

HIGH COURT OF AUSTRALIA

GLEESON J

IN THE MATTER OF AN APPLICATION BY
HAZEL HONEY F LIM FOR LEAVE TO ISSUE OR
FILE

[2026] HCASJ 4

Date of Judgment: 10 March 2026

A4 of 2026

ORDERS

- 1. The applications for leave to issue or file: an application for a constitutional or other writ; the affidavit sworn by the applicant on 7 November 2025; and exhibits to the affidavit, are refused.*

Representation

The applicant is unrepresented

GLEESON J.

Introduction

1 Pursuant to r 6.07.3 of the *High Court Rules 2004* (Cth) and by application filed on 14 January 2026, the applicant seeks leave to have issued or filed the following documents: (1) an application for a constitutional or other writ naming as defendants the Federal Court of Australia, the District Registrar of the Federal Court for the South Australia District Registry ("the District Registry"), and Justice Charlesworth of the Federal Court ("the proposed application"); (2) an affidavit sworn by the applicant on 7 November 2025 in support of the proposed application; and (3) exhibits to the affidavit comprising 1,149 pages. The application is supported by an affidavit sworn by the applicant on 13 January 2026, which includes an additional 125 pages of exhibits.

2 Leave is required because of a r 6.07.2 direction made by Gordon J on 4 December 2025, directing the Registrar to refuse to issue or file the proposed application without first having and obtaining the leave of a Justice of this Court.

3 For the following reasons, leave to file the proposed application must be refused. Consequently, leave to file the other materials would be pointless and should be refused for that reason.

Background

4 In November 2018, the applicant filed an application in the then-named Federal Circuit Court of Australia against Flinders University of South Australia and other respondents ("the respondents") alleging multiple contraventions of the *Fair Work Act 2009* (Cth) ("the Fair Work proceeding"). The application was dismissed by Judge Heffernan in March 2021.¹ In October 2022, in Federal Court of Australia proceeding SAD 150 of 2021 ("the 2021 proceeding"), Charlesworth J refused the applicant's application for an extension of time within which to appeal from Judge Heffernan's decision.²

5 On 2 March 2023, Charlesworth J ordered that the applicant pay the respondents' costs of the unsuccessful extension of time application incurred from 19 October 2021, such costs to be fixed on a lump sum basis by a Registrar of the Federal Court in the absence of agreement as to quantum.³ Costs were awarded from 19 October 2021 because Charlesworth J accepted the respondents' contention that the applicant "acted contrary to an agreement reached on that day

1 *Lim v Flinders University of South Australia (No 2)* [2021] FCCA 614.

2 *Lim v Flinders University of South Australia* [2022] FCA 1361.

3 *Lim v Flinders University of South Australia (No 2)* [2023] FCA 147.

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for the settlement of the proceedings, rejected a settlement offer and persisted in an unmeritorious claim".

6 On 23 March 2023, the applicant filed an application for an extension of time and leave to appeal from the 2 March 2023 costs order. On 8 June 2023, Moshinsky J dismissed the application as incompetent, concluding that the costs order was made in the exercise of the Court's appellate jurisdiction.⁴

7 On 30 October 2024, pursuant to Charlesworth J's 2 March 2023 costs order, Registrar Parkyn made an order fixing the costs payable by the applicant to the respondents in the amount of \$116,090.21.

8 On 20 November 2024, the applicant attempted to file a Form 66 originating application for judicial review in the 2021 proceeding ("the Form 66 application"). The Form 66 application sought review of Registrar Parkyn's order on the ground that the costs payable were "excessive, unreasonable, and disproportionate to the tasks involved". On 25 November 2024, an officer of the District Registry told the applicant by email that the Form 66 application would not "be filed on this now finalised matter as an Originating Application brings forth a new matter". On 26 November 2024, an email from the District Registry to the applicant stated that:

"The Registry have sought assistance in processing the documents and have been advised that the correct form to use is a Form 35 – Interlocutory Application rather than a Form 66 – Originating Application for Judicial Review.

