



HIGH COURT BULLETIN

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[2017] HCAB 10 (21 December 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>Re Nash (No 2)</i>	Court of Disputed Returns
<i>ALDI Foods Pty Limited v Shop, Distributive & Allied Employees Association</i>	Industrial Law
<i>Esso Australia Pty Ltd v The Australian Workers' Union; The Australian Workers' Union v Esso Australia Pty Ltd</i>	Industrial Law
<i>Regional Express Holdings Limited v Australian Federation of Air Pilots</i>	Industrial Law
<i>DWN042 v The Republic of Nauru</i>	Migration

3: Cases Reserved

Case	Title
<i>Alley v Gillespie</i>	Constitutional Law

<i>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</i>	Constitutional Law
<i>Craig v The Queen</i>	Criminal law
<i>Irwin v The Queen</i>	Criminal law
<i>Plaintiff M174/2016 v Minister for Immigration and Border Protection & Anor</i>	Migration
<i>Clone Pty Ltd v Players Pty Ltd (In Liquidation) (Receivers & Managers Appointed) & Ors</i>	Procedure
<i>Pike & Anor v Tighe & Ors</i>	Real Property

[4: Original Jurisdiction](#)

[5: Court of Disputed Returns](#)

Case	Title
<i>Re Lambie</i>	Court of Disputed Returns

[6: Special Leave Granted](#)

Case	Title
<i>Coshott v Spencer & Ors</i>	Costs
<i>DL v The Queen</i>	Criminal Law
<i>Lane v The Queen</i>	Criminal Law
<i>The Queen v Dennis Bauer (a pseudonym)</i>	Criminal Law
<i>Hossain v Minister for Immigration and Border Protection & Anor</i>	Migration

[7: Cases Not Proceeding or Vacated](#)

Case	Title
<i>Woollahra Municipal Council v Minister for Local Government & Ors</i>	Administrative Law

2: CASES HANDED DOWN

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

Court of Disputed Returns

Re Nash (No 2)

C17/2017: [\[2017\] HCA 52](#)

Orders pronounced: 15 November 2017

Reasoned published: 6 December 2017

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

Catchwords:

Constitutional law (Cth) – Parliamentary elections – Reference to Court of Disputed Returns – Where Court held there was a vacancy in representation of New South Wales in Senate – Where Court made directions for special count of ballot papers to fill vacancy – Where orders sought following special count that Ms Hollie Hughes be declared elected as senator to fill vacancy – Where Ms Hughes nominated for election to Senate at 2016 general election – Where Ms Hughes not declared elected following polling for 2016 general election – Where Ms Hughes appointed to Administrative Appeals Tribunal one year after 2016 general election – Where Ms Hughes resigned from that position upon Court holding there was a vacancy in representation of New South Wales in Senate – Where that position was "office of profit under the Crown" within meaning of s 44(iv) of Constitution – Whether holding position for that period rendered Ms Hughes "incapable of being chosen" as a senator under s 44(iv) of Constitution.

Constitutional law (Cth) – Parliamentary elections – Reference to Court of Disputed Returns – Jurisdiction of Court to determine whether a person sought to be declared elected to fill a vacancy is disqualified under s 44 of Constitution.

Words and phrases – "electoral choice", "electoral process", "hiatus", "incapable of being chosen", "nomination", "office of profit under the Crown", "polling", "process of being chosen", "scrutiny", "special count", "vacancy".

Constitution – ss 7, 10, 12, 13, 15, 24, 30, 31, 41, 44, 44(i), 44(iv), 45, 45(i), 51(xxxvi).

Administrative Appeals Tribunal Act 1975 (Cth) – s 15(1).

Commonwealth Electoral Act 1918 (Cth) – ss 102(4), 152, 152(1)(a), 152(1)(b), 152(1)(c), 152(1)(d), 155, 156(1), 157, 159, 167(1), 170(2)(a)(i), 175(1), 175(2), 176(1), 177(1), 220, 283(1), 360, 360(1)(vi), 374(ii), 376, 378, 379.

