



HIGH COURT BULLETIN

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High Court of Australia Library
[2017] HCAB 9 (27 November 2017)

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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1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Van Beelen v The Queen</i>	Criminal Law
<i>Thorne v Kennedy</i>	Family Law
<i>HFM045 v The Republic of Nauru</i>	Migration

3: Cases Reserved

Case	Title
<i>Kalbasi v The State of Western Australia</i>	Criminal Law
<i>Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor</i>	Judicial Review
<i>Maxcon Constructions Pty Ltd v Vadasz & Ors</i>	Judicial Review
<i>Falzon v Minister for Immigration and Border Protection</i>	Migration

4: Original Jurisdiction5: Court of Disputed Returns

Case	Title
<u>Re Nash</u>	Court of Disputed Returns

6: Special Leave Granted

Case	Title
<u>Strickland (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Tucker (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Hodges (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Galloway (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors</u>	Criminal Law
<u>Collins v The Queen</u>	Criminal Law
<u>Nobarani v Mariconte</u>	Probate

7: Cases Not Proceeding or Vacated

Case	Title
<u>Traljesic v Bosnia and Herzegovina & Anor</u>	Extradition
<u>CRI028 v The Republic of Nauru</u>	Migration
<u>YAU026 v The Republic of Nauru</u>	Migration
<u>YAU027 v The Republic of Nauru</u>	Migration
<u>Briggs v State of New South Wales</u>	Negligence

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the November 2017 sittings.

Criminal Law

Van Beelen v The Queen

A8/2017: [\[2017\] HCA 48](#)

Judgment delivered: 8 November 2017

Coram: Bell, Gageler, Keane, Nettle and Edelman JJ

Catchwords:

Criminal law – Appeal against conviction – Second or subsequent appeal – Application for permission to appeal pursuant to s 353A(1) of *Criminal Law Consolidation Act 1935 (SA)* – Where appellant convicted of murder – Where expert evidence of time of death given at trial based on stomach contents of deceased – Where new evidence demonstrated expert estimation of time of death at trial erroneous – Where new evidence required to be fresh and compelling in order to be admitted – Where evidence compelling if reliable, substantial and highly probative in context of issues in dispute at trial – Whether new evidence substantial – Whether new evidence highly probative in context of issues in dispute at trial – Whether in interests of justice to consider new evidence on appeal – Whether admission of evidence based on stomach contents at trial occasioned substantial miscarriage of justice – Whether significant possibility jury acting reasonably would have acquitted had new evidence been before it.

Words and phrases – "compelling", "fresh evidence", "highly probative in the context of the issues in dispute at the trial", "second or subsequent appeal", "substantial", "substantial miscarriage of justice".

Criminal Law Consolidation Act 1935 (SA) – s 353A.

Appealed from SASC (CCA): [\[2016\] SASCF 71](#); (2016) 125 SASR 253

Held: Appeal dismissed

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Family Law

Thorne v Kennedy

B14/2017: [\[2017\] HCA 49](#)

Judgment delivered: 8 November 2017

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

Catchwords:

Family law – Financial agreements – *Family Law Act* 1975 (Cth), Pt VIIIA – Pre-nuptial agreement – Post-nuptial agreement – Where fiancé wealthy – Where fiancée had no substantial assets – Where fiancée moved to Australia for purposes of marriage – Where fiancée had no community or connections in Australia – Where fiancée relied on fiancé for all things – Where pre-nuptial agreement provided to fiancée shortly before wedding – Where fiancé told fiancée that if she did not sign agreement wedding would not go ahead – Where independent solicitor advised fiancée against signing – Where pre-nuptial agreement signed – Where substantially identical post-nuptial agreement signed – Whether agreements voidable for duress, undue influence, or unconscionable conduct – Whether primary judge's reasons adequate.

Words and phrases – "adequate reasons", "duress", "financial agreement", "illegitimate pressure", "independent legal advice", "maintenance order", "post-nuptial agreement", "pre-nuptial agreement", "property adjustment", "special disadvantage", "unconscionable conduct", "undue influence", "vitiating factor".

Family Law Act 1975 (Cth) – ss 90F, 90G, 90K, 90KA.

Appealed from FamFC (FC): [\[2016\] FamCAFC 189](#); [2016] FLC 93-737

Held: Appeal allowed

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Migration

HFM045 v The Republic of Nauru

M27/2017: [\[2017\] HCA 50](#)

Judgment delivered: 15 November 2017

Coram: Bell, Keane and Nettle JJ

Catchwords:

Migration – Refugees – Appeal from Supreme Court of Nauru – Procedural fairness – Where Refugee Status Review Tribunal must act according to principles of natural justice – Where Refugee Status Review Tribunal did not provide appellant with notice of adverse country information relevant to Tribunal's determination on which it ultimately relied – Whether failure by Tribunal to put substance of information to appellant constituted breach of requirements of procedural fairness.

Words and phrases – "complementary protection", "natural justice", "procedural fairness".

Appeals Act 1972 (Nr) – s 44.

Nauru (High Court Appeals) Act 1976 (Cth) – s 5, Schedule, Art 1.

Refugees Convention Act 2012 (Nr) – ss 37, 40(1).

Refugees Convention (Derivative Status & Other Measures) (Amendment) Act 2016 (Nr) – s 24.

Refugees Convention (Amendment) Act 2017 (Nr) – s 4.

Convention relating to the Status of Refugees (1951) as amended by the Protocol relating to the Status of Refugees (1967).

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 12](#)

Held: Appeal allowed

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3: CASES RESERVED

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

Criminal Law

Commissioner of the Australian Federal Police v Hart & Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust & Ors; Commonwealth of Australia & Anor v Flying Fighters Pty Ltd & Ors

[B21/2017](#); [B22/2017](#); [B23/2017](#): [\[2017\] HCATrans 153](#); [\[2017\] HCATrans 155](#); [\[2017\] HCATrans 156](#)

Date heard: 14, 15 and 17 August 2017

Coram: Kiefel CJ, Bell, Gageler, Gordon and Edelman JJ

Catchwords:

Criminal law – Proceeds of crime – *Proceeds of Crime Act* 2002 (Cth) – Where Commonwealth obtained restraining order under s 17 of the Act over property under first respondent’s effective control – Where first respondent subsequently found guilty of nine offences of defrauding the Commonwealth – Where property forfeited to Commonwealth under s 92 – Where Commonwealth granted pecuniary penalty order (PPO) against first respondent under s 116 – Where Commonwealth sought declaration under s 141 that forfeited property available to satisfy PPO – Where primary judge dismissed application under s 141 on discretionary grounds – Where majority of Court of Appeal dismissed Commonwealth’s appeals on basis that s 141 did not apply to property the subject of a restraining order under s 17 – Whether majority of Court of Appeal erred in holding that s 141 does not apply to property subject to restraining orders under s 17 – Whether majority of Court of Appeal erred in construing date of effective control under s 141(1)(c) as date on which application is determined notwithstanding that property was subject of restraining orders under s 17 – Whether majority of Court of Appeal erred in construing words “not ... derived or realised ... by any person from any unlawful activity” in s 102(3)(a) as meaning wholly derived or wholly realised from unlawful activity.