Attached for your convenience is the Form 35 – Interlocutory Application. I confirm this will be filed on the existing SAD150/2021 matter.

Please attend to completing the form as soon as practicable and the Registry will backdate the document to the 20th November 2024 to ensure you have filed in time."

9 The applicant subsequently filed a Form 35 interlocutory application in the 2021 proceeding, seeking review of Registrar Parkyn's order on the same grounds set out in the Form 66 application, namely that the costs ordered were "excessive, unreasonable, and disproportionate to the tasks involved".

10 On 7 March 2025, the applicant wrote to the District Registry explaining her view that the Form 35 was not the correct form because it was for an order in a proceeding and, specifically, for an order in the 2021 proceeding. The applicant contended that the 2021 proceeding was finalised in 2023. The following week, there was correspondence between the applicant and staff of the District Registry

4 *Lim v Flinders University of South Australia (No 3)* [2023] FCA 618 at [6]-[7].

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and, on 14 March 2025, the applicant was informed that Charlesworth J would hear submissions about the correctness of the forms filed and attempted to be filed in the 2021 proceeding at a hearing on 17 March 2025.

11 On 17 March 2025, Charlesworth J heard and determined the Form 35 interlocutory application. Her Honour granted leave to the applicant to amend the Form 35 orally, seeking that costs be fixed in the sum of \$13,190.89. Following argument, Charlesworth J made orders: (1) setting aside Registrar Parkyn's order; (2) fixing the costs payable by the applicant in the lesser amount of \$92,944.00 excluding GST; and (3) ordering the applicant to pay the respondents' costs of and incidental to the interlocutory application, fixed in the amount of \$1,750.00 excluding GST. Her Honour also granted the parties liberty to apply to vary or revoke the third order on or before 31 March 2025. Her Honour gave oral reasons for these orders and, on 31 March 2025, published revised reasons for the orders.⁵ In the revised reasons, Charlesworth J explained:⁶

"The applicant made submissions about the appropriate procedure that should be used to commence a review of the registrar's decision. She asserted that she had been given contrary advice by different Registries about the appropriate form in which such a review may be commenced. At the hearing of her own interlocutory application, she asserted that the proper procedure was to apply in a separate proceeding for judicial review of the registrar's decision. She informed the Court that she had lodged an originating process for judicial review with the Registry a few days prior. In large part, the effect of the applicant's submission was that it was not appropriate for a presiding judge who delegates a power to a registrar to then sit upon a review of the decision made in the exercise of the delegated power, for to do so would be tantamount to reviewing one's own decision. The applicant submitted that the process lacked transparency. I rejected that submission and do not consider it necessary to repeat here what was said in oral reasons about it. Relatedly, I refused to disqualify myself from hearing the applicant's interlocutory application on grounds of apprehended bias. The applicant's submissions on that topic were substantially the same as those going to the question of jurisdiction, namely that a judge could not and should not review the exercise of power by a registrar in circumstances where the power was delegated by that same judge. ...

[The applicant] asserted that the Court does not have jurisdiction to hear an application of the present kind because the action is finalised. The action is not finalised in the relevant sense. The Court's order that there be a lump sum fixed by a registrar left the action open for the purpose of quantifying

5 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294.

6 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [8], [11].

costs. A necessary incident of the registrar's power in fixing that sum was that the exercise of the power to fix the amount of costs was reviewable on the merits."

12 Also on 31 March 2025, the applicant exercised the liberty granted by Charlesworth J by applying to vary or revoke the order fixing the respondents' costs of and incidental to the interlocutory application. On 16 April 2025, Charlesworth J dismissed that application.⁷

13 Both before and after the 17 March 2025 hearing, the applicant pressed for the District Registry to accept the Form 66 application for filing in the 2021 proceeding. Following the 17 March 2025 hearing, the applicant also requested that her Form 35 application (which had been disposed of by Charlesworth J's 17 March 2025 orders) be withdrawn and replaced with the sealed Form 66. On 27 May 2025, an officer of the District Registry sent the applicant an email informing her that the Form 66 application could not be accepted for filing by the Registry "because this application has already been dealt with by Charlesworth J in her Honour's interlocutory judgment published on 31 March 2025".