Remuneration Tribunal Act 1973 (Cth) – s 7.

Held: Summons dismissed

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Industrial Law

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

M33/2017: [\[2017\] HCA 53](#)

Judgment delivered: 6 December 2017

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

Catchwords:

Industrial law (Cth) – *Fair Work Act 2009 (Cth)* – Enterprise agreements – Approval of enterprise agreements by Fair Work Commission – Where employer in process of establishing new undertaking – Where existing employees in other undertakings of employer accepted offer of employment in new undertaking – Where enterprise agreement made with those employees before new undertaking commenced operations – Whether agreement required to be made as "greenfields agreement" pursuant to s 172(2) and (4) of *Fair Work Act* – Where Commission may approve non-greenfields agreement under s 186 of *Fair Work Act* only where satisfied agreement genuinely agreed to by employees covered by agreement – Whether employees "covered by" agreement from time agreement made or from time employees commence working under agreement.

Industrial law (Cth) – *Fair Work Act 2009 (Cth)* – Enterprise agreements – Approval of enterprise agreements by Commission under s 186 of *Fair Work Act* – Where Commission, before approving agreement, required to be satisfied that each award-covered employee would be "better off overall" under agreement than under relevant modern award – Where Commission considered agreement passed better off overall test because clause in agreement entitled employees to payment of any shortfall in entitlement under agreement as compared with entitlement under modern award – Whether Commission failed to engage in comparison between agreement and modern award.

Words and phrases – "applies", "better off overall test", "covers", "employees covered by the agreement", "greenfields agreement", "will be covered by the agreement".

Fair Work Act 2009 (Cth) – ss 51, 52, 53, 54(1), 58(1), 172, 173(1), 176, 180(2)(a), 181(1), 182, 185, 186, 187(5), 188, 193, 207.

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

Held: Appeal allowed in part

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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](#): [\[2017\] HCA 54](#)

Judgment delivered: 6 December 2017

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

Catchwords:

Industrial relations – *Fair Work Act* 2009 (Cth) – Protected industrial action – Common requirements for industrial action to qualify as protected industrial action – Where s 413(5) of *Fair Work Act* requires that persons organising or engaging in proposed protected industrial action "must not have contravened any orders that apply to them" in relation to relevant agreement – Where order obtained from Fair Work Commission requiring union to stop organising certain industrial action – Where union contravened order – Whether union's contravention of order precluded satisfaction of common requirement in s 413(5) in relation to subsequent industrial action – Whether s 413(5) requires only that relevant persons not be contravening orders extant at time of proposed protected industrial action – Whether relevant contraventions limited to contraventions of orders committed in course of organising or engaging in proposed protected industrial action.

Industrial relations – *Fair Work Act* 2009 (Cth) – Organising, taking or threatening action with intent to coerce contrary to s 343 or s 348 of *Fair Work Act* – Whether person must act with intent that action be unlawful, illegitimate or unconscionable – Whether person must have subjective understanding of factual circumstances rendering action unlawful, illegitimate or unconscionable.

Words and phrases – "coercive action", "common requirements", "compliance with orders", "extant orders", "intent to coerce", "must not have contravened any orders", "past contravention", "protected industrial action", "statutory interpretation", "unlawful, illegitimate or unconscionable".

Fair Work Act 2009 (Cth) – ss 343, 348, Ch 3, Pt 3-3, Div 2.

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

Held: Appeal allowed; appeal dismissed

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Regional Express Holdings Limited v Australian Federation of Air Pilots

M71/2017: [\[2017\] HCA 55](#)

Judgment delivered: 13 December 2017

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

Catchwords:

Industrial relations – *Fair Work Act* 2009 (Cth) – Entitlement of industrial association to represent industrial interests of persons – Where industrial association registered organisation of employees under *Fair Work (Registered Organisations) Act* 2009 (Cth) – Where industrial association applied for orders in relation to alleged contraventions of civil remedy provisions in relation to persons – Where persons not members of industrial association but eligible for membership in accordance with eligibility rules of industrial association – Whether industrial association had standing to apply for orders on basis it was entitled to represent industrial interests of persons within meaning of s 540(6)(b)(ii) of *Fair Work Act* – Whether eligibility of persons for membership of industrial association sufficient to make industrial association entitled to represent industrial interests of persons within meaning of s 540(6)(b)(ii) of *Fair Work Act*.