Appealed from QSC (CA): [\[2016\] QCA 215](#); (2016) 336 ALR 492; (2016) 314 FLR 1 and [\[2016\] QCA 284](#)

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Kalbasi v The State of Western Australia

P21/2017: [\[2017\] HCATrans 224](#)

Date heard: 7 November 2017

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

Catchwords:

Criminal law – Appeal against conviction – *Criminal Appeals Act 2004* (WA) s 30(4) – Where appellant convicted of attempt to possess prohibited drug with intent to sell or supply contrary to *Misuse of Drugs Act 1981* (WA) ss 6(1)(a), 33(1) – Where Court of Appeal concluded jury directions on intention erroneous as presumption of intent to sell or supply under s 11 of Act did not apply, but held no substantial miscarriage of justice – Whether Court of Appeal erred in finding no substantial miscarriage of justice and applying proviso – Whether *Weiss v The Queen* (2005) 224 CLR 300 should be revisited and/or qualified and/or overruled.

Appealed from WASC (CA): [\[2016\] WASCA 144](#)

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Industrial Law

Aldi Foods Pty Limited v Shop, Distributive & Allied Employees Association & Anor

M33/2017: [\[2017\] HCATrans 149](#)

Date heard: 9 August 2017

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

Catchwords:

Industrial law – Jurisdictional error – *Fair Work Act 2009* (Cth) – Approval of enterprise agreements – Where enterprise agreement approved by Deputy President of Fair Work Commission – Where appeal dismissed by Full Bench of Fair Work Commission – Where majority of Federal Court held employees not “covered by the agreement” as required by Act – Where majority also held Full Bench erred in finding agreement satisfied “better off overall test” under s 193 – Whether majority erred in finding Fair Work Commission fell into jurisdictional error in exercising functions under s 186 – Whether majority erred in finding Fair Work

Commission fell into jurisdictional error in determining agreement satisfied "better off overall test".

Appealed from FCA (FC): [\[2016\] FCAFC 161](#); (2016) 245 FCR 155; (2016) 262 IR 329

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Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union & Anor
M65/2017: [\[2017\] HCATrans 202](#)

Date heard: 17 October 2017.

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

Catchwords:

Industrial law – *Fair Work Act* 2009 (Cth) – Where respondents admitted contravention of s 348 of Act – Where pecuniary penalties imposed on respondents – Where primary judge ordered first respondent not to indemnify second respondent against penalties – Where Full Federal Court set aside order on basis that Court had no power to make such order – Whether Federal Court has power to order party not to indemnify another party in respect of pecuniary penalty order made under s 546.

Appealed from FCA (FC): [\[2016\] FCAFC 184](#); (2016) 247 FCR 339; (2016) 341 ALR 383; (2016) 266 IR 151

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Esso Australia Pty Ltd v The Australian Workers' Union; The Australian Workers' Union v Esso Australia Pty Ltd
M185/2016; **M187/2016:** [\[2017\] HCATrans 150](#); [\[2017\] HCATrans 151](#)

Date heard: 10 August 2017

Coram: Kiefel CJ, Gageler, Keane, Nettle and Edelman JJ

Catchwords:

Industrial Law – *Fair Work Act* 2009 (Cth) s 413(5) – Where Australian Workers' Union ("AWU") organised industrial action against Esso Australia Pty Ltd ("Esso") – Where AWU asserted industrial action "protected" under Act – Where Fair Work Commission made order under s 418 stopping disputed industrial action – Where AWU continued to organise industrial action in contravention of order – Where trial judge held that due to

contraventions, all industrial action including forms notionally “protected” could not be “protected” because of operation of s 413(5) – Where trial judge rejected Esso’s claim for injunction restraining AWU from organising further industrial action – Where Full Court rejected appeal by Esso – Whether Full Court erred in concluding s 413(5) only operates where taking or organising industrial action was itself in contravention of order and order still operated and applied to contravention at time of action – Whether Full Court erred by failing to construe s 413(5) as limited in operation to contraventions where contravening conduct continuing or occurring at time of organising or taking industrial action.

Industrial Law – *Fair Work Act 2009* (Cth) ss 343, 348 – Where sections prevent actions being taken “with intent to coerce” other person to take or not take industrial action – Whether majority of Full Court erred in holding contravention of ss 343, 348 may be established without proof of intent to take action that was unlawful, illegitimate or unconscionable – Whether majority of Full Court erred by failing to consider actual intent to take protected industrial action.

Appealed from FCA (FC): [\[2016\] FCAFC 72](#); (2016) 245 FCR 39; (2016) 258 IR 396

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Regional Express Holdings Limited v Australian Federation of Air Pilots

M71/2017: [\[2017\] HCATrans 178](#)

Date heard: 12 September 2017

Coram: Kiefel CJ, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Industrial law – *Fair Work Act 2009* (Cth) – *Fair Work (Registered Organisations) Act 2009* (Cth) – Standing – Where appellant sent letter to unidentified persons who applied for cadet employment program – Where respondent, a registered organisation, commenced proceedings in Federal Circuit Court seeking pecuniary penalty orders against appellant on basis letter contravened various provisions of *Fair Work Act* – Where appellant sought orders dismissing or striking out application on basis respondent lacked standing – Whether respondent “entitled to represent the industrial interests” of letter recipients under s 540(6)(b)(ii) because recipients capable of becoming members of respondent despite not actually being members.

