

# HIGH COURT OF AUSTRALIA

STEWARD J

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IN THE MATTER OF AN APPLICATION BY  
ADRIAN BIDDLE FOR LEAVE TO ISSUE OR FILE

[2026] HCASJ 1  
*Date of Judgment: 22 January 2026*  
M101 of 2025

## ORDER

- 1. The application of 28 November 2025 for leave to issue or file a proposed application for a constitutional or other writ is dismissed.*

### Representation

The applicant is unrepresented



1 STEWARD J. On 27 November 2025, Edelman J directed the Registrar to refuse  
to issue or file the applicant's proposed application for a constitutional or other writ  
dated 26 November 2025 ("the Proposed Application") without leave of a Justice  
of this Court, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth) ("the *Rules*").  
By an ex parte application, the applicant now seeks that leave to issue or file the  
Proposed Application, pursuant to r 6.07.3 of the *Rules*. The applicant is self-  
represented.

## Background

2 The background to this matter, particularly in terms of its procedural  
history, is convoluted. However, to the extent that it is relevant to the present  
application, it may be summarised as follows.

3 The applicant's employment with Miele Australia Pty Ltd ("Miele") was  
terminated on 24 April 2023 on the grounds of serious misconduct, after he refused  
to attend a scheduled independent medical examination. Later that year, he  
commenced proceedings in the Victorian Civil and Administrative Tribunal  
("VCAT") in which he claimed he had been treated "unfavourably" by Miele, and  
several employees of Miele, in breach of the *Equal Opportunity Act 2010* (Vic).

4 That claim was premised upon the applicant's asserted disability – a  
"functional neurological disorder" – which he describes as entailing "a mystery  
persistent 'brain fog'" and affecting "the quality of [his] thoughts and  
communication" in "hidden and complex" ways.

5 On 28 January 2025, the applicant made an application under s 29 of the  
*Civil Procedure Act 2010* (Vic) in the Supreme Court of Victoria in respect of  
alleged breaches of the "overarching obligations" by Miele, several employees of  
Miele, and their legal representatives in the course of the VCAT proceedings and  
sought an order that they not be allowed to participate further. On 27 March 2025,  
O'Meara J dismissed that application.<sup>1</sup>

6 The applicant then sought leave to appeal to the Court of Appeal of the  
Supreme Court of Victoria against O'Meara J's orders dismissing the s 29  
application, amongst other things. On 3 October 2025, Beach JA refused such  
leave on the basis that the proposed appeal had "no prospects of success" and that  
the application for leave was "totally without merit" pursuant to s 14D(3) of the  
*Supreme Court Act 1986* (Vic).<sup>2</sup>

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1 *Biddle v Miele Australia Pty Ltd* [2025] VSC 146 at [215].

2 *Biddle v Miele Australia Pty Ltd* [2025] VSCA 244 at [7].

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7 The applicant has since sought special leave to appeal to this Court (in proceeding M83/2025) from the whole of the judgment of Beach JA. The grounds of appeal proposed by the applicant are as follows:

- "1. The appeal judge erred by failing to identify and apply the relevant principles and proper test for determining if I was a person with a 'disability' under s 6 of the [*Equal Opportunity Act 2010* (Vic)], which denied me natural justice.
2. The appeal judge and the Court of Appeal Registrar erred by failing to conduct a fair hearing of my application for leave to appeal in compliance with the overarching purpose of the [*Civil Procedure Act*] ... and my rights under ss 8 and 24 of the [*Charter of Human Rights and Responsibilities 2006* (Vic)].
3. The Court of Appeal Registrar erred by acting on the wrong principles regarding my 2 October 2025 urgent application to stay the listed judgement, which denied me natural justice."

8 On 31 October 2025, the applicant filed an interlocutory application (also in proceeding M83/2025) seeking ten orders which the applicant describes as "necessary procedural and/or reasonable accommodations" in respect of his special leave application in view of his asserted disability pursuant to rr 2.02, 6.01.1 and Part 13 of the *High Court Rules 2004* (Cth). Neither the special leave application, nor the interlocutory application, have yet been determined by this Court.