Words and phrases – "Dunlop Rubber principle", "eligibility rules", "eligible for membership", "entitled to represent the industrial interests of", "industrial association", "registered organisation of employees".

Fair Work Act 2009 (Cth) – ss 539(2), 540(6)(b)(ii), 546.

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

Held: Appeal dismissed

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Migration

DWN042 v The Republic of Nauru

M20/2017: [\[2017\] HCA 56](#)

Judgment delivered: 13 December 2017

Coram: Keane, Nettle and Edelman JJ

Catchwords:

Migration – Refugees – Appeal as of right from Supreme Court of Nauru – Where Supreme Court of Nauru failed to consider notice of motion – Whether failure to consider notice of motion involved denial of procedural fairness – Whether primary judge entitled to treat notice of motion as abandoned – Whether appeal could be dismissed because proper hearing could not have produced different result – Whether appeal incompetent because it would require consideration of interpretation and effect of Constitution of Nauru – Whether failure to consider complementary protection claim – Whether reliance on unsigned and unsworn transfer interview form constituted breach of requirements of procedural fairness.

Words and phrases – "appeal", "arbitrary deprivation of life", "assurances to the court", "complementary protection", "denial of procedural fairness", "extortion by the Taliban", "interpretation or effect of the Constitution of Nauru", "notice of motion", "original jurisdiction", "transfer interview form", "unconstitutional nature of detention".

Appeals Act 1972 (Nr) – ss 44(a), 44(b), 45(a).

Nauru (High Court Appeals) Act 1976 (Cth) – ss 5, 8.

Agreement between the Government of Australia and the Government of the Republic of Nauru Relating to Appeals to the High Court of Australia from the Supreme Court of Nauru (1976) – Art 1(A)(b)(i), Art 1(A)(b)(ii), Art 2(a).

Refugees Convention Act 2012 (Nr) – ss 4(2), 5, 43(1).

International Covenant on Civil and Political Rights (1966) – Art 6.

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

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.

Constitutional Law

Alley v Gillespie

[S190/2017](#); [\[2017\] HCATrans 257](#)

Date heard: 12 December 2017

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

Catchwords:

Constitutional law – Constitution ss 44(v), 46 – *Common Informers (Parliamentary Disqualifications) Act* 1975 (Cth) – Where defendant has sat as Member of House of Representatives since 30 August 2016 after being declared elected as result of general election held on 2 July 2016 – Where defendant is majority shareholder of company which owns premises leased to tenant – Where tenant operates post office at premises pursuant to contract between Australia Post and company of which tenant is shareholder – Where plaintiff commenced proceedings under Act alleging defendant liable to pay penalties because incapable of sitting by reason of s 44(v) – Whether Court can and should decide whether defendant incapable of sitting as Member of House of Representatives for purposes of s 3 of 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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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 247](#); [\[2017\] HCATrans 249](#)

Date heard: 5 and 6 December 2017

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

Catchwords:

Constitutional law – Constitution ss 75, 76, 77 – *Judiciary Act* 1903 (Cth) s 39(2) – 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 Administrative Decisions Tribunal of New South Wales (ADT) ordered Victorian resident to make apologies – Where New South Wales Civil and Administrative Tribunal (NCAT) dismissed complaints against Queensland resident – Where Court of Appeal held ADT and NCAT lacked jurisdiction to resolve complaints – 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 Court of Appeal erred in concluding person or body that is not “court of a State” unable to exercise judicial power to determine matters between residents of different States – 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) 343 ALR 690; (2017) 316 FLR 448

