011* (Cth) – *Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012* (Cth) – Acquisition of property on just terms – Where applicants are former members of the House of Representatives – Where applicants occupied positions as Ministers of State or where officeholders of the Parliament or of a House of Parliament – Where Parliament reduced the 'retiring allowance' of past members – Where Parliament restricted the number of return trips per year using the 'Gold Pass'.

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Criminal Law

Miller v The Queen; Smith v The Queen; Presley v The Director of Public Prosecutions for the State of South Australia
A28/2015; **A22/2015**; **A17/2015**: [\[2016\] HCATrans 106](#); [\[2016\] HCATrans 107](#).

Date heard: 10 May 2016; 11 May 2016

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ.

Catchwords:

Criminal law – *Criminal Law Consolidation Act 1935* (SA) ss 11, 24(1), 269 - Murder – Intention – Where appellant was convicted of one count of murder and one count of aggravated causing of harm with two others – Where appellant was convicted on the basis of joint criminal enterprise or extended joint criminal enterprise - Where appellant was highly intoxicated – Where evidence was given that this intoxication significantly impaired appellant’s decision-making – Whether appellant was too intoxicated to form the relevant intention for a conviction of murder.

Appealed from SASC (FC): [\[2015\] SASCF 53](#).

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Zefi v The Director of Public Prosecutions; Jakaj v The Director of Public Prosecutions; Stakaj v The Director of Public Prosecutions; NH v The Director of Public Prosecutions
[A16/2016](#); [A15/2016](#); [A19/2016](#); [A14/2016](#): [\[2016\] HCATrans 136](#)

Date heard: 9 June 2016

Coram: French CJ, Kiefel, Bell, Nettle and Gordon JJ.

Catchwords:

Criminal law – procedure – jury – verdict – alternative verdict – exercise of jurisdiction – whether the Supreme Court of a State has an inherent jurisdiction to set aside perfected orders that there be a conviction or acquittal – whether open to the court to admit evidence of the 12 (former) jurors in relation to whether the jury had determined to return a verdict of not guilty of the charge of murder.

Appealed from SASC (CCA): [\[2015\] SASCF 139](#).

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Graham v The Queen
[B14/2016](#): [\[2016\] HCATrans 137](#)

Date heard: 14 June 2016.

Coram: French CJ, Kiefel, Bell, Nettle and Gordon JJ

Catchwords:

Criminal law – misdirection and non-direction – effect of misdirection or non-direction – where the appellant was convicted after a trial of attempted murder – where the defence of self-defence was raised at trial under ss 271(1), 271(2) and 272(1) of the *Criminal Code* – where the trial judge gave detailed directions to the jury about each form of self-defence – where the trial judge provided further directions to the jury at their request – where no redirection was sought at trial – whether the trial judge failed to properly direct the jury as to the defence of self-defence under ss 271(1), 271(2) and 272(1) of the *Criminal Code*.

Appealed from QSC (CA): [\[2015\] QCA 137](#).

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Sio v The Queen

S83/2016: [\[2016\] HCATrans 138](#)

Date Heard: 15 June 2016

Coram: French CJ, Bell, Gageler, Keane and Gordon JJ.

Catchwords:

Criminal law – conviction appeal – armed robbery – joint criminal enterprise – unreasonable verdict – where appellant was acquitted of constructive murder based on the appellant’s participation in a joint criminal enterprise to commit armed robbery – where appellant was convicted of armed robbery with wounding – whether appellant’s conviction on alternative count is inconsistent with acquittal on principle count.

Criminal law – evidence – hearsay rule – accomplice – made admission against interest in police interview – accomplice not available – whether the trial judge was required to take into account the “demonstrable unreliability” of individual representations to determine whether interview was “made in circumstance that made it likely the representation was reliable”.

Appealed from NSWSC (CCA): [\[2015\] NSWCCA 42](#).

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Equity

Crown Melbourne Limited v Cosmopolitan Hotel (Vic) Pty Ltd & Anor

M253/2015: [\[2016\] HCATrans 103](#).

Date heard: 5 May 2016

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ.

