



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: S60/2022  
File Title: Page v. Sydney Seaplanes Pty Ltd trading as Sydney Seaplanes  
Registry: Sydney  
Document filed: Form 27F - Outline of oral argument  
Filing party: Appellant  
Date filed: 05 Sep 2022

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IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY

BETWEEN:

**ALEXANDER MATHEW BRODIE PAGE**

Appellant

and

10

**SYDNEY SEAPLANES PTY LIMITED**

**TRADING AS SYDNEY SEAPLANES ABN 95 112 379 629**

Respondent

## **APPELLANT'S OUTLINE OF ORAL SUBMISSIONS**

### **Part I: Certification**

1 These submissions are in a form suitable for publication on the internet.

### 20 **Part II: Outline of Propositions**

2 The text and context of the enacted text is clear: it was an error to assume or imply a specific and narrow purpose to limit a clearly conferred discretion {AS [10]-[11]}.

3 The order of Griffiths J met the meaning of the enacted text {AS [13]}. It follows from the clarity of the text and absence of any subtraction from the ordinary contextual meaning to the enacted definition that a court should not create or imply a purpose or limit to the provision {AS [14]; Rep [3]}.

4 The context and purpose were not limited to the specific and narrow purpose of addressing *Wakim* {AS [15]}. Accepting the *State Jurisdiction Act* was directed to addressing the consequences of *Wakim* does not mean the unambiguous enacted text is to  
30 be read as being directed *solely* to the *immediate consequences* of *Wakim* {AS [16]; Rep [4]}. The enacted text points in the opposite direction {AS [16]-[18]; Rep [5]-[6]}.

5 In any case, the fact that the legislative response went further than remedying the immediate mischief is unexceptional {AS [19]-[20]}. It is Mr Page’s interpretation that supports the legislative purpose of addressing the consequences of *Wakim* {AS [19]-[20]}.

6 The same analysis addresses any reliance placed on the long title {AS [21]}.

7 The potential breadth of the operation of the *State Jurisdiction Act* is of limited consequence: the unambiguous words of the enacted text, and the mischief prompting its enactment, require a broad operation; although the power to make an order is discretionary {AS [23]}. Judicial impressions of the extent of statutory amelioration of litigants’ positions are not a proper means by which limiting and unexpressed purposes are attributed  
10 to legislation {AS [24]; Rep [7]}. There is no basis to regard the enacted text as a dead letter {AS [25]}.

8 There is a presumption that Parliament intends words to bear their ordinary meaning in order to ensure the transparency and intelligibility of statute law: creating or implying a purpose or limit so as to depart from the words of the enacted text was wrong {AS [26]}.

**Sydney Seaplanes’ notice of contention**

9 There is no “real conflict” between *Commonwealth Carriers’ Liability Act* s 34 and the conferral of a discretionary power to permit new proceedings for damages to be brought more than two years after the time stipulated in section 34 to bring an action {Rep [8], [10]}. Sydney Seaplanes does not identify, assert, or demonstrate error in the  
20 reasoning of Bell P {Rep [9]}.

10 An “action” (although in the wrong court) was brought within two years, as required by section 34: the commencement of the “action” was not negated or void *ab initio* because it was commenced in a Court which could not hear it {Rep [12]}.

11 The deeming of the Supreme Court proceeding as having been commenced at an earlier point in time is not of the same character as a discretionary extension of time {Rep [13]}. While the latter may be inconsistent with section 34, the former is not.

12 Section 34 does not exclude resort to domestic law: article 29 of the *Warsaw Convention* (from which section 34 derives) contemplates some matters of limitation, including the calculation of the limitation period, to be left to domestic Courts {Rep [14]}.

30 Dated: 1 September 2022



Bret Walker



Derek Wong