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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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Craig v The Queen

B24/2017: [\[2017\] HCATrans 261](#)

Date heard: 14 December 2017

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

Catchwords:

Criminal law – Murder – Appeal against conviction – *Criminal Code* 1899 (Qld) s 668E – Miscarriage of justice – Where trial counsel advised appellant not to give evidence at murder trial due to likelihood he would be cross-examined on criminal history – Where appellant did not testify – Where jury found appellant guilty of murder – Where Court of Appeal held advice incorrect as only possibility not probability appellant would be cross-examined as to criminal history – Where Court of Appeal held no miscarriage of justice because appellant instructed counsel he did not wish to be cross-examined about sequence of events such that sound forensic reason existed for not giving evidence – Whether Court of Appeal erred in finding incorrect advice did not result in miscarriage of justice.

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

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Irwin v The Queen

B48/2017: [\[2017\] HCATrans 250](#)

Date heard: 6 December 2017

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

Catchwords:

Criminal law – Criminal responsibility – *Criminal Code* 1899 (Qld) s 23(1)(b) – Where s 23(1)(b) provides person not criminally responsible for event “that an ordinary person would not reasonably foresee as a possible consequence” – Where complainant suffered broken hip requiring surgery – Where appellant gave evidence of pushing complainant – Where appellant convicted of inflicting grievous bodily harm – Where Court of Appeal held complainant’s evidence could not rationally be accepted but dismissed appeal on basis 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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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

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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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): [\[2017\] SASCF 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](#); (2016) 344 ALR 355

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Migration

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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Plaintiff M174/2016 v Minister for Immigration and Border Protection & Anor

M174/2016: [\[2017\] HCATrans 251](#)

Date heard: 7 December 2017

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

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 conducted interview with pastor in relation to plaintiff's church attendance – Where delegate did not inform plaintiff – Where delegate refused to grant visa – Where Immigration Assessment Authority ("IAA") affirmed decision – Whether delegate failed to comply with s 57(2) of Act – If yes, whether failure to comply with s 57(2) had consequence that there was no decision capable of referral to IAA under s 473CA or essential precondition for valid exercise of power by IAA under s 473CC not satisfied – Whether IAA 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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Procedure

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

A22/2017; A23/2017: [\[2017\] HCATrans 260](#)

Date heard: 13 December 2017

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

Catchwords:

Procedure – Application to set aside judgment – Equitable jurisdiction to set aside perfected judgment – Where dispute arose between parties in respect of lease – Where two photocopies of lease tendered at trial – Where appellant knew third photocopy in possession of fifth respondent – Where appellant inspected files of fifth respondent but did not discover or disclose existence of document – Where primary judge held appellant’s legal advisers engaged in “serious malpractice” by recklessly failing to discover document and set aside judgment – Where majority of Full Court dismissed appeal – 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 – Whether power of Supreme Court to set aside perfected orders in equitable jurisdiction extends to malpractice not amounting to fraud.

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

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Real Property

Pike & Anor v Tighe & Ors

B33/2017: [\[2017\] HCATrans 252](#)

Date heard: 8 December 2017

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

Catchwords:

Real property – *Sustainable Planning Act 2009* (Qld) – Enforcement orders – Enforcement of development approval condition against successors in title – Where appellants and first respondents registered owners of adjoining lots – Where lots created in 2009 by development approval issued by second respondent to previous owner of parent parcel – 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 appellants’ lot – Where registered easement does not permit “on-site manoeuvring and connection of services and utilities” – Where appellants applied to Planning and Environment Court for order compelling first respondents to comply with condition – Where Planning and Environment Court made enforcement order under s 604(1) on basis first respondents had committed “development

offence” – Where Court of Appeal allowed appeal – Whether Court of Appeal erred failing to conclude power to make enforcement order under s 604(1) arose upon Planning and Environment Court being satisfied development offence committed whether by first respondents or other person – Whether Court of Appeal erred in failing to conclude condition in development approval imposed continuing obligation after reconfiguration approval effected by registration of survey plan.

