



## HIGH COURT OF AUSTRALIA

3 December 2025

GENESALIO & ANOR v JUSTICE JOHNS AND OTHER JUDGES OF THE FEDERAL  
CIRCUIT AND FAMILY COURT OF AUSTRALIA (DIVISION 1) & ORS  
[2025] HCA 45

On 28 November 2025, the High Court unanimously dismissed an application for a constitutional or other writ and a related application for a stay. Today, the High Court published its reasons for those orders.

The application for a constitutional or other writ related to proceedings commenced by a former wife against a former husband seeking a property settlement under s 79 of the *Family Law Act 1975* (Cth). On 26 April 2023 and 28 June 2024, Johns J of the Federal Circuit and Family Court of Australia (Division 1) made orders for the joinder of the former husband's brother and corporations controlled by the former husband's brother as parties to the proceedings based on claims made by the former wife that the former husband held interests in property of those parties. On 30 August 2024, after nine days of hearing, Johns J made final orders by consent in the proceedings.

By the application for a constitutional or other writ, the plaintiffs, being the former husband and the former husband's brother, sought an extension of time to apply for various constitutional writs, including writs of certiorari quashing the joinder orders and final orders and declarations that the joinder orders were (i) void for jurisdictional error and constitutionally invalid, and (ii) beyond the subject matter jurisdiction conferred by the *Family Law Act*. By the application for a stay, the plaintiffs sought a stay of the final orders and subsequent orders facilitating the enforcement of those orders, until the determination of the substantive application by the High Court.

The High Court unanimously refused to grant the plaintiffs an extension of time to apply for the constitutional writs sought. In circumstances where the application for a constitutional or other writ was filed substantially out of time, where no persuasive explanation was given for the delay and where none of the grounds for the writs of certiorari were reasonably arguable, the matter was not one in which any extension of time could be justified. As the balance of the orders sought depended on the writs of certiorari being granted, the application had to be dismissed. It followed that the application for a stay also had to be dismissed.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*