Catchwords:

Equity – Promissory estoppel – Where respondent operated restaurants at appellant’s complex – Where the appellant made representations to the respondent that if certain refurbishments were made respondent would be “looked after” when it came time to renew the lease for the premises – Whether an ambiguous representation is capable of founding a promissory estoppel – Whether a promissory estoppel can be found to exist by proving the making and the resiling from a representation made.

Appealed from VSC (CA): [\[2014\] VSCA 353](#).

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Migration

Minister for Immigration and Border Protection & Anor v SZSSJ & Anor; Minister for Immigration and Border Protection & Ors v SZTZI

S75/2016; S76/2016: [\[2016\] HCATrans 133](#)

Date heard: 7 June 2016

Coram: French CJ, Kiefel, Bell, Gageler, Keane, Nettle and Gordon JJ

Catchwords:

Migration – procedural fairness – whether the processes adopted by the Department for considering consequences of release of personal information for protection visa applicant in immigration detention procedurally fair – whether the Full Court erred in finding that s 197C of the *Migration Act 1958* does not apply because the respondent had an accrued right not to be removed from Australia under s 198 until a procedurally fair assessment of his/her non-refoulement claims was conducted – whether Federal Circuit Court has jurisdiction to determine the claims – whether the rules of procedural fairness apply to conduct preparatory to the Minister’s

dispensing powers under s 48B, 195A and 417 – whether the conduct of officers of the Department are capable of generating an obligation of procedural fairness in circumstances in which the rules of procedural fairness would not otherwise apply.

Appealed from FCA (FC): [\[2015\] FCAFC 125](#).

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Workers Compensation

Deal v Kodakkathanath

M252/2015: [\[2016\] HCATrans 135](#)

Date heard: 8 June 2016

Coram: French CJ, Kiefel, Bell, Gageler and Nettle JJ

Catchwords:

Workers compensation – Accident compensation – Occupational Health and Safety Regulations 2007 (Vic) r 3.1.2 (“regulations”) – Where appellant fell off a step ladder whilst attempting to remove large displays from a wall and suffered a knee injury – Whether “associated with” in the phrase “associated with a hazardous manual handling task affecting an employee” requires a close connection between the manual handling task and the anticipated risk – Whether injury is the kind that the regulations are designed to prevent – Whether regulations should be interpreted to apply to an injury occasioned by the stresses or forces involved in the activity.

Appealed from VSC (CA): [\[2015\] VSCA 191](#).

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3: ORIGINAL JURISDICTION

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

Constitutional Law

See [Native Title](#): *Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v State of Queensland*

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Migration

The Maritime Union of Australia & Anor v Minister for Immigration and Border Protection & Anor

[S136/2015](#): *Special case.*

Catchwords:

Migration – Categories of visas – *Migration Act 1958* (Cth) (“Act”) – Where Act contains a regime under which non-citizens working in the offshore resources industries must hold permanent or prescribed temporary visas – Where Minister made two Determinations which excluded some off-shore activities from the regime - Whether Determinations IMMI 14/073 and IMMI 14/074 made pursuant to s 9A(6) of the Act by the Minister are valid.

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Native Title

Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v State of Queensland

[B26/2014](#): *Special case.*

Catchwords:

Native title – Indigenous Land Use Agreement (“ILUA”) – *North Stradbroke Island Protection and Sustainability Act 2011* (Qld) (“Principal Act”) – *North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013* (Qld) (“Amendment Act”) – Amendment Act allowed for renewal of four mining leases for periods longer than those provided in Principal Act

– Amendment Act replaced environmental authority provisions in Principal Act with new s 17 which no longer applied conditions to two mining leases – ILUA registered as area agreement under ss 24CA to 24CL of *Native Title Act 1993* (Cth) (“NTA”) – Whether ILUA binds defendant not to enact ss 9 and 12 of Amendment Act.

Constitutional law – Inconsistency – Commonwealth Constitution, s 109 – Whether Amendment Act is invalid under s 109 of Constitution by reason of inconsistency between Amendment Act and ss 24EA and 87 of NTA.

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4: SPECIAL LEAVE GRANTED

The following cases have been granted special leave to appeal to the High Court of Australia.

Contract

Simic & Ors v NSW Land and Housing Corporation & Ors
S136/2016: [\[2016\] HCATrans 102](#).

Date heard: 5 May 2016 – *Special leave granted*.

