



# OVERSEAS DECISIONS BULLETIN

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Decisions of the Supreme Court of the United Kingdom, the Supreme Court of Canada, the Supreme Court of the United States, the Constitutional Court of South Africa and the Supreme Court of New Zealand. Admiralty, arbitration and constitutional decisions of the Court of Appeal of Singapore.

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## Administrative Law

*R (on the application of Lumsdon and others) v Legal Services Board*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 41](#).

**Judgment Delivered:** 24 June 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Clarke, Lord Reed and Lord Toulson.

**Catchwords:**

Administrative law – Legal Services Board – *Legal Services Act 2007* s 3 – *Provision of Service Regulations 2009* r 14 (“Regulations”) – Where appellants, barristers practicing criminal law, sought judicial review of a decision of the Legal Services Board on the basis that the decision made was contrary to the Regulations.

**Held (5:0):** Appeal dismissed.

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*Michigan v Environmental Protection Agency*  
**Supreme Court of the United States:** [Docket 14-26](#).

**Judgment Delivered:** 29 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Administrative law – Clean Air Act (“Act”) – Where Act directs respondent to regulate emissions of hazardous air pollutants from certain stationary sources where it is “appropriate and necessary” – Whether, when considering if an action is “appropriate and necessary”, respondent is required to consider the cost of the regulations.

**Held (5:4):** Judgment reversed and case remanded.

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## Banking

*Chevron SA (Pty) Limited v Wilson t/a Wilson’s Transport & Ors*  
**Constitutional Court of South Africa:** [\[2015\] ZACC 15](#).

**Judgment Delivered:** 5 June 2015.

**Coram:** Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J, Theron AJ and Tshiqi AJ.

**Catchwords:**

Banking - National Credit Act 34 of 2005 — Constitutional validity of section 89(5)(b) — Section is procedurally unfair — National Credit Amendment Act 19 of 2014 — Section 27(a) and (b) - Unlawful credit agreements — Refund of money paid under credit agreement if credit provider unregistered — Substantive and procedural fairness of mandatory refund — Constitutional challenge — Section 25(1) of the Constitution — Arbitrary deprivation of property — Procedural arbitrariness — Lack of judicial discretion — Less restrictive means Unjustified enrichment — *Condictio ob turpem vel iniustam causam* — creditor free from turpitude — *Par delictum* rule.

**Held (10:0):** Appeal dismissed.

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## Bankruptcy

*Bullard v Blue Hills Bank*  
**Supreme Court of the United States:** [Docket 14-166](#).

**Judgment Delivered:** 4 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Bankruptcy proceedings – Whether Bankruptcy Court’s denial of confirmation is a final, appealable order – Where the court held that a Bankruptcy Court’s order denying confirmation of a debtor’s proposed repayment plan is not a final order that a debtor can immediately appeal.

**Held (9:0):** Judgment affirmed.

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*Harris v Viegelahn, Chapter 13 Trustee*

**Supreme Court of the United States:** [Docket 14-400](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Bankruptcy – Where the debtor converts bankruptcy proceedings from Ch 13 to Ch 7 of the Bankruptcy Code – Where respondent as trustee stopped paying mortgagee and held funds – Where appellant converted the case to Ch 7 and respondent distributed funds to unpaid creditors – Whether funds should have gone to appellant instead.

**Held (9:0):** Judgment reversed and case remanded.

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*Wellness International Network Ltd v Sharif*

**Supreme Court of the United States:** [Docket 13-935](#).

**Judgment Delivered:** 14 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Bankruptcy – Whether Art III of the Bankruptcy Code allows Bankruptcy Court judges to adjudicate Stern claims – Whether Bankruptcy Court judges need parties knowing and voluntary consent to do so.

**Held (6:3):** Judgment reversed and case remanded.

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*Baker Botts v Asarco*

**Supreme Court of the United States:** [Docket 14-103](#).

**Judgment Delivered:** 15 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Bankruptcy – Litigation fees – Where appellant acted for respondent in its bankruptcy proceedings – Whether appellant is entitled to its fees in the bankruptcy proceedings.

**Held (6:3):** Judgment affirmed.

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## Citizenship and Migration

*Mellouli v Lynch*

**Supreme Court of the United States:** [Docket 13-983](#).

**Judgment Delivered:** 1 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Citizenship and Migration – Deportation – Where appellant was deported after pleading guilty to a misdemeanour offence under Kansas law – Whether appellant's conviction was a mechanism to trigger his deportation.

**Held (7:2):** Judgment reversed.

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*Zivotofsky v Kerry*

**Supreme Court of the United States:** [Docket 13-628](#).

**Judgment Delivered:** 8 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Citizenship and Migration – Where appellant was born to United States citizens living in Jerusalem – Where his parents requested that his place of birth be listed as Israel – Where s 214(d) of the *Foreign Relations Act 2003* directs the Secretary of State to do so – Where the Embassy officials

refused citing Executive Branch's longstanding position that United States does not recognise any country as having sovereignty over Jerusalem.

**Held (6:3):** Judgment affirmed.

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*Kerry v Din*

**Supreme Court of the United States:** [Docket 13-1402](#).

**Judgment Delivered:** 15 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Citizenship and Migration – Where respondent petitioned to have her husband, a formal civil servant in the Taliban regime classified as an “immediate relative” entitled to priority immigration status – Where visa application was ultimately denied – Whether respondent was entitled to a review of the visa denial.

