



# HIGH COURT BULLETIN

[2025] HCAB 4 (27 May 2025)

A record of recent High Court of Australia cases: decided, reserved for judgment, awaiting hearing in the Court's original jurisdiction, granted special leave to appeal, refused special leave to appeal and not proceeding or vacated

1: Summary of New Entries .....	1
2: Cases Handed Down.....	4
3: Cases Reserved .....	8
4: Original Jurisdiction .....	21
5: Section 40 Removal .....	23
6: Special Leave Granted.....	24
7: Cases Not Proceeding or Vacated .....	31
8: Special Leave Refused .....	32

## 1: SUMMARY OF NEW ENTRIES

### [2: Cases Handed Down](#)

Case	Title
<u><a href="#">Evans &amp; Anor v Air Canada ABN 29094769561</a></u>	Aviation Law
<u><a href="#">Lendlease Corporation Limited CAN 000 226 228 &amp; Anor v David William Pallas and Julie Ann Pallas as trustees for the Pallas Family Superannuation Fund &amp; Anor</a></u>	Civil Procedure
<u><a href="#">Babet &amp; Anor v Commonwealth of Australia</a></u> <u><a href="#">Palmer v Commonwealth of Australia</a></u>	Constitutional Law
<u><a href="#">The King v Batak</a></u>	Criminal Law
<u><a href="#">Brawn v The King</a></u>	Criminal Practice

### 3: Cases Reserved

Case	Title
<a href="#"><u>CD &amp; Anor v Commonwealth of Australia</u></a>	Constitutional Law
<a href="#"><u>Farmer v Minister for Home Affairs &amp; Anor</u></a>	Constitutional Law
<a href="#"><u>G Global 120E T2 Pty Ltd as trustee for the G Global 120E AUT v Commissioner of State Revenue</u></a> <a href="#"><u>G Global 180Q Pty Ltd as trustee for the G Global 180Q AUT v Commissioner of State Revenue</u></a>	Constitutional Law
<a href="#"><u>Stott v The Commonwealth of Australia &amp; Anor</u></a>	Constitutional Law
<a href="#"><u>CD &amp; Anor v Director of Public Prosecutions (SA) &amp; Anor</u></a>	Statutes
<a href="#"><u>Hunt Leather Pty Ltd ACN 000745960 &amp; Anor v Transport for NSW</u></a> <a href="#"><u>Hunt Leather Pty Ltd ABN 46000745960 &amp; Ors v Transport for NSW</u></a>	Torts

### 4: Original Jurisdiction

Case	Title
<a href="#"><u>Plaintiff S15/2025 v Minister for Immigration and Multicultural Affairs</u></a>	Immigration Law
<a href="#"><u>Plaintiff S22/2025 v Minister for Immigration and Multicultural Affairs</u></a>	Immigration Law

### 5: Section 40 Removal

Case	Title
------	-------

### 6: Special Leave Granted

Case	Title
<a href="#"><u>Badari &amp; Ors v Minister for Housing and Homelands &amp; Anor</u></a> <a href="#"><u>Badari &amp; Ors v Minister for Territory Families and Urban Housing &amp; Anor</u></a>	Statutes

[7: Cases Not Proceeding or Vacated](#)

Case	Title
------	-------

[8: Special Leave Refused](#)

## 2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the May 2025 sittings.

---

### Aviation Law

*Evans & Anor v Air Canada* ABN 29094769561

[S138/2024](#): [\[2025\] HCA 22](#)

**Date delivered:** 14 May 2025

**Coram:** Gageler CJ, Edelman, Steward, Gleeson and Beech-Jones JJ

**Catchwords:**

Aviation law – international carriage of passengers by air – *Unification of Certain Rules of International Carriage by Air 1999* (“*Montreal Convention*”) – where appellants sought damages in Supreme Court of New South Wales for injuries allegedly suffered from turbulence on Air Canada flight from Vancouver to Australia under art 17 of Montreal Convention (incorporated into Australian law under s 9B *Civil Aviation (Carriers’ Liability) Act 1959* (Cth) – where respondent pleaded it was not liable for damages exceeding “113,100 Special Drawing Rights” in accordance with art 21 of Montreal Convention – where appellants relied on rule 105(C)(1)(a) of Air Canada’s International Tariff General Rules which stipulated there were no financial limits on compensatory damages recoverable in respect of bodily injuries – where Court of Appeal found rule 105(C)(1)(a) did not have effect of waiving defence created by art 21 – whether Court of Appeal erred in construing arts 17, 21 and 25 of Montreal Convention by treating rule 105(C)(1)(a) as form of consumer notification rather than term of contract of carriage – whether Court of Appeal erred in holding stipulation in rule 105(C)(1)(a) did not preclude financial limit under art 21(2) in cases where damages would exceed a monetary or financial amount and carrier proves no fault – whether Court of Appeal erred in not holding operation of rule 105(C)(1)(a) constitutes a stipulation for purposes of art 25 and displaced application of art 21(2) of Montreal Convention.