Appealed from QSC (CA): [\[2016\] QCA 353](#); (2016) 225 LGERA 121

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4: ORIGINAL JURISDICTION

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

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5: COURT OF DISPUTED RETURNS

Re Lambie

C27/2017: Questions referred to the Court of Disputed Returns pursuant to section 376 of the *Commonwealth Electoral Act 1918* (Cth).

Catchwords:

Constitutional law – Constitution s 44(iv) – Office of profit – Where Court held vacancy in representation of Tasmania in Senate for place for which incumbent returned – Where Court ordered special count of ballot papers to fill vacancy – Where special count identified candidate as person who should fill vacancy in representation of Tasmania – Whether candidate incapable of being chosen or sitting as a Senator by reason of s 44(iv).

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6: SPECIAL LEAVE GRANTED

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

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): [\[2016\] SASCF 138](#); (2016) 126 SASR 436

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Costs

Coshott v Spencer & Ors

S182/2017: [\[2017\] HCATrans 263](#)

Date heard: 15 December 2017 – *Special leave granted.*

Catchwords:

Costs – *Civil Procedure Act 2005 (NSW) s 98* – Exception in *London Scottish Benefit Society v Chorley* (1884) 13 QBD 87 – Solicitor

acting as self-represented litigant – Where first respondent represented clients in Federal Court proceedings – Where clients and appellant bought application for assessment of costs claimed in respect of Federal Court proceedings – Where costs assessor dismissed appellant’s application on basis appellant not “third party payer” within meaning of *Legal Profession Act 2004 (NSW)* s 302A – Where District Court dismissed appeal against costs assessment – Where District Court ordered appellant pay costs of proceedings – Where costs assessor allowed first respondent professional costs for self-representation at costs appeal – Where Court of Appeal dismissed appeal against second costs assessment – Whether Court of Appeal erred in finding first respondent entitled to recover costs in respect of time spent in conduct of legal proceedings – Whether costs assessor has jurisdiction to determine if appellant “third party payer” within meaning of s 302A – Whether *Chorley* exception inapplicable because of *Civil Procedure Act 2005 (NSW)* s 98.

Appealed from NSW (CA): [\[2017\] NSWCA 118](#)

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Criminal Law

Collins v The Queen

A68/2017: [\[2017\] 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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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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DL v The Queen

S166/2017: [\[2017\] HCATrans 262](#)

Date heard: 15 December 2017 – *Special leave granted.*

Catchwords:

Criminal law – Appeal against sentence – *Muldrock* error – Miscarriage of justice – Where appellant convicted of murder – Where primary judge sentenced appellant to 22 years’ imprisonment with non-parole period of 17 years – Where appellant appealed sentence to Court of Criminal Appeal – Where Crown conceded in light of *Muldrock v The Queen* (2011) 44 CLR 120 that primary judge erred in application of standard non-parole period legislation – Where majority of Court of Criminal Appeal dismissed appeal, holding no lesser sentence warranted – Whether Court of Criminal Appeal denied appellant procedural fairness – Whether majority of Court of Criminal Appeal erred in substituting aggravated factual findings in absence of challenge to primary judge’s findings in circumstances where majority held findings open to primary judge.

Appealed from NSW (CA): [\[2017\] NSWCCA 58](#)

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Lane v The Queen

S192/2017: [\[2017\] HCATrans 264](#)

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

Catchwords:

Criminal law – Appeal against conviction – Proviso – *Criminal Appeal Act 1912* (NSW) s 6(1) – Where jury found appellant not guilty of murder but guilty of manslaughter – Where Crown alleged two discrete voluntary acts causing death – Where Court of Criminal Appeal held trial judge erred by failing to direct that jury must be unanimous as to at least one of acts upon which the Crown relied – Where majority of Court of Appeal held no substantial miscarriage of justice within meaning of s 6(1) – Whether majority of Court of Criminal Appeal erred in application of proviso.