**Held (5:4):** Judgment reversed and case remanded.

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*Reyes Mata v Lynch*

**Supreme Court of the United States:** [Docket 14-185](#).

**Judgment Delivered:** 15 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Citizenship and Migration – Whether a Court of Appeal has jurisdiction to review a rejection by the Board of Immigration of an appeal by a non-citizen's motion to reopen the matter.

**Held (8:1):** Judgment reversed and case remanded.

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*TN and MA (Afghanistan) v Secretary of State for the Home Department; AA (Afghanistan) v Secretary of State for the Home Department*

**Supreme Court of the United Kingdom:** [\[2015\] UKSC 40](#).

**Judgment Delivered:** 24 June 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Wilson, Lord Hughes and Lord Toulson.

**Catchwords:**

Citizenship and Migration – Reception Direction (2003/9/EC) – Qualification Directive (2004/83/EC) and Procedures Directive (2005/85/EC) – Where three Afghan nationals were smuggled into the UK as unaccompanied minors and claimed asylum – Where their accounts were disbelieved and rejected – Where appellants were found not to be minors – Where the *Nationality, Immigration and Asylum Act 2002* s 82 and 83 only allowed appeals in certain circumstances – Whether appellants were entitled to appeal the decision.

**Held (5:0):** Appeal dismissed.

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## Constitutional Law

*Henry v British Columbia (Attorney-General)*  
**Supreme Court of Canada:** [2015 SCC 24](#).

**Judgment Delivered:** 1 May 2015.

**Coram:** McLachlin CJ, LeBel, Abella, Moldaver, Karakatsanis, Wagner, Grascon JJ (LeBel J took no part in the judgment).

**Catchwords:**

Constitutional law — Charter of Rights — Remedies — Damages — Civil action — Prosecutorial misconduct in criminal proceedings — Disclosure obligations of prosecutors — Wrongful non-disclosure — Malice — Claimant wrongfully convicted and incarcerated for almost 27 years — Claimant brought civil action alleging breach of Charter rights resulting from Crown counsel’s wrongful non-disclosure of relevant information — Damages under s. 24(1) sought against Crown — Whether s. 24(1) authorised courts to award damages against Crown for wrongful non-disclosure — Level of fault claimant must establish to meet liability threshold for awarding s. 24(1) damages — Whether malice required — Canadian Charter of Rights and Freedoms , s. 24(1) .

**Held (6:0):** Appeal allowed.

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*Cross-Border Road Transport Agency v Central African Road Services & Another*  
**Constitutional Court of South Africa:** [\[2015\] ZACC 12](#).

**Judgment Delivered:** 12 May 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J, Theron AJ and Tshiqi AJ.

**Catchwords:**

Constitutional law - Doctrine of objective constitutional invalidity — Retrospectivity — Default position - Orders properly construed — interpretation — Terms and context of order with judgment as a whole - Declaration of statutory invalidity — Powers of courts to vary the retrospectivity of an order of constitutional invalidity — Power to be exercised during suspension period.

**Held (11:0):** Appeal dismissed.

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*Yukon Francophone School Board, Education Area #23 v Yukon (Attorney-General)*

**Supreme Court of Canada:** [2015 SCC 25](#).

**Judgment Delivered:** 14 May 2015.

**Coram:** McLachlin CJ, Abella, Rothstein, Moldaver, Karakatsanis, Wagner and Gascon JJ.

**Catchwords:**

Courts — Judges — Impartiality — Reasonable apprehension of bias — Allegation that judge's comments and interventions at trial as well as his community involvement before and after appointment as a judge gave rise to reasonable apprehension of bias — Whether judge's conduct and community involvement raised reasonable apprehension of bias.

Constitutional law — Charter of rights — Whether school board can unilaterally decide to admit students who are not covered by s 23 of the Canadian Charter of Rights and Freedoms.

**Held (7:0):** Appeal largely dismissed.

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*R v Kokopenace*

**Supreme Court of Canada:** [2015 SCC 28](#).

**Judgment Delivered:** 21 May 2015.

**Coram:** McLachlin CJ, Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ.

**Catchwords:**

Constitutional law — Charter of Rights — Right to a fair hearing — Right to trial by jury — Jury representativeness — Definition — Aboriginal accused from First Nation reserve convicted of manslaughter — Aboriginal on-reserve residents underrepresented on jury roll from which jury selected for accused's trial — What is the appropriate legal test for

representativeness — Whether state met its representativeness obligation — Canadian Charter of Rights and Freedoms , ss. 11 (d), 11 (f).

Constitutional law — Charter of Rights — Right to equality — Aboriginal on-reserve residents — Aboriginal accused from First Nation reserve convicted of manslaughter — Aboriginal on-reserve residents underrepresented on jury roll from which jury selected for accused's trial — Whether state violated right to equality of accused or of Aboriginal on-reserve residents who were potential jurors — Canadian Charter of Rights and Freedoms , s. 15 .

**Held (5:2):** Appeal allowed.

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*Kahkewistahaw First Nation v Taypotat*  
**Supreme Court of Canada:** [2015 SCC 30](#).

**Judgment Delivered:** 28 May 2015.

**Coram:** McLachlin CJ, Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon JJ.

**Catchwords:**

Constitutional law — Charter of Rights — Right to a fair hearing — Right to trial by jury — Jury representativeness — Definition — Aboriginal accused from First Nation reserve convicted of manslaughter — Aboriginal on-reserve residents underrepresented on jury roll from which jury selected for accused's trial — What is the appropriate legal test for representativeness — Whether state met its representativeness obligation — Canadian Charter of Rights and Freedoms, ss. 11 (d), 11 (f).