### **Present application**

9 By the present application for leave to issue or file, the applicant seeks leave to issue or file the Proposed Application, by which he would seek the following relief:

- "1. The Court to grant an immediate temporary stay of M83/2025 — to take effect as soon as possible but no later than 12:00pm on Friday 28 November 2025. The stay of M83/2025 to remain in effect until such time as the Court has heard and determined this application regarding proposed orders 4, 5 and 6, and the Court is satisfied that M83/2025 will be conducted in a constructive manner that enables the Plaintiff, by virtue of his disability, to substantively participate effectively in all aspects and not be deprived, in procedural terms, of his right to claim justice throughout the entirety of that proceeding.
2. The Court to grant an immediate temporary stay of [the proceedings described above] in the Supreme Court of Appeal ... to remain in effect until such time as proposed order 4 on the Plaintiff's [31] October 2025 interlocutory application in M83/2025 has been heard and determined.

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3. The Court to grant an immediate temporary stay of [the proceedings described above] in the Supreme Court... to remain in effect until such time as proposed order 4 on the Plaintiff's [31] October 2025 interlocutory application in M83/2025 has been heard and determined.
4. The Court to issue a writ of mandamus against the Chief Executive and Principal Registrar and the office of the Registry, in which they are directed to properly investigate in accordance with the relevant legislation in Victoria and the Commonwealth — and take Steps to properly resolve — the Plaintiff's 23 November 2025 letter of complaint to the Chief Executive and Principal Registrar.
5. The Court to issue a writ of mandamus against the Chief Executive and Principal Registrar and the office of the Registry, in which they are directed to ensure that the Plaintiff's [31] October 2025 interlocutory application in M83/2025 is properly heard and determined according to the beneficial and remedial expectations of the relevant legislation in Victoria and the Commonwealth — and any granted accommodations arising from that interlocutory application are implemented — prior to any consideration of steps to be taken with the Plaintiff's application for special leave to appeal the 3 October 2025 decision by the Supreme Court of Appeal ...
6. The Court to issue a writ of mandamus against the Chief Executive and Principal Registrar, in which they are directed to identify and resolve any inconsistencies regarding the elimination of discrimination against litigants in Court proceedings to the greatest extent possible with regard to the *High Court Rules 2004* (Cth) and the revised process for consideration of applications for special leave.
7. The Court to declare that s 14D(3) of the *Supreme Court Act 1986* (Vic) is invalid, by way of the irreparable and unconscionable damage that can be imposed —through unlawful discrimination that can occur as a result of jurisdictional errors made by the Supreme Court of Appeal — on the human rights of a self-represented applicant or appellant as specified under ss 8(3) and 24(1) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic)."

### Relevant principles

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The discretion to grant or refuse leave to issue or file a document pursuant to r 6.07.3 of the *Rules* is exercised by reference to the same criteria which inform the action of the Registrar under r 6.07.1, meaning that such leave is generally refused where the document appears "on its face to be an abuse of the process of

the Court, to be frivolous or vexatious or to fall outside the jurisdiction of the Court".<sup>3</sup> The Court may determine applications for such leave without an oral hearing.<sup>4</sup>

- 11           The classes of potential abuses of process are not closed. However, for the purposes of the Proposed Application, it suffices to observe that abuse of process extends to "an attempt to invoke the original or appellate jurisdiction of the High Court [of Australia] on a basis that is confused or manifestly untenable".<sup>5</sup>

### Consideration

- 12           The Proposed Application is an attempt to invoke this Court's original jurisdiction on a "confused or manifestly untenable" basis and, as such, leave to issue or file should be refused.

- 13           By proposed order 1, the applicant seeks "an immediate temporary stay" of proceeding M83/2025 in this Court "until such time as the Court has heard and determined" the Proposed Application as it relates to proposed orders 4, 5 and 6. In light of the reasons below at [16] in respect of proposed orders 4, 5 and 6, proposed order 1 is futile.

- 14           By proposed orders 2 and 3, the applicant seeks "an immediate temporary stay" of each of the proceedings in the Court of Appeal and the Supreme Court respectively, which he contends should remain in effect until a particular proposed order of the interlocutory application (in proceeding M83/2025) has been heard and determined. In addition, by that interlocutory application, the applicant seeks a stay of each of the proceedings in the Court of Appeal and Supreme Court respectively "until a date at this Court's convenience".