Appealed from NSW (CA): [\[2017\] NSWCCA 46](#)

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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

[M168/2017](#); [M174/2017](#); [M175/2017](#); [M176/2017](#): [\[2017\] 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 Dennis Bauer (a pseudonym) (No 2)
M100/2017: [\[2017\] HCATrans 269](#)

Date heard: 15 December 2017 – *Special leave granted.*

Catchwords:

Criminal law – Appeal against conviction – Sexual offences against child – Re-trial after appeal – Where trial judge permitted previously recorded evidence of complainant to be tendered – Whether Court of Appeal erred in finding trial judge erred in permitting previously recorded evidence to be tendered as evidence in re-trial – Tendency evidence – Whether Court of Appeal erred in holding substantial miscarriage of justice because of admission of tendency evidence – Proper approach to tendency evidence where prosecution seeks to prove tendency on evidence from complainant and source independent of complainant – Severance – Whether Court of Appeal erred in holding failure to sever charge 2 occasioned substantial miscarriage of justice – Whether Court of Appeal erred in holding admission of previous statement of complaint occasioned substantial miscarriage of justice.

Appealed from VSC (CA): [\[2017\] VSCA 176](#)

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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

Hossain v Minister for Immigration and Border Protection & Anor
S177/2017: [\[2017\] HCATrans 259](#)

Date determined: 13 December 2017 – *Special leave granted.*

Catchwords:

Migration – *Migration Act* 1958 (Cth) – *Migration Regulations* 1994 (Cth) – Jurisdictional error – Where appellant applied for Partner (Temporary) (Class UK) visa under s 65 of Act – Where cl 820.211(2)(d)(ii) of sch 2 of Regulations required appellant to satisfy sch 3 criteria 3001, 3003 and 3004 unless Minister satisfied compelling reasons for not applying criteria – Where delegate of Minister refused visa on basis appellant did not satisfy item 3001 – Where Administrative Appeals Tribunal (“AAT”) affirmed delegate’s decision on basis no compelling reasons for not applying sch 3 criteria and appellant did not satisfy PIC 4004 as required by cl 820.223 of sch 2 – Where Federal Circuit Court quashed decision on basis AAT fell into jurisdictional error in confining itself to “compelling reasons” at time of application – Where majority of Full Federal Court allowed appeal, restoring AAT decision on basis AAT retained jurisdiction to determine discrete issue relating to PIC 4004 – Whether Full Federal Court erred in finding that, although AAT decision infected by jurisdictional error, AAT nevertheless retained jurisdiction to make decision.

Appealed from FCA (FC): [\[2017\] FCAFC 82](#)

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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

S270/2017: [\[2017\] 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

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) 250 FCR 341; (2017) 341 ALR 415

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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

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

Special leave revoked (29 November 2017): [\[2017\] HCATrans 244](#)

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 6 December 2017

No.	Applicant	Respondent	Court appealed from	Result
1.	ASU15	Minister for Immigration and Border Protection & Anor (A36/2017)	Federal Court of Australia [2017] FCA 1167	Application dismissed [2017] HCASL 310
2.	Kishore	Minister for Immigration and Border Protection & Anor (M158/2017)	Federal Court of Australia [2017] FCA 1254	Application dismissed [2017] HCASL 311
3.	Laurent	City of Greater Geraldton (P28/2017)	Supreme Court of Western Australia (Court of Appeal) [2017] WASCA 106	Application dismissed [2017] HCASL 312
4.	BQT15 & Ors	Minister for Immigration and Border Protection & Anor (S257/2017)	Federal Court of Australia [2017] FCA 685	Application dismissed [2017] HCASL 313
5.	SZVFH & Anor	Minister for Immigration and Border Protection & Anor (S223/2017)	Federal Court of Australia [2017] FCA 909	Application dismissed with costs [2017] HCASL 314

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Publication of Reasons: 13 December 2017