Constitutional law — Charter of Rights — Right to equality — Aboriginal on-reserve residents — Aboriginal accused from First Nation reserve convicted of manslaughter — Aboriginal on-reserve residents underrepresented on jury roll from which jury selected for accused's trial — Whether state violated right to equality of accused or of Aboriginal on-reserve residents who were potential jurors — Canadian Charter of Rights and Freedoms , s. 15 .

**Held (7:0):** Appeal allowed.

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*Elonis v United States*  
**Supreme Court of the United States:** [Docket 13-983](#).

**Judgment Delivered:** 1 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.



**Catchwords:**

Constitutional law – Freedom of speech – Where appellant made threatening statements on social media in the form of rap lyrics – Where the appellant was convicted of using carriage service to make threats – Whether the appellant’s speech could be viewed by a reasonable person as a threat.

**Held (7:2):** Judgment reversed and case remanded.

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*Sarrahwitz v Maritz N.O. & Anor*

**Constitutional Court of South Africa:** [\[2015\] ZACC 14.](#)

**Judgment Delivered:** 4 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Khampepe J, Leeuw AJ, Madlanga J, Nkabinde J, Tshiqi AJ, Van der Westhuizen J and Zondo J.

**Catchwords:**

Property law - Alienation of Land Act 68 of 1981 – Sections 21 and 22 – protection afforded to purchasers under instalment sale agreements - Constitutional challenge – Section 9(1) of the Constitution – right to equal protection and benefit of the law - Section 26 of the Constitution – right of access to adequate housing – Negative obligation – Duty not to prevent or impair existing access to adequate housing.

**Held (9:0):** Appeal allowed.

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*R v Smith*

**Supreme Court of Canada:** [2015 SCC 34.](#)

**Judgment Delivered:** 11 June 2015.

**Coram:** McLachlin CJ, Abella, Cromwell, Karakatsanis, Wanger, Gascon and Côté JJ.

**Catchwords:**

Constitutional law – Charter of Rights – Standing – Accused charged with possession and possession for purpose of trafficking of cannabis – Regulations limiting lawful possession of medical marihuana to dried forms – Accused not using marihuana for medical purposes but producing derivatives for sale outside regulatory scheme – Whether accused has standing to challenge constitutional validity of scheme – Controlled Drugs and Substances Act, S.C. 1996, c. 19 , ss. 4(1) , 5(2) – Marihuana Medical Access Regulations, SOR/2001-227.

Constitutional law — Charter of Rights — Right to life, liberty and security of person — Fundamental justice — Accused charged with possession and possession for purpose of trafficking of cannabis — Regulations limiting lawful possession of medical marihuana to dried forms — Whether limitation infringes s. 7 of Canadian Charter of Rights and Freedoms — If so, whether infringement justifiable under s. 1 of Charter — Appropriate remedy — Controlled Drugs and Substances Act, S.C. 1996, c. 19 , ss. 4(1) , 5(2) — Marihuana Medical Access Regulations, SOR/2001-227.

**Held (7:0):** Appeal allowed.

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*Reed v Town of Gilbert, Arizona*

**Supreme Court of the United States:** [Docket 13-502](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Freedom of speech – Where provisions of a municipality sign code imposed restrictions on signs directing the public to a meeting of a non-profit group more stringently than signs conveying other messages – Whether restriction is content based – Whether code impedes first amendment rights.

**Held (9:0):** Judgment reversed and case remanded.

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*Walker v Texas Division, Sons of Confederate Veterans Inc*

**Supreme Court of the United States:** [Docket 14-144](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Freedom of speech – Where state of Texas allows motorists to design speciality vehicle license plates – Where state rejected a proposed design of the confederate battle flag – Whether decision infringed a private person’s right to freedom of speech.

**Held (5:4):** Judgment reversed.

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*Horne v Department of Agriculture*

**Supreme Court of the United States:** [Docket 14-275](#).

**Judgment Delivered:** 22 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Fifth Amendment – Where Fifth Amendment requires the government to pay just compensation when it takes personal property – Where any net proceeds that raisin growers receive from the sale of raisins towards the amount of compensation they have received for the raisins – Whether the raisins have been appropriated for government use – Whether the raisin growers are required to relinquish their property without just compensation as a condition of selling the raisins in interstate commerce.

**Held (5:4):** Judgment reversed.

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*City of Los Angeles v Patel*

**Supreme Court of the United States:** [Docket 13-1175](#).

**Judgment Delivered:** 22 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Fourth Amendment – Privacy – Where the city of Los Angeles requires hotel operators to record and keep specific information on their guests for 90 days – Where the hotel must make this information available to Los Angeles Police Department for inspections – Where the failure to make the records available is a criminal misdemeanour – Whether the respondents have a reasonable expectation of the privacy of their records – Whether the searches are Fourth Amendment searches – Whether the searches are unreasonable under the Fourth Amendment.

**Held (5:4):** Judgment affirmed.

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*Obergefell v Hodges*

**Supreme Court of the United States:** [Docket 14-556](#).

**Judgment Delivered:** 26 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Fourteenth Amendment – Whether Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognise a marriage between two people of the same sex where their marriage was lawfully performed and licensed out-of-state.