- 15           The applicant has not articulated any arguable basis for this Court to make proposed orders 2 and 3. The applicant's interlocutory application seeking stays of each of the proceedings below remains on foot in this Court (in proceeding M83/2025) and will be determined in due course. On the material adduced by the applicant, it is far from clear what urgency (if any) necessitates interim relief. For completeness, I note that the applicant asserted (by the interlocutory application in proceeding M83/2025) that one or both of the proceedings below was listed for a hearing as to directions on 10 December 2025.

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3     *Re Young* (2020) 94 ALJR 448 at 451 [10]-[11]; 376 ALR 567 at 570. See also *Re Alkaiasi* [2025] HCASJ 34 at [12]; *Re Meyer* [2025] HCASJ 22 at [12]; *Re Lal* [2025] HCASJ 8 at [8].

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

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

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If that directions hearing was the source of the urgency, no coherent explanation was proffered as to why this Court's intervention was required in the meantime.

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By proposed orders 4, 5 and 6, the applicant seeks several writs of mandamus against (i) the Chief Executive and Principal Registrar of this Court ("the CE&PR"), and (ii) the "office of the Registry" of this Court. Each of these proposed orders are fundamentally misguided – in particular because, as is well-established, "[a] writ of mandamus does not issue except to command the fulfilment of some duty of a public nature which remains unperformed".<sup>6</sup> The applicant has failed to identify any such "duty of a public nature which remains unperformed", having regard also to the following:

- (a) By proposed order 4, the applicant seeks a writ of mandamus directing both the CE&PR and the "office of the Registry" to "properly investigate" and "take steps to properly resolve" certain complaints outlined in a letter to the CE&PR dated 23 November 2025. The applicant variously complains – in connection with his asserted disability – of "indirect discrimination" and "victimisation" by officers of the Registry by "enforcing strict compliance" with the *Rules*, and by failing to take "positive actions" to protect his interests and prevent the "disadvantaging" of his special leave application, amongst other things. For present purposes, it suffices to observe that the applicant has not articulated any relevant duty (capable of enforcement by a writ of mandamus against either the CE&PR nor the "office of the Registry") that demands investigation of his complaints. It is unnecessary and would be inappropriate for me to remark on the applicant's asserted disability and surrounding circumstances.
- (b) By proposed order 5, the applicant seeks a writ of mandamus directing both the CE&PR and the "office of the Registry" to implement "any granted accommodations" as may be made by this Court upon its determination of the interlocutory application in proceeding M83/2025. As described above, that interlocutory application is yet to be determined by this Court. In effect, the applicant here seeks to pre-emptively command compliance with orders that have not yet been (and may or may not be) made.
- (c) By proposed order 6, the applicant seeks a writ of mandamus directing the CE&PR to address "inconsistencies regarding the elimination of discrimination against litigants" in this Court. The applicant has not adduced any evidence in this Court capable of supporting a finding that there has been any such "discrimination" against him or any other litigant

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6 *R v War Pensions Entitlement Appeal Tribunal; Ex parte Bott* (1933) 50 CLR 228 at 242. See also *Nasir v Federal Court of Australia* [2025] HCASJ 21 at [31].

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in this Court. But, and in any event, the applicant has again failed to identify any relevant duty to be enforced by a writ of mandamus.

17 Finally, by proposed order 7, the applicant seeks a declaration that s 14D(3) of the *Supreme Court Act* is invalid. Section 14D(3) provides that: "If the Court of Appeal dismisses an application for leave to appeal without an oral hearing and has determined that the application is totally without merit, the applicant has no right to apply to have the dismissal set aside or varied."

18 The applicant contends that s 14D(3) "allows for the substantial and entrenched denial of natural justice by the ... Court of Appeal and the High Court" in respect of applicants with disabilities by subjecting them to "indirect discrimination and breach [of] their equality of arms rights without legal recourse". However, the applicant has not adduced any evidence capable of supporting this contention that he, or any other applicant, has been subject to the "damage" to which he refers, and, in any case, he has not articulated any arguable basis for the declaratory relief that he seeks in this Court.

### **Disposition**

19 For the foregoing reasons, the application of 28 November 2025 for leave to issue or file a proposed application for a constitutional or other writ is dismissed. Pursuant to r 13.03.1 of the *Rules*, I dismiss the application without an oral hearing.

20 For the avoidance of doubt, for present purposes I express no concluded view as to the merits of the applicant's special leave application and interlocutory application in proceeding M83/2025. Those applications will be determined by this Court in due course.