Appealed from FCA (FC): [\[2016\] FCAFC 147](#); (2016) 244 FCR 344; (2016) 264 IR 192

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Judicial Review

Maxcon Constructions Pty Ltd v Vadasz & Ors
A17/2017: [\[2017\] HCATrans 226](#)

Date heard: 9 November 2017

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

Catchwords:

Judicial review – Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 2009* (SA) – Where appellant sought judicial review of adjudicator’s determination – Where Full Court held it was required by *Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89 to follow *Shade Systems Pty Ltd v Probuild Constructions (Aust) Pty Ltd (No 2)* [2016] NSWCA 379 (“*Probuild*”) – Whether Full Court erred in following *Probuild* and concluding Act excluded judicial review on ground of error of law on face of record – Whether Full Court erred in holding error of law in application of s 12 did not amount to jurisdictional error – Whether Full Court erred in holding that, if error enlivened Court’s jurisdiction to grant certiorari, appropriate order would be to partially set aside but partially preserve determination.

Appealed from SASC (CA): [\[2017\] SASFC 2](#); (2017) 127 SASR 193; (2017) 341 ALR 628

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Probuild Constructions (Aust) Pty Ltd v Shade Systems Pty Ltd & Anor
S145/2017: [\[2017\] HCATrans 226](#)

Date heard: 9 November 2017

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

Catchwords:

Judicial review – Jurisdiction – Error of law on face of record – *Building and Construction Industry Security of Payment Act 1999*

(NSW) – Where adjudicator made determination under s 22(1) that progress payment to be paid by appellant – Where primary judge made order in nature of certiorari under s 69 of *Supreme Court Act 1970* (NSW) quashing determination for error of law on face of record – Where Court of Appeal held relief not available to quash determination under Act for error of law on face of record – Whether Court of Appeal erred in holding Supreme Court’s power to make orders in nature of certiorari for error of law on face of record ousted in relation to determinations under Act.

Appealed from NSWSC (CA): [\[2016\] NSWCA 379](#)

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Migration

DWN042 v The Republic of Nauru

M20/2017: [\[2017\] HCATrans 203](#)

Date heard: 18 October 2017

Coram: Keane, Nettle and Edelman JJ

Catchwords:

Migration – *Nauru (High Court Appeals) Act 1976* (Cth) – *Refugees Convention Act 2012* (Nr) – Where appellant applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where appellant appealed to Supreme Court of Nauru – Where Supreme Court struck out two grounds of appeal and first day of hearing – Where grounds struck out alleged that because appellant unlawfully detained contrary to s 5 of Constitution of Nauru, Tribunal failed to afford natural justice or hearing unconstitutional – Where appellant sought leave to appeal to High Court from interlocutory decision striking out grounds of appeal – Where High Court dismissed application after reassurances respondent would not seek to rely on interlocutory decision – Whether Supreme Court erred in failing to consider motion seeking reinstatement of grounds of appeal – Whether High Court lacks jurisdiction because grounds involve interpretation of Constitution of Nauru – Whether Supreme Court erred in finding Tribunal did not err in concluding appellant not entitled to complementary protection – Whether Supreme Court erred in failing to find Tribunal denied appellant procedural fairness by relying on certain evidence.

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 4](#)

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Falzon v Minister for Immigration and Border Protection

S31/2017: [\[2017\] HCATrans 230](#)

Date heard: 14 November 2017

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

Catchwords:

Constitutional law – Migration – *Migration Act* 1958 (Cth) – Where plaintiff held absorbed person visa by operation of s 34 – Where visa cancelled under s 501(3A) on basis plaintiff sentenced to term of imprisonment of 12 months or more – Where Minister decided not to revoke cancellation under s 501CA – Whether s 501(3A) invalid because it purports to confer judicial power of Commonwealth on Minister.

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4: ORIGINAL JURISDICTION

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

Constitutional Law

Alley v Gillespie

[S190/2017](#): *Writ of Summons*

Catchwords:

Constitutional law – Constitution ss 44(v), 46 – *Common Informers (Parliamentary Disqualifications) Act 1975* (Cth) – Whether Court can and should decide whether defendant incapable of sitting as Member of House of Representatives for purposes of s 3 *Common Informers (Parliamentary Disqualifications) Act* – If yes, whether Court should not issue subpoenas directed to forensic purpose of assisting plaintiff in attempt to demonstrate defendant incapable of sitting.

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Migration

Plaintiff M174/2016 v Minister for Immigration and Border Protection

[M174/2016](#): *Special Case*

Catchwords:

Constitutional law – Migration – *Migration Act 1958* (Cth) ss 57(2), 473CA, 473CC – Where plaintiff applied for Temporary Protection (Class XD) (Subclass 785) visa – Where delegate of Minister refused to grant visa – Whether delegate failed to comply with s 57(2) of Act – If so, whether failure to comply with s 57(2) had consequence that there was no decision capable of referral to Immigration Assessment Authority under s 473CA or essential precondition for valid exercise of power by Authority under s 473CC not satisfied – Whether Authority failed to conduct review in accordance with Pt 7AA by unreasonably failing to exercise statutory powers to obtain or consider new information.

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5: COURT OF DISPUTED RETURNS

Re Nash

C17/2017: [\[2017\] HCATrans 234](#)

Date heard: 15 November 2017

Coram: Kiefel CJ, Bell, Gageler, Keane and Edelman JJ

Catchwords:

Constitutional law – Constitution s 44(iv) – Office of profit – Where candidate nominated for election to Senate – Where candidate not elected – Where candidate subsequently appointed as part-time member of Administrative Appeals Tribunal – Where Court of Disputed Returns determined incumbent disqualified from being chosen or sitting as Senator and ordered vacancy be filled by special count of ballot papers – Where Commonwealth filed summons seeking declaration that candidate duly elected – Where candidate immediately resigned from Tribunal following delivery of judgment declaring vacancy – Whether candidate duly elected as senator for place for which incumbent was returned.

Summons dismissed on 15 November 2017.

Written reasons of the Court to be published at a future date.

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6: SPECIAL LEAVE GRANTED

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

Administrative Law

Woollahra Municipal Council v Minister for Local Government & Ors

S141/2017: [\[2017\] HCATrans 108](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Administrative law – *Local Government Act* 1993 (NSW) – Where Minister made proposal under s 218E(1) for forced amalgamation of Woollahra, Waverley and Randwick local government areas – Where Government published document disclosing part of analysis by KPMG – Where Delegate heard evidence in secret from KPMG – Whether obligation to hold inquiry under s 263(2A) did not permit evidence to be heard in secret and not disclosed to public – Whether Court of Appeal erred in failing to find that no prescribed inquiry at which there was examination of required statutory factors had been held – Whether Court of Appeal erred in failing to find that requirement to inquire into financial advantages and disadvantages of proposed amalgamation not discharged without having regard to specific financial advantages and disadvantages to residents and ratepayers of each local government area.