Catchwords:

Contract – Letters of credit – Whether a misdescription of the beneficiary of a bank guarantee entitled the bank to refuse to pay out the credit – Whether regard could be had to the underlying contract to confirm the correct description of the beneficiary – Autonomy principle – Principle of strict compliance

Appealed from NSWSC (CA): [\[2015\] NSWCA 413](#)

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Criminal Law

The Queen v Baden-Clay
B33/2016: [\[2016\] HCATrans 110](#).

Date heard: 12 May 2016 – *Special leave granted*.

Catchwords:

Criminal law – Where the respondent was convicted at trial of murdering his wife – Where the Court of Appeal set aside verdict of murder and substituted a verdict of manslaughter – Whether Court of Appeal decision is inconsistent with *R v Ciantar* (2006) 16 VR 26 – Whether the evidence raised an inference that the respondent killed his wife with intent to do her grievous bodily harm or to kill her – Whether evidence was capable of establishing motive relevant to the intention to kill

Appealed from QSC (CA): [\[2015\] QCA 265](#)

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Bucca v The Queen

[A26/2016](#): [2016 HCATrans 121](#).

Date heard: 25 May 2016 – *Special leave granted*.

Catchwords:

Criminal law – Evidence – Confessions and admissions – Application of proviso – Where statement was incorrectly admitted – Misdirection and non-direction

Criminal law – Evidence – Propensity evidence – Possession of firearms – Whether court of appeal erred in holding that evidence regarding the possession of firearms was correctly admitted.

Appealed from SASC (CCA): [\[2015\] SASCF 180](#)

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Castle v The Queen

[A24/2016](#): [2016 HCATrans 121](#).

Date heard: 25 May 2016 – *Special leave granted*.

Catchwords:

Criminal law – Evidence – Confession and admissions – Application of proviso – Whether possibility jury relied on inadmissible statement made by the co-accused to reject oral evidence could be excluded.

Criminal law – Extended joint enterprise – Application of *McAuliffe v The Queen* (1995) 183 CLR 108.

Appealed from SASC (CCA): [\[2015\] SASCF 180](#)

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Competition

Australian Competition & Consumer Commission v Flight Centre Travel Group Limited

[B15/2016](#): [\[2016\] HCATrans 59](#).

Date heard: 11 March 2016 – *Special leave granted*.

Catchwords:

Competition – whether appellant travel agent attempted to induce specific airlines to make a contract, arrangement or arrive at an understanding which had the purpose or effect of substantially lessening competition in a market – consideration of relevant market – characterisation of relevant services supplied by airlines and travel agents – whether airlines and travel agents competed in a market for booking and distribution services, or whether the only relevant market was the market for international passenger air travel services – whether travel agents competed with airlines in that market given they were the agent of the airlines when supplying such services – application of ss 45 and 45A of the *Trade Practices Act 1974* (Cth)

Appealed from FCA (FC): [\[2015\] FCAFC 104](#).

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Discrimination

Lyons v State of Queensland
B16/2016: [\[2016\] HCATrans 60](#).

Date heard: 11 March 2016 – *Special leave granted*.

Catchwords:

Discrimination – direct discrimination – where the appellant, who was deaf, was excluded from jury service by a Deputy Registrar – where the appellant made a complaint of direct discrimination – construction of s 11 of the *Anti-Discrimination Act 1991* (Qld) – where the appellant argues that her impairment was inextricably linked to her requirement of an Auslan interpreter – construction of *Jury Act 1995* (Qld).

Appealed from QCA: [\[2015\] QCA 159](#).

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Land

New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act
S263/2015: [\[2016\] HCATrans 144](#).

Date heard: 17 June 2016 – *Special leave granted on limited grounds.*

Catchwords:

Land – Aboriginal land rights – *Aboriginal Land Rights Act 1983* (NSW) – Claim to Crown Land – Where land had been dedicated to gaol – Where gaol decommissioned but dedications not revoked – Whether land was lawfully occupied within the meaning of s 36(1)(b) of Act.

Appealed from NSWSC (CA): [\[2015\] NSWCA 349](#).

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Negligence

Kendirjian v Lepore & Anor

S117/2015: [\[2016\] HCATrans 141](#); [\[2016\] HCASL 140](#).