No.	Applicant	Respondent	Court appealed from	Result
1.	Bui	Minister for Immigration and Border Protection & Anor (B38/2017)	Federal Court of Australia [2017] FCA 714	Application dismissed with costs [2017] HCASL 315
2.	Nicholls	The Queen (M113/2017)	Supreme Court of Victoria (Court of Appeal) [2016] VSCA 250	Application dismissed [2017] HCASL 316
3.	BDT16	Minister for Immigration and Border Protection & Anor (S87/2017)	Federal Court of Australia [2017] FCA 249	Application dismissed with costs [2017] HCASL 317
4.	Roe	The Queen (D3/2017)	Supreme Court of the Northern Territory (Court of Criminal Appeal) [2017] NTCCA 7	Application dismissed [2017] HCASL 318
5.	RG	The Queen (S213/2017)	Supreme Court of New South Wales (Court of Criminal Appeal) [2017] NSWCCA 60	Application dismissed [2017] HCASL 319
6.	Bond	Chief Executive, Department of Environment and Heritage Protection (B50/2017)	Supreme Court of Queensland (Court of Appeal) [2017] QCA 180	Application dismissed with costs [2017] HCASL 320
7.	Bouffler	State of New South Wales (S220/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 185	Application dismissed with costs [2017] HCASL 321

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Publication of Reasons: 14 December 2017

No.	Applicant	Respondent	Court appealed from	Result
1.	Rehill	Minister for Immigration and Border Protection & Anor (A33/2017)	Federal Court of Australia [2017] FCA 1066	Application dismissed [2017] HCASL 322
2.	AOC16	Minister for Immigration and Border Protection & Anor (A34/2017)	Federal Court of Australia [2017] FCA 973	Application dismissed [2017] HCASL 323
3.	BMZ15	Minister for Immigration and Border Protection & Anor (S154/2017)	Federal Court of Australia [2017] FCA 740	Application dismissed with costs [2017] HCASL 324
4.	Dickens	Dickens & Anor (S230/2017)	Removal application	Application dismissed [2017] HCASL 325
5.	Milk	The Queen (M136/2017)	Supreme Court of Victoria (Court of Appeal) [2015] VSCA 237	Application dismissed [2017] HCASL 326
6.	Milk	The Queen (M149/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 217	Application dismissed [2017] HCASL 326
7.	AAE15	Minister for Immigration and Border Protection & Anor (M155/2017)	Federal Court of Australia [2017] FCA 1093	Application dismissed [2017] HCASL 327
8.	Ali	Chandler MacLeod Agency & Anor (P59/2017)	Federal Court of Australia [2016] FCA 1234	Application dismissed [2017] HCASL 328
9.	BGZ15	Minister for Immigration and Border Protection & Anor (S250/2017)	Federal Court of Australia [2017] FCA 1095	Application dismissed [2017] HCASL 329

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15 December 2017: Sydney

No.	Applicant	Respondent	Court appealed from	Result
1.	DL	The Queen (S155/2017)	Supreme Court of New South Wales (Court of Criminal Appeal) [2017] NSWCCA 57	Application dismissed [2017] HCATrans 262
2.	Thomson & Ors	New Galaxy Investments Pty Limited & Ors (S199/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 153	Application dismissed with costs [2017] HCATrans 265
3.	Beverley Joy Priestley as Executor of the Estate of the Late Gordon Wedlock Priestley	Priestley (S200/2017)	Supreme Court of New South Wales (Court of Appeal) [2017] NSWCA 155	Application dismissed with costs [2017] HCATrans 266

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15 December 2017: Sydney

No.	Applicant	Respondent	Court appealed from	Result
1.	Talacko	Bennett & Ors (M97/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 163	Application dismissed with costs [2017] HCATrans 267
2.	Talacko	Talacko & Ors (M98/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 163	Application dismissed with costs [2017] HCATrans 267
3.	IMCC Group (Australia) Pty Ltd	CB Cold Storage Pty Ltd (M104/2017)	Supreme Court of Victoria (Court of Appeal) [2017] VSCA 178	Application dismissed with costs [2017] HCATrans 268

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