Appealed from NSWSC (CA): [\[2016\] NSWCA 380](#); (2016) 219 LGERA 180

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Constitutional Law

Burns v Corbett & Ors; Burns v Gaynor & Ors; Attorney General for New South Wales v Burns & Ors; Attorney General for New South Wales v Burns & Ors; State of New South Wales v Burns & Ors

S183/2017; **S185/2017**; **S186/2017**; **S187/2017**; **S188/2017**: [\[2017\] HCATrans 136](#)

Date determined: 22 June 2017 – *Special leave granted.*

Catchwords:

Constitutional law – Diversity jurisdiction – Where resident of New South Wales made complaints to Anti-Discrimination Board of NSW about statements made by Victorian resident and Queensland resident – Where Victorian resident ordered to make apologies by Administrative Decisions Tribunal of New South Wales (ADT) – Where complaints against Queensland resident referred to New South Wales Civil and Administrative Tribunal (NCAT) – Where Court of Appeal held ADT and NCAT lacked jurisdiction – Whether Court of Appeal erred in failing to find state diversity jurisdiction retained by state tribunals – Whether Court of Appeal erred in concluding state law purporting to confer jurisdiction upon state tribunal with respect to matters identified in ss 75 and 76 of Constitution inconsistent with s 39(2) of *Judiciary Act* within meaning of s 109 of Constitution – Whether a state can validly confer judicial power in any matters dealt with in ss 75, 76 of Constitution on person or body that is not a “court of a State” – Whether judicial power conferred upon NCAT to determine matters under *Anti-Discrimination Act 1977* (NSW) between residents of different states regarding conduct that occurs outside New South Wales.

Appealed from NSWSC (CA): [\[2017\] NSWCA 3](#); (2017) 316 FLR 448

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Contracts

Pipikos v Trayans

A30/2017: [\[2017\] HCATrans 164](#)

Date heard: 18 August 2017 – *Special leave granted.*

Catchwords:

Contracts – Enforceability – Past performance – *Law of Property Act 1936* (SA) s 26 – Memorandum or note of agreement – Part performance – Where appellant alleges parties entered into oral agreement that appellant would pay share of deposit on property in exchange for respondent selling interest in another property – Where trial judge held no oral agreement existed – Where Full Court held agreement existed but unenforceable – Whether Full Court erred in failing to find appellant’s payment of deposit amounted to part performance sufficient to entitle appellant to enforce agreement – Whether Full Court erred in holding handwritten note not sufficient “memorandum or note” of agreement for purposes of s 26 – Whether Full Court erred in

holding appellant not entitled to enforce agreement in circumstances where respondent acknowledged agreement – Whether Full Court erred in failing to consider concessions in handwritten note to identify acts of part performance.

Appealed from SASC (CA): [\[2016\] SASCFC 138](#); (2016) 126 SASR 436

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Criminal Law

Collins v The Queen

B34/2017: [\[2017\] HCATrans 237](#)

Date heard: 17 November 2017 – *Special leave granted.*

Catchwords:

Criminal law – Appeal against conviction – Proviso – Where appellant convicted of three counts of sexual assault and one count of rape – Where trial judge directed jury inconsistency between complainant’s mother’s evidence at committal hearing and trial relevant to mother’s credibility but not complainant’s credibility – Where Court of Appeal found trial judge misdirected jury – Where Crown did not submit proviso should apply – Where Court of Appeal applied proviso and dismissed appeal – Whether Court of Appeal erred in applying proviso.

Appealed from QSC (CA): [\[2017\] QCA 113](#)

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Craig v The Queen

B24/2017: [\[2017\] HCATrans 73](#)

Date heard: 7 April 2017 – *Special leave granted.*

Catchwords:

Criminal law – Murder – *Criminal Code* 1899 (Qld) s 668E – Miscarriage of justice – Where appellant advised by trial counsel that if he gave evidence at trial, he would likely be cross-examined on prior convictions, including manslaughter conviction – Where appellant did not give evidence – Where proposed evidence would have been relevant to defence of provocation and would have raised self-defence – Where Court of Appeal held it was not likely that appellant would have been cross-examined on criminal history – Whether Court of Appeal erred in finding erroneous advice did not

result in miscarriage of justice – Whether “alternative rational basis” for not giving evidence test appropriate where counsel gave erroneous advice – Whether denial of opportunity to make informed decision as to whether to give evidence amounts to “such a serious breach of the presuppositions of the trial” that the proviso cannot apply.

Appealed from QSC (CA): [\[2016\] QCA 166](#)

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DL v The Queen

A38/2017: [\[2017\] HCATrans 215](#)

Date heard: 24 October 2017 – *Special leave granted.*

Catchwords:

Criminal law – *Criminal Law Consolidation Act 1935 (SA)* s 50 – Where appellant convicted of persistent sexual exploitation of child under s 50 of Act – Where trial judge found appellant sexually assaulted victim “on numerous occasions over a period of some years” – Where Court of Criminal Appeal dismissed appeal – Whether Court of Criminal Appeal erred in failing to find trial judge gave inadequate reasons because failed to identify particular sexual offences separated by at least three days – Whether verdict unsafe, uncertain and/or unreasonable.

Appealed from SASC (FC): [\[2015\] SASCF 24](#)

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Irwin v The Queen

B48/2017: [\[2017\] HCATrans 161](#)

Date heard: 18 August 2017 – *Special leave granted.*

Catchwords:

Criminal law – *Criminal Code 1899 (Qld)* s 23(1)(b) – Where appellant convicted of causing grievous bodily harm – Where appellant gave evidence of pushing complainant – Where Court of Appeal held complainant’s evidence could not rationally be accepted but dismissed appeal on basis it was open to jury to conclude ordinary person “could” reasonably have foreseen possibility of broken hip as result of push – Whether Court of Appeal erred in application of test under s 23(1)(b) by substituting “could” for “would” – Whether Court of Appeal erred in failing to find verdict unreasonable.