Relief sought

14 In the proposed application, the applicant first seeks orders in the nature of certiorari quashing: (1) the 27 May 2025 decision of the District Registry to refuse to accept the Form 66 application (or alternatively, a declaration that that Registry's refusal of the Form 66 was beyond power and of no effect); (2) the decisions of Charlesworth J on 17 March 2025⁸ and 16 April 2025; and (3) if the decisions referred to in (1) or (2) disclose apprehended bias or a lack of impartiality, Charlesworth J's 2 March 2023 costs order. Next, the applicant seeks orders in the nature of mandamus: (1) compelling the District Registrar to accept the Form 66 application; and (2) directing a Judge of the Federal Court other than Charlesworth J to hear and determine the Form 66 application. Finally, the applicant seeks relief in connection with exercise of the powers of this Court, including amending the date on which the proposed application is taken to have been filed and an order or direction for a referral of a request for pro bono legal assistance.

Relevant principles

15 The discretion to refuse the leave sought by the applicant is to be exercised by reference to the criteria set out in r 6.07.1, namely whether the proposed

7 *Lim v Flinders University of South Australia (No 4)* [2025] FCA 377.

8 The proposed application states the decision date as 31 March 2025, but the orders sought to be quashed were made on 17 March 2025.

application "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".⁹ Implicit in the requirement that a document the subject of an application under r 6.07.3 be considered "on its face" is that such an application falls to be determined on the papers,¹⁰ that is, without an oral hearing. While there are no "closed categories" of what amounts to an abuse of process, the concept includes attempts to invoke the jurisdiction of the Court on bases that are confused or manifestly untenable.¹¹

Alleged jurisdictional errors by the District Registry

16 The proposed application does not articulate an arguable basis for finding that the refusal or failure by officers of the District Registry to accept the Form 66 application for filing amounted to or involved jurisdictional error. Form 66 is entitled "Originating application for judicial review" and is the form by which an application is made for an order under s 11(1) of the *Administrative Decisions (Judicial Review) Act 1977* (Cth).¹² The Form 66 application was an abuse of process because it sought the same relief that was sought and granted by the determination of the Form 35 interlocutory application, namely, a review of Registrar Parkyn's decision.¹³ In any event, the ground of review in the Form 66 application—that the quantum was excessive—is not capable of being understood as a ground of judicial review under the *Administrative Decisions (Judicial Review) Act*.

Alleged jurisdictional errors by Charlesworth J

17 The proposed application identifies five grounds of review concerning action taken or a failure to take action by Charlesworth J. Each proposed ground is manifestly untenable.

9 *Re Young* (2020) 94 ALJR 448 at 451 [11]; 376 ALR 567 at 570.

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

11 *Re Young* (2020) 94 ALJR 448 at 451 [13]; 376 ALR 567 at 570.

12 *Federal Court Rules 2011* (Cth), r 31.01(1).

13 *Walton v Gardiner* (1993) 177 CLR 378 at 393; *Rogers v The Queen* (1994) 181 CLR 251 at 286-287; *Aon Risk Services Australia Ltd v Australian National University* (2009) 239 CLR 175 at 193-194 [33]; *Plaintiff S3/2013 v Minister for Immigration and Citizenship* (2013) 87 ALJR 676 at 678 [13]-[14]; 297 ALR 560 at 563.

Form 35 interlocutory application ground

18 The applicant's first proposed ground, entitled "Failure to Exercise Jurisdiction / Exceeding Jurisdiction (Form 66 blocked)" has no prospects of success. The applicant's contention that Charlesworth J erred by "displacing the proper Form 66 pathway" cannot succeed because the Form 66 application was an abuse of process, following the determination of the Form 35 interlocutory application. There is no basis for the contention that Charlesworth J erred in "failing to recognise the finality of Registrar Parkyn's delegated decision in a closed matter", nor that her Honour misdirected and fettered access to the "proper Form 66 pathway". The contention that "[b]locking [the] Form 66 removed the only merits review route otherwise available" wrongly implies that the Federal Court Form 66 provides for merits review of a registrar's decision. Form 66 provides for judicial review under the *Administrative Decisions (Judicial Review) Act*, not for merits review.