Date heard: 17 June 2016 – *Special leave granted.*

Catchwords:

Negligence – Professional negligence – Lawyers – Advocates immunity – Duties and liabilities – Settlement of proceedings – Whether alleged failure to advise in relation to settlement offer was a decision affecting the conduct of the case in Court – application of test in *D’Orta-Ekenaike v Victorian Legal Aid* (2005) 223 CLR 1.

Appealed from NSWSC (CA): [\[2015\] NSWCA 132](#).

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Procedure

Ainsworth & Ors v Albrecht & Anor

B37/2016: [\[2016\] HCATrans 122](#).

Date heard: 25 May 2016 – *Special leave granted.*

Catchwords:

Procedure – *Body Corporate and Community Management Act 1997* (QLD) – Where applicants opposed the first respondent’s application to extend balcony – Whether Court of Appeal erred in holding that adjudicator was required to reach on conclusion on whether the motion should have passed – Whether QCAT was correct in

upholding that adjudicator should have determined whether the 'motion was objectively unreasonable'.

Appealed from QSC (CA): [\[2015\] QCA 220](#).

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Taxation

Hua Wang Bank Berhad v Commissioner of Taxation

S135/2016: [\[2016\] HCATrans 101](#)

Date heard: 5 May 2016 – *Special leave granted*.

Catchwords:

Income Tax – Whether company is resident of Australia – Place of central management and control – Real business – Relevant principles in determining place of central management and control – Profits from sale of shares – Trading stock – Construction of s 70-40(2) of the *Income Tax Assessment Act 1997* (Cth)

Appealed from FCA (FC): [\[2015\] FCAFC 176](#)

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Bywater Investments Ltd & Ors v Commissioner of Taxation

S134/2016: [\[2016\] HCATrans 100](#)

Date heard: 5 May 2016 – *Special leave granted*.

Catchwords:

Income Tax – Whether company is resident of Australia – Place of central management and control – Real business – Relevant principles in determining place of central management and control – Construction of s 70-40(2) of the *Income Tax Assessment Act 1997* (Cth)

Appealed from FCA (FC): [\[2015\] FCAFC 176](#)

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Blank v Commissioner of Taxation

S144/2016: [\[2016\] HCATrans 115](#)

Date heard: 16 May 2016 – *Special leave granted.*

Catchwords:

Income tax – Where appellant participated in profit participation schemes as an employee of company group in foreign countries and in Australia – Where employee allocated ‘profit participation units’ and equal number of shares in holding company – Whether amount assessable as ordinary income or as a capital gain.

Appeal from FCA (FC): [\[2015\] FCAFC 154](#)

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Commissioner of State Revenue v ACN 005 057 379 Pty Ltd

M3/2016; M4/2016: [\[2016\] HCATrans 146.](#)

Date heard: 17 June 2016 – *Special leave granted.*

Catchwords:

Taxation – Land tax – Where Commissioner of State Revenue raised a land tax liability under the *Land Tax Act 1958* (Vic) – Duplication error – Discretionary power of the Commissioner to amend assessments – Where the Commissioner refuses to amend assessments – Whether the issue of a tax assessment creates a tax debt

Appealed from the VSC (CA): [\[2015\] VSCA 332.](#)

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Torts

Prince Alfred College Incorporated v ADC

A20/2016: [\[2016\] HCATrans 89.](#)

Date Heard: 15 April 2016 – *Special leave granted.*

Catchwords:

Torts – Negligence – Negligence of school authorities or teachers – Liability of employer – Limitation of actions – Extension of time in personal injuries matters – Knowledge of material facts of decisive

character – Principles upon which discretion to grant extension of time – Whether Full Court erred in granting extension of time.