**Held (5:4):** Judgment reversed.

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*Arizona State Legislature v Arizona Independent Redistricting Commission*

**Supreme Court of the United States:** [Docket 13-1314](#).

**Judgment Delivered:** 29 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Election districts – Where an independent body determines electoral districts – Whether the Constitution allows for an independent body to determine electoral districts.

**Held (5:4):** Adjudged to be affirmed.

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*Glossip v Gross*

**Supreme Court of the United States:** [Docket 14-7955](#).

**Judgment Delivered:** 29 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Capital punishment – Whether the use of midazolam as the first drug in a three drug cocktail used for capital punishment violates the Eighth Amendment.

**Held (5:4):** Adjudged affirmed.

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*Shoprite Checkers (Pty) Limited v Member of the Executive Council for Economic Development, Environmental Affairs and Tourism, Eastern Cape and Others*

**Constitutional Court of South Africa:** [\[2015\] ZACC 23](#).

**Judgment Delivered:** 30 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J, Theron AJ and Tshiqi AJ.

**Catchwords:**

Constitutional law – Licencing regimes – Where a wine seller’s licence under the *Liquor Act 1989* was terminated – Whether the licence is property – Whether the decision constituted arbitrary deprivation by change in the regulatory regime.

**Held (10:1):** Appeal dismissed.

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## Construction

*Aspect Contracts (Asbestos) Limited v Higgins Construction Plc*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 38](#).

**Judgment Delivered:** 17 June 2015.

**Coram:** Lord Mance, Lord Wilson, Lord Sumption, Lord Reed and Lord Toulson.

**Catchwords:**

Construction contracts – Adjudication of disputes – *Housing Grants, Construction and Regeneration Act 1996* ss 108 and 114 – *The Scheme for Construction Contracts (England and Wales) Regulations 1998* – Where a dispute between the parties was referred to adjudication – Where the adjudicator found that the appellant breached its contractual and tortious duties and awarded the respondent damages. – Whether the adjudication was a final determination of the matter.

**Held (5:0):** Appeal dismissed.

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*Trencon Construction (Pty) Limited v Industrial Development Corporation of South Africa Limited & Another*  
**Constitutional Court of South Africa:** [\[2015\] ZACC 22](#).

**Judgment Delivered:** 26 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J and Theron AJ.

**Catchwords:**

Construction – Tender process – Whether the Court can make a substitution order in a tender process.

**Held (10:0):** Appeal allowed.

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## Criminal Law

*R v St-Cloud*

**Supreme Court of Canada:** [2015 SCC 27](#).

**Judgment Delivered:** 15 May 2015.

**Coram:** McLachlin CJ, Abella, Rothstein, Moldaver, Karakatsanis, Wagner and Gascon JJ.

**Catchwords:**

Criminal law — Interim release — Grounds justifying detention — Justice of peace ordering detention of accused awaiting trial on ground set out in s. 515(10)(c) of Criminal Code, that is, that his detention “is necessary to maintain confidence in the administration of justice” — Reviewing judge ordering release of accused — Proper interpretation of s. 515(10)(c) of Criminal Code — Restrictive interpretation rejected — Criminal Code, R.S.C. 1985, c. C-46 , s. 515(10) (c).

Criminal law — Interim release — Review of decision of justice of peace — Decision by justice of peace to order detention of accused reversed by reviewing judge — Cases in which review provided for in ss. 520 and 521 of Criminal Code is available in interim release context — Whether reviewing judge erred in exercising his role by simply substituting his assessment of evidence for that of justice of peace — Criminal Code, R.S.C. 1985, c. C-46 , ss. 520 , 521 .

**Held (7:0):** Appeal allowed.

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*Henderson v United States*

**Supreme Court of the United States:** [Docket 13-1487](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Where the appellant was prohibited of possessing his (or any other person’s) firearms – Where the appellant requested his firearms be transferred to a third party – Whether the transfer would give the appellant constructive possession of the firearms in violation of cl 922(g) of s 18 of the United States Code.

**Held (9:0):** Judgment vacated and remanded.

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*R v Barabash*

**Supreme Court of Canada:** [2015 SCC 29](#).

**Judgment Delivered:** 22 May 2015.

**Coram:** McLachlin CJ, Abella, Rothstein, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon and Cote JJ.

**Catchwords:**

Criminal law — Child pornography — Defences — Private use exception — Accused charged with child pornography offences — Accused arguing in defence that sexual activity lawful and consensual and that recordings held for private use — Crown challenging lawfulness of sexual activity on basis of girls' exploitation — Whether private use exception requires separate and additional exploitation inquiry or whether exploitation included under lawfulness inquiry — In acquitting accused, whether trial judge properly interpreted exception — Criminal Code, R.S.C. 1985, c. C-46 , s. 163.1 .

**Held (7:0):** Appeals allowed.

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*Cullen v The Queen*

**Supreme Court of New Zealand:** [\[2015\] NZSC 73](#).

**Judgment Delivered:** 29 May 2015.

**Coram:** Elias CJ, William Young, Glazebrook, Arnold and O'Regan JJ.

**Catchwords:**

Criminal law – Where appellant was convicted of 15 counts of receiving stolen vehicles together with the business that he was the sole director of – Where trial judge directed that the appellant's actions and state of mind could be attributed to the company as he was the sole director excluding the acts and states of mind of other employees – Whether the direction deprived appellant of a defence otherwise available to him.

