

HIGH COURT OF AUSTRALIA

GAGELER CJ,
GORDON, EDELMAN, JAGOT AND BEECH-JONES JJ

R LAWYERS

APPELLANT

AND

MR DAILY & ANOR

RESPONDENTS

R Lawyers v Mr Daily [No 2]
[2026] HCA 31
Date of Judgment: 9 September 2026
A8/2025

ORDER

Application dismissed with costs.

On appeal from the Federal Circuit and Family Court of Australia

Representation

The appellant is represented by Barry Nilsson Lawyers

The first respondent is represented by Charlton Rowley

Submitting appearance for the second respondent

Notice: This copy of the Court's Reasons for Judgment is subject to formal revision prior to publication in the Commonwealth Law Reports.

1 GAGELER CJ, GORDON, EDELMAN, JAGOT AND BEECH-JONES JJ.
This appeal was heard on 12 June 2025. The Court delivered judgment on
5 November 2025.¹

2 The application filed by the first respondent on 14 July 2026 seeks
"clarification of the procedural consequences of the orders made on 5 November
2025". Alternatively, the first respondent seeks variation of the orders made by
the Court on 5 November 2025.

3 It is not apparent from the affidavit evidence filed by the first respondent
in support of the application that there is any justiciable controversy and, in any
event, this Court would decline to exercise its jurisdiction to grant a declaration to
"clarify" its orders. The Court's orders and reasons for judgment speak for
themselves.² In substance, the application seeks an advisory opinion which
the Court has no power to give.³ There are also powerful reasons of finality why
any discretion would be exercised only in the rarest of circumstances.
Moreover, the Court's jurisdiction to reopen a judgment is to be exercised with
great caution.⁴ No basis for reopening the judgment has been established.

4 The application filed by the first respondent is dismissed with costs.

1 *R Lawyers v Mr Daily* (2025) 99 ALJR 1504; 425 ALR 664.

2 *Badari v Minister for Housing and Homelands (NT)* (2025) 100 ALJR 43 at 45-46
[12]; 426 ALR 227 at 230.

3 *In re Judiciary and Navigation Acts* (1921) 29 CLR 257 at 264-267; *Ainsworth v
Criminal Justice Commission* (1992) 175 CLR 564 at 582, 596; *Bass v Permanent
Trustee Co Ltd* (1999) 198 CLR 334 at 355-356 [47].

4 See, eg, *Autodesk Inc v Dyason [No 2]* (1993) 176 CLR 300 at 302 and the cases
cited.