Appeal from SASC (FC): [\[2015\] SASCF 161](#)

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Workers Compensation

Comcare v Martin

S142/2016: [\[2016\] HCATrans 116](#)

Date heard: 16 May 2016 – *Special leave granted.*

Catchwords:

Workers compensation – The operation and exclusion in s 5A of the *Safety, Rehabilitation and Compensation Act 1988* (Cth) – Causation of injury, disease or aggravation under the Act – Whether injury, disease or aggravation suffered ‘as a result of’ administrative action – Whether administrative action taken ‘in a reasonable manner’

Appealed from FCA (FC): [\[2015\] FCAFC 169](#)

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5: CASES NOT PROCEEDING OR VACATED

6: SPECIAL LEAVE REFUSED

Publication of Reasons: 31 May 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Meagher	Cunningham & Ors (S133/2016)	High Court of Australia [2016] HCATrans 109	Application dismissed [2016] HCASL 103

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Publication of Reasons: 9 June 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Pettet	Walter James van der Merwe (B10/2016)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 13	Application dismissed [2016] HCASL 104
2.	MZALA	Minister for Immigration and Border Protection & Anor (M36/2016)	Federal Court of Australia [2016] FCA 163	Application dismissed [2016] HCASL 105
3.	SZSLG	Minister for Immigration and Border Protection & Anor (S64/2016)	Federal Court of Australia [2016] FCA 207	Application dismissed [2016] HCASL 106
4.	Bachalikura	Minister for Immigration and Border Protection & Anor (S67/2016)	Federal Court of Australia [2016] FCA 175	Application dismissed [2016] HCASL 107
5.	SCVG	KLD (S68/2016; S69/2016)	Family Court of Australia	Applications dismissed [2016] HCASL 108
6.	SZUAT & Ors	Minister for Immigration and Border Protection & Anor (S74/2016)	Federal Court of Australia [2016] FCA 155	Application dismissed [2016] HCASL 109
7.	SZUGQ	Minister for Immigration and Border Protection & Anor (S101/2016)	Federal Court of Australia [2016] FCA 213	Application dismissed [2016] HCASL 110
8.	ANV15	Minister for Immigration and Border Protection & Anor (M47/2016)	Federal Court of Australia [2016] FCA 261	Application dismissed [2016] HCASL 111
9.	AZABF	Minister for Immigration and Border Protection (A32/2015)	Full Court of the Federal Court of Australia [2015] FCAFC 174	Application dismissed with costs [2016] HCASL 112

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Publication of Reasons: 15 June 2016

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Pawelzik	South Australian Housing Trust (A3/2016)	Full Court of the Supreme Court of South Australia [2015] SASCFC 194	Application dismissed [2016] HCASL 113
	Popczynski	South Australian Housing Trust (A4/2016)	Full Court of the Supreme Court of South Australia [2015] SASCFC 194	Application dismissed [2016] HCASL 113
2.	Doggett & Anor	Commonwealth Bank of Australia (M17/2016)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 351	Application dismissed [2016] HCASL 114
3.	Islam	Minister for Immigration and Border Protection & Anor (S250/2015)	Federal Court of Australia [2015] FCA 1185	Application dismissed [2016] HCASL 115
4.	SZUAH & Anor	Minister for Immigration and Border Protection & Anor (S49/2016)	Federal Court of Australia [2016] FCA 66	Application dismissed [2016] HCASL 116
5.	SZWCO	Minister for Immigration and Border Protection & Anor (S51/2016)	Federal Court of Australia [2016] FCA 51	Application dismissed [2016] HCASL 117
6.	Mbuzi	Griffith University (B12/2016)	Full Court of the Federal Court of Australia [2016] FCAFC 10	Application dismissed [2016] HCASL 118
7.	AMU15	Minister for Immigration and Border Protection & Anor (D2/2016)	Federal Court of Australia [2016] FCA 18	Application dismissed [2016] HCASL 119
8.	Uysal	Mardine (M26/2016)	Full Court of the Family Court of Australia	Application dismissed [2016] HCASL 120
9.	Kumar	Minister for Immigration and Border Protection & Anor (M31/2016)	Federal Court of Australia [2016] FCA 68	Application dismissed [2016] HCASL 121
10.	Margan	Manias (S5/2016)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 388	Application dismissed [2016] HCASL 122
11.	SZTXU	Minister for Immigration and Border Protection & Anor (S58/2016)	Federal Court of Australia [2016] FCA 114	Application dismissed [2016] HCASL 123
12.	Chardon	The Queen (B62/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 186	Application dismissed [2016] HCASL 124