**Held (5:0):** Appeal dismissed.

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*R v Tatton*

**Supreme Court of Canada:** [2015 SCC 33](#).

**Judgment Delivered:** 4 June 2015.

**Coram:** McLachlin CJ, Abella, Rothstein, Cromwell, Moldaver, Wagner and Gascon JJ.

**Catchwords:**

Criminal law — Arson — Defences — Intoxication — Accused relying on self-induced intoxication as excuse for committing arson — Self-induced intoxication short of automatism cannot be relied upon as excuse for general intent offence — Whether arson is general or specific intent offence — If arson is general intent offence, whether trial judge's classification of arson as specific intent offence had material bearing on verdict of acquittal — Criminal Code, R.S.C. 1985, c. C-46 , s. 434 .

**Held (7:0):** Appeals allowed.

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*Ah-Chong v The Queen*

**Supreme Court of New Zealand:** [\[2015\] NZSC 83](#).

**Judgment Delivered:** 17 June 2015.

**Coram:** Elias CJ, McGrath, William Young, Glazebrook and Arnold JJ.

**Catchwords:**

Criminal law – Sexual Offences – Directions to jury – Where appellant was convicted on one count of assault with intent to commit sexual violation – Whether the judge's direction to the jury with respect to the mental element of the offence was correct.

**Held (4:1):** Appeal dismissed.

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*McFadden v United States*

**Supreme Court of the United States:** [Docket 14-378](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Where appellant was arrested and charged with distributing controlled substance analogues in violation of the federal Controlled Substance Analogue Enforcement Act 1986 – Whether knowledge of the analogous properties is required for a finding of guilt pursuant to the Act.

**Held (9:0):** Judgment vacated and case remanded.

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*Ohio v Clark*

**Supreme Court of the United States:** [Docket 13-1352](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Evidence – Where respondent was convicted of multiple counts of physical abuse of a child – Whether the introduction of evidence of what the child told his teachers where the child was not called to the stand violated respondent’s constitutional right to confront witnesses against him.

**Held (9:0):** Judgment reversed and case remanded.

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*Davis v Ayala*

**Supreme Court of the United States:** [Docket 13-1428](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Where respondent was convicted of murder and sentenced to death – Where respondent had objected that seven of the prosecution’s challenges were race-based and impermissible – Where trial judge found that there were valid race-neutral reasons for the strikes – Whether the finding by the trial judge was an error – Whether that error was harmless under state and federal law.

**Held (5:4):** Judgment reversed and case remanded.

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*Brumfield v Cain*

**Supreme Court of the United States:** [Docket 13-1433](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Criminal sentencing – Where appellant was convicted of murder and sentenced to death – Where appellant was sentenced prior to

the Court holding that the Eighth Amendment prohibits the execution of intellectually disabled persons – Whether appellant is intellectually disabled – Whether the Court’s finding applied retrospectively in appellant’s case.

**Held (5:4):** Judgment reversed and case remanded.

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*Kingsley v Hendrickson*

**Supreme Court of the United States:** [Docket 14-6368](#).

**Judgment Delivered:** 22 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Whether appellant was awaiting trial in a county jail – Where officers forcibly removed him from his cell when he refused to comply with instructions – Whether officers used excessive force against the appellant in violation of Fourteenth Amendment – Whether law requires a subjective inquiry into an officers’ state of mind.

**Held (5:4):** Judgment vacated and case remanded.

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*Molaudzi v The State*

**Constitutional Court of South Africa:** [\[2015\] ZACC 20](#).

**Judgment Delivered:** 25 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J, Theron AJ and Tshiqi AJ.

**Catchwords:**

Criminal law – Res judicata – Where applicant, with seven others, was accused of shooting and killing a warrant officer in 2002 – Where applicant appealed his conviction in 2013 and the appeal was denied – Where applicant sought to appeal his conviction a second time – Consideration of the circumstances in which the Court will revisit final judgments in criminal cases.

**Held (10:0):** Appeal allowed.

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*De Vos N.O & Ors v Minister of Justice and Constitutional Development & Ors*

**Constitutional Court of South Africa:** [\[2015\] ZACC 21](#).

**Judgment Delivered:** 26 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Froneman J, Khampepe J, Leeuw AJ, Madlanga J, Nkabinde J, Tshiqi AJ, Van der Westhuizen J and Zondo J.

**Catchwords:**

Criminal law – *Criminal Procedure Act* – Where Act provides for the compulsory hospitalisation, imprisonment or institutionalisation of an accused person who is found mentally unfit to stand trial – Whether provisions violate the Constitution.

**Held (10:0):** Appeal dismissed.

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*Johnson v United States*

**Supreme Court of the United States:** [Docket 13-7120](#).

**Judgment Delivered:** 26 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Criminal law – Where appellant pleaded guilty to being a felon in possession of a firearm – Where respondent sought an enhanced sentence under the Armed Career Criminal Act which imposed an increased prison term upon a defendant with three prior convictions for a “violent felony” – Whether the clause should be void for vagueness.

**Held (8:1):** Judgment reversed and case remanded.

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## Employment Law

*Horn & Ors v La Health Medical Scheme & Anor*

**Constitutional Court of South Africa:** [\[2015\] ZACC 13](#).

**Judgment Delivered:** 14 May 2015.

**Coram:** Mogoeng CJ, Cameron J, Froneman J, Khampepe J, Leeuw AJ, Madlanga J, Nkabinde J, Tshiqi AJ, Van der Westhuizen J and Zondo J.