No evidence ground

19 The applicant contends that three of Charlesworth J's findings were not supported by evidence. The first two findings were made in the reasons for the 17 March 2025 orders. The third finding was made in support of the 2 March 2023 order. The applicant notes that the third finding is "[c]ontext only—no separate relief sought save per" the orders sought if time is enlarged. As leave to file the proposed application must be refused in relation to all other grounds, the third finding need not be addressed.

20 The first finding is the finding in the last sentence of [27] of her Honour's 31 March 2025 judgment. In full, the paragraph reads:¹⁴

"When the proceeding was first commenced, it was supported by an affidavit of the applicant in which she annexed a draft notice of appeal. It was 126 pages long. Much of the time spent in case management was devoted to providing [the applicant] the opportunity to revise that document so as to make it readable and to identify with precision the errors that were said to have been made by the primary judge. That took some time."

21 The applicant's complaint that there is no evidentiary basis for the last sentence is misconceived. It is an observation about time spent in case management. Her Honour's judgment records that there were four case management hearings and one proceeded for almost one hour. Having regard to her Honour's finding in the second last sentence of [27], there was an evidentiary

14 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [27].

basis for her Honour to find that "some time" was spent in providing the applicant the opportunity to identify with precision Judge Heffernan's alleged errors.

22 The second finding is that the applicant's correspondence with the respondents was "copious in its amount and discursive in its nature".¹⁵ Contrary to the applicant's contention, the fact that Charlesworth J did not identify "specific letters, dates, or page-lengths" does not support an inference that the finding was made without an evidentiary basis. Her Honour was entitled to draw an inference about the correspondence from other evidence, as she did in this case.

Procedural unfairness ground

23 The applicant's third proposed ground, entitled "Denial of Procedural Fairness / Failure to Provide Reasons" also has no prospects of success. The proposed ground has two elements.

24 The first element, that Charlesworth J failed to provide written reasons for rejecting the applicant's submission that it was illogical or unreasonable for her Honour to review her own delegated decision, lacks merit. The applicant does not dispute the statement in her Honour's reasons that she gave oral reasons for rejecting the submission.¹⁶ Her Honour did not have a duty to provide written reasons in addition to her oral reasons.

25 The second element, that her Honour did not give reasons for adopting a discount rate of 40% to the actual solicitors' fees and counsel fees incurred by the respondents, is based on a false premise. Her Honour's reasons for adopting that rate are set out in the judgment.

Relevant considerations ground

26 The applicant's fourth proposed ground, entitled "Failure to Make Relevant Considerations—party/party vs indemnity" contends that Charlesworth J overlooked that the respondents sought costs on a party-party basis only, and failed to engage with "the party-party standard of necessity and reasonableness". The proposed ground is falsified by her Honour's observation that the total number of hours worked by the respondents' legal representatives was "excessive and unreasonable", and that it was "not an appropriate starting point for applying a 25% discount to reduce what would otherwise be a claim for indemnity costs".¹⁷

15 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [29].

16 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [29].

17 *Lim v Flinders University of South Australia (No 3)* [2025] FCA 294 at [35].

Bias ground

27 The applicant's fifth proposed ground, entitled "Structural Bias—costs of the Review" concerns the interlocutory application costs of \$1,750. It is expressly based on the alleged errors already addressed and must therefore fail.

Conclusion and orders

28 The application for a constitutional or other writ appears, on its face, to be an abuse of process. Accordingly, it is inappropriate to consider whether the date on which the proposed application is taken to have been filed should be amended, or to order or direct for the applicant to be referred for pro bono legal assistance.

29 The applications for leave to issue or file: an application for a constitutional or other writ; the affidavit sworn by the applicant on 7 November 2025; and exhibits to the affidavit, are refused.