

HIGH COURT OF AUSTRALIA

GORDON J

IN THE MATTER OF AN APPLICATION BY
YOUHUA MAO FOR LEAVE TO ISSUE OR FILE

[2025] HCASJ 9

Date of Judgment: 20 February 2025
S156 of 2024

ORDER

- The ex parte application filed on 12 December 2024 for leave to issue or file a writ of summons is refused.*

Representation

The applicant is unrepresented

1 GORDON J. This is an *ex parte* application for leave to issue or file a writ of summons against the Commonwealth of Australia, the Commissioner of Taxation, the Australian Prudential Regulation Authority and the Australian Securities and Investments Commission. The applicant purports to challenge the *Superannuation Guarantee (Administration) Act 1992* (Cth) ("the SGA Act") and the *Superannuation Industry (Supervision) Act 1993* (Cth) ("the SIS Act").

2 On 11 December 2024, Edelman J directed that, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), the writ of summons was not to be issued or filed without the leave of a Justice first had and obtained by the applicant. This application for leave to issue or file the writ is supported by an affidavit affirmed by the applicant on 12 December 2024. I have read the applicant's affidavit as well as the proposed writ of summons.

3 The applicant's affidavit acknowledges that this Court has expressed concerns that she has filed related applications that are "similar to, related to, or overlapping with"¹ the content of the writ of summons the subject of this application and that those applications have been repetitive, manifestly hopeless and vexatious.² The applicant then records that she has undertaken significant efforts to address these concerns and has made substantial revisions to the proposed writ to consolidate arguments to avoid duplication, to refine the pleadings so that they focus "solely on constitutional questions of public importance" and to ensure compliance with the requirements of the *High Court Rules*. However, despite those efforts by the applicant to revise and refine the contents of the writ, the application has no prospects of success.

4 Neither the writ, nor the applicant's supporting affidavit, discloses any rational legal argument that could support the relief sought, namely a "declaration that s 19 of the SGA Act, along with s 64 and s 68B of the SIS Act, mandating that individual superannuation guarantee shortfalls or superannuation contributions be deducted as a specified percentage (currently 11.5%) of employees' salaries or wages and remitted to trustees of regulated superannuation funds, while restricting employees' access to these funds, constitute acquisitions of property without just terms, contrary to [s]ection 51(xxxi) of the Constitution, and are therefore invalid" and an "order requiring the Commonwealth to establish a superannuation compensation system to provide just compensation to affected Australian workers and their families for their losses and damages arising from the provisions of the SGA Act and the SIS Act, which contravene [s]ection 51(xxxi) of the Constitution". The claims set out in the proposed writ are manifestly

1 *In the matter of an application by Youhua Mao for leave to issue or file* [2024] HCASJ 31 at [2].

2 See, eg, *In the matter of an application by Youhua Mao for leave to issue or file* [2024] HCASJ 31 at [2].

2.

hopeless and it would be an abuse of process if the proposed writ was filed. The proposed writ is vexatious on its face and should not be issued or filed.³

- 5 Given that a document the subject of an application under r 6.07.3 is to be considered "on its face",⁴ it is implicit that the application falls to be determined without an oral hearing.⁵ The *ex parte* application filed on 12 December 2024 for leave to issue or file a writ of summons is refused.

3 See *High Court Rules*, r 6.07.1; *Re Young* (2020) 94 ALJR 448 at 451 [11]-[12]; 376 ALR 567 at 570.

4 *High Court Rules*, r 6.07.1.

5 *Re Young* (2020) 94 ALJR 448 at 451 [12]; 376 ALR 567 at 570.