Appealed from QSC (CA): [\[2017\] QCA 2](#)

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Strickland (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Tucker (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Hodges (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors; Galloway (a pseudonym) v Commonwealth Director of Public Prosecutions & Ors

M81/2017; M82/2017; M83/2017; M84/2017: [\[2017\] HCATrans 238](#)

Date heard: 17 November 2017 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Stay of proceedings – *Australian Crime Commission Act 2002 (Cth)* – Investigations – Where Australian Federal Police (“AFP”) commenced investigation – Where appellants summoned by Australian Crime Commission for compulsory examination – Where examiner failed to make non-publication direction under s 25A(9) of Act prohibiting publication of examination material concerning appellants to AFP and Commonwealth Director of Public Prosecutions – Where primary judge found examination conducted for improper purpose of assisting AFP and had unfair consequences for trial – Where primary judge ordered permanent stay of proceedings – Where Court of Appeal quashed order – Whether Court of Appeal erred in finding unlawful compulsory examination for purpose of achieving forensic advantage insufficient in circumstances to justify permanent stay of proceedings.

Appealed from VSC (CA): [\[2017\] VSCA 120](#)

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The Queen v Falzon

M161/2017: [\[2017\] HCATrans 212](#)

Date heard: 20 October 2017 – *Special leave granted.*

Catchwords:

Criminal law – Evidence – Admissibility – Drug trafficking – *Drugs, Poisons and Controlled Substances Act 1981 (Vic)* ss 71AC, 72A – Where respondent convicted of cultivating commercial quantity of cannabis contrary to s 72A and trafficking drug of dependence

contrary to s 71AC(1) – Where trial judge admitted evidence of cash secreted in various locations at respondent’s home as “indicia of trafficking” – *Evidence Act 2008 (Vic)* ss 55(1), 137 – Where majority of Court of Appeal held substantial miscarriage of justice because trial judge erred in admitting evidence of cash found at respondent’s home – Whether Court of Appeal erred in concluding substantial miscarriage of justice.

Appealed from VSC (CA): [\[2017\] VSCA 74](#)

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Equity

Ancient Order of Foresters in Victoria Friendly Society Limited v Lifeplan Australia Friendly Society Limited & Anor

A37/2017: [\[2017\] HCATrans 210](#)

Date heard: 20 October 2017 – *Special leave granted on limited grounds.*

Catchwords:

Equity – Account of profits – *Corporations Act 2001 (Cth)* ss 181-183, 1317H – Where appellant employed former employees of respondents – Where respondents brought claim against appellant for knowing assistance in former employees’ breaches of contractual and fiduciary duties and duties of confidence and involvement in contraventions of ss 181-183 – Where primary judge held appellant knowingly participated in breaches of fiduciary duties and duties of confidence but dismissed claim for account of profits on basis no profits attributable to use of confidential information or breaches of duties – Where Full Court held sufficient causal connection established and awarded account of profits in equity – Where Full Court also held facts constituting knowing participation amounted to involvement in contraventions of ss 181-183 and made same order for account of profits under s 1317H – Whether Full Court erred in finding sufficient causal connection – Whether Full Court erred in ordering account of profits calculated on basis of net present value of future potential profits where no profits actually made and without regard to accumulated losses incurred by appellant.

Appealed from FCA (FC): [\[2017\] FCAFC 99](#)

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Interpretation

SAS Trustee Corporation v Miles

[S260/2017](#): [\[2017\] HCATrans 208](#)

Date heard: 20 October 2017 – *Special leave granted.*

Catchwords:

Interpretation – *Police Regulation (Superannuation) Act 1906* (NSW) – Where respondent discharged from police force due to infirmities as result of being “hurt on duty” – Where respondent applied for increase in annual superannuation allowance – Where application rejected by trustee – Where trustee’s decision upheld by District Court – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in failing to construe s 10(1A)(b) in context – Whether s 10(1A)(b) authorises payment of additional superannuation allowance where incapacity not due to infirmity determined by Commissioner under s 10B(3) to have been caused by being “hurt on duty”.

Appealed from NSWSC (CA): [\[2017\] NSWCA 86](#)

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Migration

Minister for Immigration and Border Protection v SZVFW & Ors

[S244/2017](#): [\[2017\] HCATrans 191](#)

Date determined: 14 September 2017 – *Special leave granted.*

Catchwords:

Migration – *Migration Act 1958* (Cth) s 426A(1) – Where first and second respondents applied for Protection (Class XA) visas – Where Department refused applications – Where respondents filed application for review by Refugee Review Tribunal – Where application form contained postal address, mobile phone number and email address – Where Tribunal by letter addressed to postal address invited first and second respondents to provide further information – Where first and second respondents did not respond – Where Tribunal by further letter invited first and second respondents to appear before it – Where first and second respondents did not attend – Where Tribunal exercised power under s 426A(1) to affirm decision without taking further action – Where Federal Circuit Court held Tribunal’s decision unreasonable – Where Full Court dismissed appeal – Whether Full Court erred by requiring

Minister to establish *House v The King* (1936) 55 CLR 499 error – Whether Full Court erred by failing to find primary judge erred in concluding Tribunal’s decision unreasonable.

Appealed from FCA (FC): [\[2017\] FCAFC 33](#); (2017) 248 FCR 1

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Shrestha v Minister for Immigration and Border Protection & Anor; Ghimire v Minister for Immigration and Border Protection & Anor; Acharya v Minister for Immigration and Border Protection & Anor
M141/2017, M142/2017, M143/2017: [\[2017\] HCATrans 179](#)

Date determined: 14 September 2017 – *Special leave granted.*

Catchwords:

Migration – *Migration Act* 1958 (Cth) s 116(1)(a) – Visa cancellation – Where appellants granted Class TU subclass 573 Higher Education Sector visas based on enrolments in bachelor degree and diploma courses – Where appellants’ enrolment in diploma courses ceased after appellants failed subjects – Where appellants’ enrolment in bachelor degree courses subsequently cancelled – Where Administrative Appeals Tribunal cancelled appellants’ visas under s 116(1)(a) – Where majority of Federal Court found decision affected by jurisdictional error but refused relief on basis of futility – Whether Federal Court erred in exercising discretion not to issue writs of certiorari.