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
13.	Dace	The Estate of the Late A Dace (B75/2015)	Family Court of Australia	Application dismissed with costs [2016] HCASL 125
14.	Paphos Providores Pty Ltd trading as Cool Touch	Constable Aziz Ladha & Ors (S266/2015)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 353	Application dismissed [2016] HCASL 126
15.	SZTED & Anor	Minister for Immigration and Border Protection & Anor (S285/2015)	Federal Court of Australia [2015] FCA 1460	Application dismissed with costs [2016] HCASL 127
16.	Ahmu	The Queen (S21/2016)	Supreme Court of New South Wales (Court of Criminal Appeal) [2014] NSWCCA 312	Application dismissed [2016] HCASL 128
17.	Wende & Ors	Horwath (NSW) Pty Limited & Anor (S27/2016)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 416	Application dismissed with costs [2016] HCASL 129
18.	ResMed Ltd	Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union Known as the Australian Manufacturing Workers' Union (AMWU) & Anor (S29/2016)	Full Court of the Federal Court of Australia [2015] FCAFC 195	Application dismissed with costs [2016] HCASL 130
19.	Donoghue	Commissioner of Taxation (B4/2016; B5/2016)	Full Court of the Federal Court of Australia [2015] FCAFC 183	Application dismissed with costs [2016] HCASL 131
	Donoghue	Deputy Commissioner of Taxation (B6/2016)	Full Court of the Federal Court of Australia [2015] FCAFC 183	Application dismissed with costs [2016] HCASL 131
20.	Hoskin & Anor	Victorian Civil and Administrative Tribunal & Ors (M20/2016)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 350	Application dismissed with costs [2016] HCASL 132
21.	Rose	The Queen (S53/2016)	Supreme Court of New South Wales (Court of Criminal Appeal) [2015] NSWCCA 318	Application dismissed [2016] HCASL 133

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<i>No</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Patel & Anor	Minister for Immigration and Border Protection & Anor (M37/2016)	Federal Court of Australia [2016] FCA 165	Application dismissed [2016] HCASL 134
2.	AAO15	Minister for Immigration and Border Protection & Anor (S245/2015)	Federal Court of Australia [2015] FCA 1291	Application dismissed Limited costs order [2016] HCASL 135
3.	SZUWM & Ors	Minister for Immigration and Border Protection & Anor (S60/2016)	Federal Court of Australia [2016] FCA 92	Application dismissed [2016] HCASL 136
4.	SZUUR & Anor	Minister for Immigration and Border Protection & Anor (S66/2016)	Federal Court of Australia [2016] FCA 123	Application dismissed [2016] HCASL 137
5.	Zepinic	Chateau Constructions (Aust) Limited (S86/2016)	Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 50	Application dismissed [2016] HCASL 138
6.	Visser	The Queen (M245/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 168	Application dismissed [2016] HCASL 139
7.	Nolan	Nolan & Ors (B67/2015)	Supreme Court of Queensland (Court of Appeal) [2015] QCA 199	Application dismissed with costs [2016] HCASL 141
	Nolan	Nolan & Ors (B9/2016)	Supreme Court of Queensland (Court of Appeal) [2016] QCA 5	Application dismissed with costs [2016] HCASL 141
8.	Sloan	The Queen (S37/2016)	Supreme Court of New South Wales (Court of Criminal Appeal) [2015] NSWCCA 279	Application dismissed [2016] HCASL 142
9.	Les Laboratoires Servier & Anor	Apotex Pty Ltd & Anor (S62/2016)	Full Court of the Federal Court of Australia [2016] FCAFC 27	Application dismissed with costs [2016] HCASL 143

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<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Construction, Forestry, Mining and Energy Union & Anor	Anglo Coal Services) Pty Ltd (B71/2015)	(Dawson Federal Court of Australia (Full Court) [2015] FCAFC 157	Application dismissed with costs [2016] HCATrans 148
2.	Box Hill Institute of TAFE	Johnson (M233/2015)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 245	Application dismissed with costs [2016] HCATrans 145
3.	The Queen	Theodoropoulos (M18/2016)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 364	Application dismissed with costs [2016] HCATrans 147
4.	Azam	Idameneo (No 123) Pty Ltd & Ors (S25/2016)	Supreme Court of New South Wales (Court of Appeal) [2015] NSWCA 412	Application dismissed with costs [2016] HCATrans 143

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