**Catchwords:**

Employment law - Leave to appeal granted on misrepresentation — Right to a fair hearing — No constitutional issue raised — Appeal dismissed with costs - Effect of section 197(2) of the Labour Relations Act 66 of 1995 on contracts of employment and rights and obligations concerning pension

benefits and redundancy benefits upon transfer of business as a going concern – Employees’ right to redundancy benefit, if any, before transfer is taken over by business transferee

**Held (9:0):** Appeal dismissed.

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## Equal Opportunity and Discrimination

*City and County of San Francisco v Sheehan*  
**Supreme Court of the United States:** [Docket 13-1412](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Discrimination – Where respondent had a mental illness – Where respondent threatened police officers with a knife – Where respondent was arrested in relation to her conduct – Whether police officers were required to consider an accommodation of respondent’s disability before arresting her.

**Held (8:0):** Case reversed in part and remanded.

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*Equal Employment Opportunity Commission v Abercrombie & Fitch Stores*

**Supreme Court of United States:** [Docket 14-86](#).

**Judgment Delivered:** 1 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Equal Opportunity and Discrimination – Where respondent refused to hire teenage girl who was a practicing Muslim – Where respondent’s decision was made because the headscarf she wore pursuant to her religious beliefs conflicted with respondent’s dress policy – Whether respondent’s actions violated Title VII of the *Civil Rights Act 1964*.

**Held (7:1):** Judgment reversed and remanded.

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*Texas Department of Housing and Community Affairs v Inclusive Communities Project*

**Supreme Court of the United States:** [Docket 13-1371](#).

**Judgment Delivered:** 25 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Equal Opportunity and Discrimination – Where United States Government provides low income housing tax credits – States distribute the housing tax credits to developers – Where appellant claimed that the Texas Department of Housing and Community Affairs allocated too many tax credits to housing in predominantly black inner-city areas at the expense of white suburban neighbourhoods – Whether respondent's practice was discriminatory.

**Held (5:4):** Judgment affirmed and case remanded.

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## Family Law

*In the matter of AR v RN (Scotland)*

**Supreme Court of the United Kingdom:** [\[2015\] UKSC 35](#).

**Judgment Delivered:** 22 May 2015.

**Coram:** Lady Hale, Lord Clarke, Lord Wilson, Lord Reed, Lord Hughes.

**Catchwords:**

Family Law – Hague Convention on the Civil Aspects of International Child Abduction, Art 3 – Factors relating to the determination of habitual residence – Whether children were habitual residents of Scotland or France immediately before the proceedings.

**Held (5:0):** Appeal dismissed.

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*Johnston v Schurr & Anor*

**Supreme Court of New Zealand:** [\[2015\] NZSC 82](#).

**Judgment Delivered:** 12 June 2015.

**Coram:** Elias CJ, McGrath, William Young, Glazebrook and O'Regan JJ.

**Catchwords:**

Family Law – *Protection of Personal and Property Rights Act 1988* – Where appellant suffered serious brain injuries and respondent was appointed

manager of his property – Whether respondent acted appropriately in his role pursuant to the Act.

**Held (5:0):** Appeal allowed in part.

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*DE v RH*

**Constitutional Court of South Africa:** [\[2015\] ZACC 18](#).

**Judgment Delivered:** 19 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Madlanga J, Molemela AJ, Nkabinde J and Theron AJ.

**Catchwords:**

Family law – Law of delict – Claim against third party based on adultery – Whether claim continues to exist pursuant to South African law.

**Held (10:0):** Appeal dismissed.

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## Human Rights

*Gaughran v Chief Constable of the Police Service of Northern Ireland*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 29](#).

**Judgment Delivered:** 13 May 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Kerr, Lord Clarke and Lord Sumption.

**Catchwords:**

Human Rights— Respect for private and family life — Interference with — Indefinite retention by police of DNA samples taken from convicted persons — Whether breach of convicted person's Convention right to private life — Whether lawful — Human Rights Act 1998, Sch 1 Pt I, art 8

**Held (4:1):** Appeal dismissed.

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*Haile v London Borough of Waltham Forest*

**Supreme Court of the United Kingdom:** [\[2015\] UKSC 34](#).

**Judgment Delivered:** 20 May 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Clarke, Lord Reed and Lord Carnwath.

**Catchwords:**

Local Government— Homeless persons — Whether homeless intentionally — Applicant voluntarily leaving single occupancy hostel accommodation but subsequently applying to local housing authority as homeless person with priority need due to pregnancy — Authority refusing to provide accommodation on ground that applicant intentionally homeless — Applicant having given birth to child by time of authority's refusal — Single occupancy requirement at hostel such that applicant would have been homeless in any event at date of authority's decision — Whether breaking causal connection between deliberate act in leaving available accommodation and homelessness at date of authority's decision — Housing Act 1996, ss 191(1), 193(1).

**Held (4:1):** Appeal allowed.

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## Insurance

*New Zealand Fire Service Commission v Insurance Brokers Association of New Zealand Incorporated and Vero Insurance New Zealand Limited*  
**Supreme Court of New Zealand:** [\[2015\] NZSC 59](#).

**Judgment delivered:** 13 May 2015.

**Coram:** McGrath, William Young, Glazebrook, Arnold and O'Regan JJ.

**Catchwords:**

Insurance – *Fire Services Act 1975* s 48 – Method of calculation of the fire services levy imposed by the Act – Where respondents sought declarations on the calculation of the levy on two types of insurance policies.