Appealed from FCA (FC): [\[2017\] FCAFC 69](#)

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Negligence

Govier v Uniting Church in Australia Property Trust (Q)
B51/2017: [\[2017\] HCATrans 183](#)

Date heard: 15 September 2017 – *Special leave granted on limited grounds.*

Catchwords:

Negligence – Duty of care – Psychiatric injury – Where appellant employed by respondent – Where appellant attacked by co-worker – Where respondent informed appellant on day of attack that her conduct was under investigation – Where appellant too ill to attend investigative interviews – Where respondent asserted appellant

refused to attend interviews and made preliminary findings against her – Where appellant’s employment subsequently terminated – Where appellant claimed damages for psychiatric injuries – Where trial judge held respondent owed no duty of care to appellant with respect to conduct of investigative process – Where Court of Appeal dismissed appeal – Whether Court of Appeal erred in concluding respondent did not owe appellant duty of care in respect of investigative process.

Appealed from QSC (CA): [\[2017\] QCA 12](#)

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Probate

Nobarani v Mariconte

S184/2017: [\[2017\] HCATrans 236](#)

Date heard: 17 November 2017 – *Special leave granted.*

Catchwords:

Probate – Appeal against grant of probate – Procedural fairness – Where respondent sought grant of probate of will dated 5 December 2013 – Where earlier will left share of jewellery and personal effects to appellant – Where appellant lodged caveat against grant of probate – Where primary judge granted probate – Where Court of Appeal found appellant denied procedural fairness at trial – Where majority of Court of Appeal held re-trial should not be ordered – Whether majority of Court of Appeal erred in failing to order re-trial – Whether intermediate appellate court can assess whether party denied procedural fairness would be unsuccessful if new trial ordered – Whether appellant lacked sufficient interest to challenge grant of probate.

Appealed from NSW (CA): [\[2017\] NSWCA 124](#)

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Procedure

Clone Pty Ltd v Players Pty Ltd (In Liquidation) (Receivers & Managers Appointed) & Ors

A22/2017; A23/2017: [\[2017\] HCATrans 130](#)

Date heard: 16 June 2017 – *Special leave granted on limited grounds.*

Catchwords:

Procedure – Jurisdiction to set aside judgment – Whether power of Supreme Court to set aside perfected orders in its equitable jurisdiction extends to malpractice not amounting to fraud – Where document lodged by first respondent was contained in files of fifth respondent – Where primary judge found that appellant’s legal advisers engaged in “serious malpractice” by recklessly failing to discover document – Where primary judge found that first respondent failed to exercise reasonable diligence in searching for document – Where primary judge ordered new trial on basis that there was “real possibility” that issue would have been decided differently – Whether Court of Appeal erred in formulation and application of principles that inform jurisdiction to set aside perfected judgment on ground of malpractice for failure to disclose document.

Appealed from SASC (CA): [\[2016\] SASCF 134](#); (2016) 127 SASR 1

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Rozenblit v Vainer & Anor

M114/2017: [\[2017\] HCATrans 167](#)

Date heard: 18 August 2017 – *Special leave granted on limited grounds.*

Catchwords:

Procedure – *Supreme Court (General Civil Procedure) Rules 2005* (Vic) r 63.03(3) – Access to courts – Impecuniosity – Where appellant made applications to file and serve amended statement of claim – Where applications refused with costs – Where appellant made further application for leave to cure drafting deficiencies – Where associate judge granted leave to file and serve amended statement of claim but ordered proceeding be stayed under r 63.03(3) until appellant paid interlocutory costs orders – Where Court of Appeal dismissed appeal – Whether in circumstances where appellant unable to meet interlocutory costs orders and no finding appellant conducted litigation in manner amounting to harassment or because of collateral purpose, Court of Appeal erred in failing to find not open to associate judge to make order under r 63.06(3) or exercise inherent jurisdiction to stay proceeding.

Appealed from VSC (CA): [\[2017\] VSCA 52](#)

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UBS AG v Scott Francis Tyne as Trustee of the Argot Trust & Anor

B54/2017: [\[2017\] HCATrans 184](#)

Date heard: 15 September 2017 – *Special leave granted on limited grounds.*

Catchwords:

Procedure – *Federal Court of Australia Act 1976 (Cth) s 37M* – Abuse of process – Where appellant commenced proceedings in High Court of Singapore in 2010 against first respondent and another party – Where respondents and other party subsequently commenced proceedings in Supreme Court of New South Wales – Where Supreme Court proceedings permanently stayed in 2013 – Where respondents commenced proceedings in Federal Court in 2014 raising same factual matters – Where proceedings permanently stayed by primary judge as abuse of process – Whether majority of Full Federal Court erred in failing to take into account manifest unfairness to appellant and effect of proceedings in bringing administration of justice into disrepute – Whether majority erred in failing to take into account Singapore proceedings in determining whether abuse of process.

Appealed from FCA (FC): [\[2017\] FCAFC 5](#); (2017) 341 ALR 415

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Real Property

Pike & Anor v Tighe & Ors

B33/2017: [\[2017\] HCATrans 127](#)

Date heard: 16 June 2017 – *Special leave granted.*

Catchwords:

Real property – Statutory interpretation – *Sustainable Planning Act 2009 (Qld)* – Where second respondent granted approval for reconfiguration of original lot into Lots 1 and 2 – Where approval subject to condition that easement for “pedestrian and vehicle access, on-site manoeuvring and connection of services and utilities” be registered for benefit of Lot 2 – Where registered easement does not permit “on-site manoeuvring and connection of services and utilities” – Where first respondents registered owners of Lot 1 and appellants registered owners of landlocked Lot 2 – Whether Court of Appeal erred in concluding that power to make enforcement order under s 604(1) arose only upon Planning and Environment Court being satisfied that first respondents committed development offence against s 580(1) – Whether Court of Appeal erred in failing to conclude that condition of development approval

imposed continuing obligation despite reconfiguration approval by registration of survey plan.

