HIGH COURT OF AUSTRALIA

GORDON J

IN THE MATTER OF AN APPLICATION BY YUE WANG FOR LEAVE TO ISSUE OR FILE

[2026] HCASJ 41
Date of Judgment: 20 November2026
C17 of 2026

ORDER

1. *The ex parte application filed on 2 November 2026 for leave to issue or file an application for 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 South Eastern Sydney Local Health District.

2 On 2 October 2026, Beech-Jones J directed that, pursuant to r 6.07.2 of the *High Court Rules 2004* (Cth), the application for a 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 of summons is supported by an affidavit affirmed by the applicant on 23 October 2026. I have read the affidavit, as well as the proposed writ of summons.

3 In sum, the applicant's affidavit states that the applicant is the widow of Wei Fan, who was involved in proceedings in the Supreme Court of New South Wales concerning alleged medical negligence.[1] In those proceedings, judgment was entered for the defendant.[2] However, on 26 February 2010, a notice of motion filed by the defendant dated 12 December 2008 was dismissed and costs were reserved.[3] On 29 April 2010, the defendant was ordered to pay Mr Fan's costs of that motion.[4] The affidavit then refers to orders relating to or concerning the question of costs in the substantive proceedings. One costs order was made on 3 November 2015 when Mr Fan was ordered to pay the defendant the "gross sum of $250,000 being the defendant's costs of these proceedings".[5] In that judgment, the primary judge relevantly stated:

> "[40] It is my view that a gross sum costs [order] should be made because firstly, it unlikely that the plaintiff will be able to satisfy the liability to pay costs; secondly, it relieves the parties of having to undergo a protracted and expensive costs assessment process; and finally, the award of a gross sum costs order does justice to both parties. ... The defendant seeks a lump sum of $260,000, which is approximately 50.76% of the defendant's costs and which the defendant says takes into account the costs order made on 29 April 2010 in the plaintiff's favour.

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1 *Fan v South Eastern Sydney Local Health District [No 2]* [2015] NSWSC 1235.

2 *Fan v South Eastern Sydney Local Health District [No 2]* [2015] NSWSC 1235 at [488].

3 *Fan v South Eastern Sydney and Illawarra Area Health District* [2010] NSWSC 123.

4 *Fan v South Eastern Sydney and Illawarra Area Health District [No 2]* [2010] NSWSC 343.

5 *Fan v South Eastern Sydney Local Health District [No 3]* [2015] NSWSC 1620 at [42].

> [41] I have deducted a further $10,000 from the lump sum to represent the costs order made in favour of the plaintiff on 29 April 2010.
>
> [42] I order that the plaintiff is to pay the defendant the gross sum of $250,000 being the defendant's costs of these proceedings."

4 The applicant refers to paragraph [41] above and seeks, in this Court, "to have the present legal status and effect of that costs order[], proper[l]y determined, including whether any amount remains payable and what legal effect should be given to the ... reference to the $10,000 deduction". The applicant then contends that there were errors in the earlier judgments. The applicant acknowledges that both judgments were the subject of previous unsuccessful appeals to the Court of Appeal of the Supreme Court of New South Wales and unsuccessful applications for special leave to appeal to this Court.[6]

5 Neither the proposed writ of summons, nor the applicant's supporting affidavit, discloses any rational legal argument that could support the relief sought. The claims set out in the proposed writ are manifestly hopeless.

6 Given that a document the subject of an application under r 6.07.3 of the *High Court Rules* is to be considered "on its face",[7] it is implicit that the application falls to be determined without an oral hearing.[8] The ex parte application filed on 2 November 2026 for leave to issue or file an application for a writ of summons is refused.

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6 *Fan v South Eastern Sydney Local Health District* [2016] HCASL 162; *Fan v South Eastern Sydney Local Health District* [2021] HCASL 148.

7 *High Court Rules*, r 6.07.1.

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