**Held (5:0):** Appeal allowed.

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## Intellectual Property

*Commil USA v Cisco Systems Inc*  
**Supreme Court of the United States:** [Docket 13-896](#).

**Judgment Delivered:**

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan J (Breyer J took no part in the decision).

**Catchwords:**

Intellectual Property – Patents – Whether business can induce patent infringement where business holds a mistaken belief in good faith that the patent is invalid.

**Held (6:2):** Judgment vacated and case remanded.

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*Kimble v Marvel Entertainment*

**Supreme Court of the United States:** [Docket 13-720](#).

**Judgment Delivered:** 22 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Intellectual property – Where respondent’s corporate predecessor purchased the appellant’s patent for a Spider Man toy in exchange for a lump sum plus 3% royalty on future sales – Where agreement set no end date for royalties – Where Court previously held in *Brulotte v Thys* that a patentee cannot continue to receive royalties for sales after the patent expires – Whether Court should overrule its previous decision.

**Held (6:3):** Judgment affirmed.

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## Negligence

*Zurich Insurance PLC UK Branch v International Energy Group Limited*

**Supreme Court of the United Kingdom:** [\[2015\] UKSC 33](#).

**Judgment Delivered:** 20 May 2015.

**Coram:** Lord Neuberger, Lord Mance, Lord Clarke, Lord Sumption, Lord Reed, Lord Carnwath and Lord Hodge.

**Catchwords:**

Guernsey — Insurance — Liability insurance — Guernsey employer’s liability insurance covering employee’s injury or disease “caused during any period of insurance and arising out of ... his employment” — Employer paying premium for six years out of 27 in which employee exposed to asbestos dust — Employee developing mesothelioma — Employer compensating employee — Whether insurers liable to provide full or proportionate indemnity to employer — Whether liable to pay all defence costs incurred by employer in defending employee’s claim.

**Held (7:0):** Appeal allowed.

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# Practice and Procedure

*Phoko & Ors v Ekurhulenu Metropolitan Municipality (No 2)*  
**Constitutional Court of South Africa:** [\[2015\] ZACC 10](#).

**Judgment Delivered:** 7 May 2015.

**Coram:** Moseneke DCJ, Cameron J, Froneman J, Jafta J, Khampepe J, Leeuw AJ, Madlanga J, Nkabinde J, Van der Westhuizen J and Zondo J.

**Catchwords:**

Practice and procedure - Contempt of court — Requisites for contempt — Judicial authority — Court initiating proceedings *mero motu* — State's duty to comply with court orders — Joinder — Costs *de bonis propriis* — Right to have access to adequate housing — Service requisite not met — respondent not in contempt of court.

**Held (10:0):** Appeal allowed.

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*Coleman-Bey v Tollefson*  
**Supreme Court of the United States:** [Docket 13-1333](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Practice and procedure – *Prison Litigation Reform Act* – Whether the “three-strikes” provision prevents a Court from granting *forma pauperis* status to a prisoner who, while incarcerated, brought three or more frivolous or malicious actions against the state – Whether the provisions applies where a dismissal of a claim is the subject of an on-going appeal.

**Held (9:0):** Judgment affirmed.

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# Property

*Arnold v Britton & Ors*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 36](#).

**Judgment Delivered:** 10 June 2015.

**Coram:** Lord Neuberger, Lord Sumption, Lord Carnwath, Lord Hughes, Lord Hodge.

**Catchwords:**

Property Law – Leases – Where leases contain a covenant to pay a service charge – Interpretation of clauses containing covenants.

**Held (4:1):** Appeal dismissed.

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## Statutes

*Hotak & Ors v London Borough of Southwark & Anor*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 30](#).

**Judgment Delivered:** 13 May 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Clarke, Lord Wilson and Lord Hughes.

**Catchwords:**

Local Government – Homeless persons – Priority need – Applicants with mental and physical health problems presenting as homeless – Local housing authority comparing applicants with ordinary homeless persons and finding them not “vulnerable” and so not in priority need – Housing authority taking into account continuing support received by certain applicants from family members – Whether housing authority using correct comparator – Whether housing authority in assessing priority need entitled to consider third party personal support received by applicant – Housing Act 1996 (c 52), s 189(1)(c).

**Held for the First Appellant (4:1):** Appeal dismissed.

**Held for the Second Appellant (5:0):** Appeal allowed.

**Held for the Third Appellant (5:0):** Appeal dismissed.

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*King v Burwell*

**Supreme Court of the United States:** [Docket 14-114](#).

**Judgment Delivered:** 25 June 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Constitutional law – Health care – *Affordable Care Act* – Where the Act requires states to create exchanges or marketplaces for residents to buy health insurance – Where, if the state refuses, the federal government provides the exchange – Where the federal government provides tax credits for people in need of financial assistance – Whether the phrase “established by the State” required the exchanges or marketplaces to be created by a state rather than federal government.

**Held (6:3):** Judgment affirmed.

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## Taxation

*Comptroller of the Treasury of Maryland v Wynne*  
**Supreme Court of the United States:** [Docket 13-485](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Taxation – Where Maryland’s personal income tax scheme taxes income that its residents earn both within and outside the state – Where the scheme does not provide residents with a full credit against income taxes that they pay to other states – Whether the regime violates the dormant Commerce Clause.