Appealed from QSC (CA): [\[2016\] QCA 353](#)

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Taxation

The Commissioner of Taxation of the Commonwealth of Australia v Thomas; The Commissioner of Taxation of the Commonwealth of Australia v Martin Andrew Pty Ltd; The Commissioner of Taxation of the Commonwealth of Australia v Thomas Nominees Pty Ltd; The Commissioner of Taxation of the Commonwealth of Australia v Thomas

[B60/2017](#); [B61/2017](#); [B62/2017](#); [B63/2017](#): [\[2017\] HCATrans 206](#)

Date heard: 20 October 2017 – *Special leave granted.*

Catchwords:

Taxation – Franking credits – *Income Tax Assessment Act* 1997 (Cth) pt 3-6 div 207 – Where trustee resolved to apply net income of trust fund to benefit of two beneficiaries on assumption franking credits could be treated as separate category of income from dividends to which credits attached – Where Commissioner of Taxation notified trustee of intention to commence audit – Where trustee sought directions from Queensland Supreme Court under *Trusts Act* 1973 (Qld) s 96 as to proper construction of trust deed and resolutions – Where Commissioner notified of proceedings but did not seek to become party – Where Supreme Court declared trustee resolutions effective to achieve franking credit distributions – Where Commissioner of Taxation issued amended notices of assessment – Where primary judge upheld amended assessments – Where Full Court allowed appeal – Whether Full Court erred in concluding Commissioner bound by declarations made by Supreme Court – Whether Full Court erred in concluding franking credits may be distributed on a different basis to income from dividends.

Appealed from FCA (FC): [\[2017\] FCAFC 57](#); (2017) 2017 ATC 20-612

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Torts

Trkulja v Google Inc

M88/2017: [\[2017\] HCATrans 129](#)

Date heard: 16 June 2017 – *Special leave granted.*

Catchwords:

Torts – Defamation – Publication – Respondent internet search engine – Search results – Images – Text – Autocomplete predictions – Whether respondent “published” matter relied on by applicant.

Practice and procedure – Service outside jurisdiction – *Supreme Court (General Civil Procedure) Rules 2015* (Vic) r 7.01(1)(i) and (j) – Where respondent served in United States – Where Court of Appeal held service should be set aside because no real prospect of success in providing that respondent was publisher – Whether Court of Appeal erred in confining case to primary publisher rather than secondary.

Appealed from VSC (CA): [\[2016\] VSCA 333](#); (2016) 342 ALR 504

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7: CASES NOT PROCEEDING OR VACATED

Extradition

Traljesic v Bosnia and Herzegovina & Anor

M160/2017: [\[2017\] HCATrans 213](#)

Date heard: 20 October 2017 – *Special leave granted.*

Catchwords:

Extradition – Extradition objection – Interpretation – *Extradition Act* 1988 (Cth) s 7(c) – Where appellant convicted of two offences in Bosnia-Herzegovina and sentenced to term of imprisonment – Where appellant escaped from prison – Where Bosnia-Herzegovina sought extradition of appellant from Australia to serve remainder of sentence – Where magistrate determined appellant eligible for surrender and issued warrant under s 19(9) – Where appellant applied to Federal Court for review under s 21(1) – Where primary judge confirmed order – Where Full Court dismissed appeal – Whether Full Court erred in failing to find extradition objection – Whether person subjected to violence by other prisoners is “punished” for purposes of s 7(c).

Appealed from FCA (FC): [\[2017\] FCAFC 70](#)

Matter discontinued.

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Migration

CR1028 v The Republic of Nauru

[M66/2017](#)

Catchwords:

Migration – *Nauru (High Court Appeals) Act* 1976 (Cth) – *Refugees Convention Act* 2012 (Nr) – Where appellant applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme

Court erred in determining and applying law relating to “internal protection”.

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 32](#)

Hearing vacated (15 November 2017).

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YAU026 v The Republic of Nauru

S160/2017: [\[2017\] HCATrans 232](#)

Catchwords:

Migration – *Nauru (High Court Appeals) Act 1976 (Cth)* – *Refugees Convention Act 2012 (Nr)* – Where appellant applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme Court erred in failing to find Tribunal denied appellant procedural fairness or breached s 37 of *Refugees Convention Act* by relying on undisclosed adverse information – Whether Supreme Court erred in failing to find no evidence to support Tribunal’s finding concerning information – Whether Supreme Court erred in failing Tribunal failed to consider integer of protection claim – Whether Supreme Court failed to provide adequate reasons.

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 48](#)

Appeal allowed by consent.

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YAU027 v The Republic of Nauru

S142/2017: [\[2017\] HCATrans 231](#)

Catchwords:

Migration – *Nauru (High Court Appeals) Act 1976 (Cth)* – *Refugees Convention Act 2012 (Nr)* – Where appellant applied to Nauru for refugee status determination under Act – Where Secretary of Nauru Department of Justice determined appellant not refugee and not entitled to complementary protection – Where Refugee Status Review Tribunal affirmed Secretary’s determination – Where Supreme Court of Nauru dismissed appeal – Whether Supreme Court erred in failing to find Tribunal failed to deal with integer of appellant’s claim – Whether Supreme Court erred in failing to find

Tribunal misdirected itself in relation to commencement and operation of *Refugees Convention (Amendment) Act 2014 (Nr)* – Whether Supreme Court’s reasons inadequate or unreasonable – Whether Supreme Court erred in failing to find Tribunal’s decision unreasonable, irrational, not based on findings or inferences of fact supported by logical grounds or otherwise involved error of law.

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 29](#)

Appeal allowed by consent.

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Negligence

Briggs v State of New South Wales

S144/2017: [\[2017\] HCATrans 109](#)

Date heard: 12 May 2017 – *Special leave granted.*

Catchwords:

Negligence – *Works Compensation Act 1987 (NSW)* – Breach of duty – Where appellant suffered psychological injury due to exposure to traumatic events in course of duties as police officer – Where appellant told supervisor he was “struggling” and applied for “theoretical demotion” – Where appellant interviewed by Professional Standards Command while on sick leave – Whether Court of Appeal erred in finding respondent did not breach duty of care by failing to make enquiries as to appellant’s reasons for seeking demotion – Whether Court of Appeal erred in formulation of content of duty of care – Whether Court of Appeal erred in finding respondent did not breach duty of care in manner in which professional standards enquiry conducted while appellant was on sick leave.

Appealed from NSWSC (CA): [\[2016\] NSWCA 344](#); (2016) 264 IR 309; (2016) Aust Tort Reports 82-319

Matter discontinued.

