



# HIGH COURT OF AUSTRALIA

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### Details of Filing

File Number: B10/2025  
File Title: Michael Stewart by his litigation guardian Carol Schwarzman v  
Registry: Brisbane  
Document filed: Form 27F - Respondent's Outline of oral argument  
Filing party: Respondent  
Date filed: 11 Jun 2025

### Important Information

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**Form 27F – Outline of oral submissions**

Note: see rule 44.08.2.

B10/2025

IN THE HIGH COURT OF AUSTRALIA  
BRISBANE REGISTRY

BETWEEN: **Michael Stewart by his litigation guardian Carol Schwarzman**  
Appellant

and

**Metro North Hospital and Health Service (ABN 184 996 277 942)**  
Respondent

**RESPONDENT'S  
OUTLINE OF ORAL SUBMISSIONS**

**Part I: Certification**

1. This outline is in a form suitable for publication on the internet.

**Part II: Propositions to be advanced in oral argument**

2. The primary judge applied an orthodox process to the application of the compensatory principle: RS[29]-[30].
3. The ground of appeal asserts that five matters were not taken into account which should have been taken into account. They were.
4. *Sharman v Evans* (1977) 138 CLR 563 is longstanding authority, relied on by the Appellant at trial, that provides guidance on the application of the compensatory principle to a case such as this: RS[12]-[13].
5. The Court of Appeal was correct in discerning no error in the trial judge's approach at CA[88]-[95]: RS[31]-[34].

6. No basis is identified for interference with the exercise of the discretion of the trial judge, nor the determination by the Court of Appeal that there is no error shown (RS[35]-[48]).

Dated: 11 June 2025



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King's Counsel for the Respondent