



HIGH COURT OF AUSTRALIA

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Details of Filing

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

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Form 27F – Outline of oral submissions

Note: see rule 44.08.2.

B10/2025

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

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

and

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

**RESPONDENT'S
OUTLINE OF ORAL SUBMISSIONS**

Part I: Certification

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

Part II: Propositions to be advanced in oral argument

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

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

Dated: 11 June 2025



Name: C Heyworth-Smith KC
King's Counsel for the Respondent