**Held (5:4):** Judgment affirmed.

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*Commissioners for Her Majesty’s Revenue and Customs v Pendragon and Ors*

**Supreme Court of the United Kingdom:** [\[2015\] UKSC 37](#).

**Judgment Delivered:** 10 June 2015.

**Coram:** Lord Neuberger, Lord Sumption, Lord Reed, Lord Carnwath and Lord Hodge.

**Catchwords:**

Taxation – Where a car distributor buys a demonstrator car from the manufacturer and pays VAT on the full wholesale price – Where the car distributor sells the car and collects VAT on the full retail price – Where the car distributor accounts to the HMRC the VAT it collected less the VAT it paid – Where the respondent reduced its VAT liability – Whether the respondent’s scheme breached the EU law principle of abuse of law.

**Held (5:0):** Appeal allowed.

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*South African Reserve Bank & Anor v Shuttleworth and Anor*  
**Constitutional Court of South Africa:** [\[2015\] ZACC 17](#).

**Judgment Delivered:** 18 June 2015.

**Coram:** Mogoeng CJ, Moseneke DCJ, Cameron J, Froneman J, Jappie AJ, Khampepe J, Molemela AJ, Nkabinde J, Theron AJ and Tshiqi AJ.

**Catchwords:**

Taxation – Exchange control system – Exit charge – Whether exit charge imposed pursuant to r 10(1)(c) of the Exchange Control Regulations a tax or regulatory charge.

**Held (9:1):** Appeal allowed.

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## Torts

*Starbucks (HK) Limited & Anor v British Sky Broadcasting Group PLC & Ors*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 31](#).

**Judgment Delivered:** 13 May 2015.

**Coram:** Lord Neuberger, Lord Sumption, Lord Carnwath, Lord Toulson, Lord Hodge.

**Catchwords:**

Passing off – Ingredients of tort – Reputation and goodwill – Claimants operating subscription television service in Hong Kong – Programmes available to United Kingdom viewers without subscription via Internet – Defendants starting television service under same name as used by claimants for their service – Whether claimants having goodwill in name – Whether protectable goodwill requiring customers within court’s jurisdiction.

**Held (5:0):** Appeal dismissed.

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*Rhodes v OPO & Anor*  
**Supreme Court of the United Kingdom:** [\[2015\] UKSC 32](#).

**Judgment Delivered:** 20 May 2015.

**Coram:** Lord Neuberger, Lady Hale, Lord Clarke, Lord Wilson and Lord Toulson.

**Catchwords:**

Tort — Cause of action — Intentionally causing harm — Claim seeking to restrain publication of information in book by father of 11-year-old claimant describing sexual abuse suffered by father in childhood and its consequences — Expert evidence that claimant’s reading of book likely to cause him psychological harm — Interim injunction granted prohibiting publication of “graphic” accounts of abuse and its consequences — Whether conduct and mental elements of tort made out — Whether publication justified — Whether injunction properly granted.

**Held (5:0):** Appeal allowed.

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*Hinse v Canada (Attorney-General)*

**Supreme Court of Canada:** [2015 SCC 35](#).

**Judgment Delivered:** 19 June 2015.

**Coram:** McLachlin CJ, LeBel, Abella, Rothstein, Cromwell, Moldaver, Wagner and Gascon JJ (LeBel took no part in the judgment).

**Catchwords:**

Crown law — Crown liability — Prerogatives — Public law immunity — Crown’s power of mercy vested in federal Minister of Justice under Criminal Code, R.S.C. 1985, c. C-46 — Characterization of nature of Minister’s power — Circumstances in which exercise of power of mercy can expose Crown to liability — Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50 , ss. 2 “liability”, 3(a)(i); Civil Code of Québec, arts. 1376, 1457.

Civil liability — Crown liability — Fault — Qualified immunity — Individual wrongly convicted of armed robbery — Federal Minister of Justice refusing to exercise Crown’s power of mercy, which is vested in him under Criminal Code — Standard of fault applicable to Minister’s conduct — Whether individual has proven on balance of probabilities that Minister acted in bad faith or with serious recklessness in reviewing applications for mercy — Civil Code of Lower Canada, art. 1053; Civil Code of Québec, art. 1457.

Damages — Punitive damages — Extrajudicial fees — Pro bono representation — Whether individual entitled to compensatory or punitive damages — Whether, in case of abuse of process and where there is pro bono agreement, damages can be awarded in Quebec in respect of extrajudicial fees in order to compensate party who has suffered damage resulting from fault of other party? — Civil Code of Québec, art. 1608.

**Held (7:0):** Appeal dismissed.

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# Trusts

*Tibble v Edison International*

**Supreme Court of the United States:** [Docket 13-550](#).

**Judgment Delivered:** 18 May 2015.

**Coram:** Roberts CJ, Scalia, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

**Catchwords:**

Trusts – Pensions – Where the appellants suffered losses – Where the appellants argued that the losses occurred due the respondent’s breach of fiduciary duties – Whether the appellants claim was out of time.

**Held (9:0):** Judgment vacated and case remanded.

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*Fenwick & Ors v Narea & Ors*

**Supreme Court of New Zealand:** [\[2015\] NZSC 68](#).

**Judgment Delivered:** 20 May 2015.

**Coram:** McGrath, William Young, Glazebrook, O’Regan and Blanchard JJ.

**Catchwords:**

Trusts – Joint venture between Maori land-owning trusts for the development of geothermal power station – Where beneficiaries of one of the trusts objected to the actions of the trustees in entering the joint venture arrangements – Whether trustees had a conflict of interest.

**Held (5:0):** Appeal allowed in part.

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