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 8 November 2017

No.	Applicant	Respondent	Court appealed from	Result
1.	Luck	Chief Executive Officer of Centrelink (M91/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 92	Application dismissed [2017] HCASL 276
2.	Sridharan	The Queen (B44/2017)	Supreme Court of Queensland (Court of Appeal) [2017] QCA 160	Application dismissed [2017] HCASL 277
3.	Cleret	Sunshine Coast Regional Council & Anor (B46/2017)	Supreme Court of Queensland (Court of Appeal) [2017] QCA 163	Application dismissed [2017] HCASL 278
4.	CUO16	Minister for Immigration and Border Protection & Anor (B47/2017)	Federal Court of Australia [2017] FCA 1038	Application dismissed [2017] HCASL 279
5.	Atieh	Basham (P34/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 116	Application dismissed [2017] HCASL 280
6.	Lawless	Mackendrick & Gabriels & Ors (P35/2017)	Supreme Court of Western Australia (Court of Appeal) [2016] WASCA 208	Application dismissed [2017] HCASL 281
7.	Lam	Lam & Ors (M101/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 173	Application dismissed with costs [2017] HCASL 282
8.	Lam	Nguyen & Ors (M102/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 173	Application dismissed with costs [2017] HCASL 282
9.	SZUEP & Anor	Minister for Immigration and Border Protection & Anor (S189/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 94	Application dismissed with costs [2017] HCASL 283
10.	Turnbull	Office of Environment and Heritage (S201/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 161	Application dismissed with costs [2017] HCASL 284
11.	RinRim Limited	Deutsche Bank AG & Ors (S211/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 169	Application dismissed with costs [2017] HCASL 285

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Publication of Reasons: 16 November 2017

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Aiden	Grant & Anor (M134/2017)	Full Court of the Family Court of Australia	Application dismissed [2017] HCASL 287
2.	DZAFH	Minister for Immigration and Border Protection & Anor (M135/2017)	Federal Court of Australia [2017] FCA 984	Application dismissed [2017] HCASL 288
3.	Tomcsanyi	National Australia Bank Limited (P40/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 140	Application dismissed [2017] HCASL 289
4.	Tanious	Georges River Council (S229/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 204	Application dismissed [2017] HCASL 290
5.	SZUTP & Anor	Minister for Immigration and Border Protection & Anor (S237/2017)	Federal Court of Australia [2017] FCA 665	Application dismissed [2017] HCASL 291
6.	Wilczynski & Anor	District Court of South Australia & Ors (A31/2017)	Full Court of the Supreme Court of South Australia [2017] SASCFC 102	Application dismissed [2017] HCASL 292
7.	Ritson	Australian Building and Construction Commissioner & Anor (B49/2017)	Federal Court of Australia [2017] FCA 888	Application dismissed [2017] HCASL 293
8.	Thalagala Achchige & Anor	Minister for Immigration and Border Protection & Anor (M118/2017)	Federal Court of Australia [2017] FCA 886	Application dismissed [2017] HCASL 294
9.	BXV15	Minister for Immigration and Border Protection & Ors (M126/2017)	Federal Court of Australia [2017] FCA 989	Application dismissed [2017] HCASL 295
10.	Tallott	City of Stirling (P39/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 126	Application dismissed [2017] HCASL 296
11.	SZVDK	Minister for Immigration and Border Protection & Anor (S234/2017)	Federal Court of Australia [2017] FCA 934	Application dismissed [2017] HCASL 297
12.	SZRJN	Minister for Immigration and Border Protection & Anor (S239/2017)	Federal Court of Australia [2017] FCA 1025	Application dismissed [2017] HCASL 298
13.	BIX15	Minister for Immigration and Border Protection & Anor (S248/2017)	Federal Court of Australia [2017] FCA 1116	Application dismissed [2017] HCASL 299

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
14.	Yarra City Council	Metropolitan Fire and Emergency Services Board & Ors (M111/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 194	Application dismissed with costs [2017] HCASL 300
15.	Arthur	Secretary, Department of Family & Community Services & Anor (S202/2017)	Full Court of the Family Court of Australia	Application dismissed [2017] HCASL 301
16.	Mulvihill	The Queen (S207/2017)	Supreme Court of New South Wales (Court of Criminal Appeal) [2016] NSWCCA 259	Application dismissed [2017] HCASL 302
17.	Rolleston	Insurance Australia Ltd (S210/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 168	Application dismissed with costs [2017] HCASL 303
18.	Munn	The Queen (A28/2017)	Full Court of the Supreme Court of South Australia (Court of Criminal Appeal) [2017] SASFC 68	Application dismissed [2017] HCASL 304
19.	Turcinovic	Queensland Building and Construction Commission (B43/2017)	Supreme Court of Queensland (Court of Appeal) [2017] QCA 77	Application dismissed with costs [2017] HCASL 306
20.	Dominice	Allianz Insurance Australia Limited & Anor (S209/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 171	Application dismissed with costs [2017] HCASL 307
21.	Priority Matters Pty Ltd & Anor	Fair Work Ombudsman (S215/2017)	Federal Court of Australia [2017] FCA 833	Application dismissed with costs [2017] HCASL 308
22.	Superlattice Solar Pty Ltd & Anor	Fair Work Ombudsman (S216/2017)	Federal Court of Australia [2017] FCA 833	Application dismissed with costs [2017] HCASL 308
23.	Silverbrook & Anor	Fair Work Ombudsman (S217/2017)	Federal Court of Australia [2017] FCA 833	Application dismissed with costs [2017] HCASL 308
24.	Silverbrook	Fair Work Ombudsman (S218/2017)	Federal Court of Australia [2017] FCA 833	Application dismissed with costs [2017] HCASL 308
25.	MPOWA Pty Ltd & Anor	Fair Work Ombudsman (S219/2017)	Federal Court of Australia [2017] FCA 833	Application dismissed with costs [2017] HCASL 308
26.	Smeaton Grange Holdings Pty Ltd ATF Smeaton Trust & Ors	Chief Commissioner of State Revenue (S222/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 184	Application dismissed with costs [2017] HCASL 309

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17 November 2017: Canberra

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Adecco (Australia) Pty Ltd	CSR Limited & Anor (S181/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 121	Application dismissed with costs [2017] HCATrans 235

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17 November 2017: Melbourne

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Powell	Australian Building and Construction Commissioner & Anor (M87/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 89	Application dismissed with costs [2017] HCATrans 239
2.	Victorian Workcover Authority	Australian Building and Construction Commissioner & Anor (M89/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 89	Application dismissed with costs [2017] HCATrans 239
3.	Minister for Immigration and Border Protection	BCR 16 (M93/2017)	Full Court of the Federal Court of Australia [2017] FCAFC 96	Application dismissed with costs [2017] HCATrans 240

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