**Appealed from NSWCA:** [\[2024\] NSWCA 153](#)

[Return to Top](#)

---

---

## Civil Procedure

*Lendlease Corporation Limited ACN 000 226 228 & Anor v David William Pallas and Julie Ann Pallas as trustees for the Pallas Family Superannuation Fund & Anor*

[S108/2024](#); [\[2025\] HCA 19](#)

**Date delivered:** 7 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Civil procedure – representative proceedings – notices to group members – where appellant is defendant in shareholder class action brought by respondent plaintiffs alleging misleading and deceptive conduct and breach of continuous disclosure obligations – where separate question stated for determination in New South Wales Court of Appeal – whether Court of Appeal erred in holding that Supreme Court of New South Wales does not have power in representative proceeding to approve notice to group members containing notation to effect that upon any settlement, parties or defendant will seek order that group members neither registering nor opting-out shall not be permitted without leave to seek any benefit under settlement – where Court of Appeal authority conflict with Full Federal Court authority on the question.

**Appealed from NSWCA:** [\[2024\] NSWCA 83](#); (2024) 114 NSWLR 81

[Return to Top](#)

---

---

## Constitutional Law

*Babet & Anor v Commonwealth of Australia*

*Palmer v Commonwealth of Australia*

[B73/2024](#); [B74/2024](#); [\[2025\] HCA 21](#)

**Date heard:** 7 February 2025

**Orders pronounced:** 12 February 2025 *Questions answered*

**Date delivered:** 14 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Constitutional law – Elections – *Commonwealth Electoral Act 1918* (Cth) – Part XI – Registration of political parties – Where United Australia Party was registered as a political party in 2018 – Where United Australia party was voluntarily deregistered by the Australian Electoral Commission under s 135(1) of the Act in 2022 – Where s 135(3) of the Act provides that a party is ineligible for registration until after the general election next following the voluntary deregistration of that party – Validity of s 135(3) – Whether invalid on the ground that it impairs the direct choice by the people of Senators or Members of the House of Representatives, contrary to ss 7 and 24 of the *Constitution* – Whether invalid on the ground that it impermissibly discriminates against candidates of a political party that has deregistered voluntarily or a Parliamentary party that has deregistered voluntarily – Whether invalid on the ground that it infringes the implied freedom of political communication.

[Return to Top](#)

---

## Criminal Law

*The King v Batak*

**S148/2024:** [\[2025\] HCA 18](#)

**Date heard:** 8 April 2025 *Special leave revoked*

**Date delivered:** 7 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Criminal law – complicity – accessorial liability – whether common law principles of complicity apply to offence of murder under s 18(1)(a) *Crimes Act 1900* (NSW) – whether Court of Criminal Appeal erred in concluding it was error of law to permit constructive law to be left to jury on basis of accessorial liability – whether accessory before the fact to constructive murder an offence known to law in New South Wales – if so, whether mental element differs depending on whether act causing death coincides with physical elements of foundational offence of whether a distinct act.

**Appealed from NSWCCA:** [\[2024\] NSWCCA 66](#)

[Return to Top](#)

---

---

# Criminal Practice

*Brawn v The King*

[A20/2024](#): [\[2025\] HCA 20](#)

**Date delivered:** 7 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Criminal practice – appeal – miscarriage of justice – prosecution duty of disclosure – where appellant found guilty of one count of maintaining sexual relationship with child – where defence case was that complainant lied about identity of abuser – where, after trial, prosecution disclosed that appellant’s father had been charged with six counts of unlawful sexual intercourse with different child – whether Court or Appeal erred in finding that breach of duty of disclosure did not lead to miscarriage of justice for purpose of s 158(1)(c) *Criminal Procedure Act 1921* (SA) because appellant would not have conducted trial differently – whether Court of Appeal erred in finding appellant conceded that non-disclosure did deprive him of opportunity to adduce evidence relating to father – proper approach to ‘miscarriage of justice’ for purposes of s 158(1)(c) *Criminal Procedure Act*.

**Appealed from SASCA:** [\[2022\] SASCA 96](#); (2022) 141 SASR 465

[Return to Top](#)

---

---

# 3: CASES RESERVED

The following cases have been reserved or part heard by the High Court of Australia.

---

---

## Constitutional Law

*CD & Anor v Commonwealth of Australia*

[A2/2025](#): [\[2025\] HCATrans 35](#)

**Date heard:** 13 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ

**Catchwords:**

Constitutional law – *Surveillance Legislation (Confirmation of Application) Act 2024* (Cth) (“the Confirmation Act”) – Admissibility of evidence of communications obtained through encrypted application ANOM installed on mobile devices – *Telecommunications (Interception and Access) Act 1979* (Cth) – Whether unlawful interception - Where the Confirmation Act operates retrospectively to confirm that: (a) information or records obtained by the AFP under specified warrants in connection with the operation were not intercepted while passing over a telecommunications system; and (b) information obtained in reliance on those warrants was obtained under the *Surveillance Devices Act 2004* (Cth) or the *Crimes Act 1914* (Cth) – Whether the Confirmation Act is invalid in whole or in part because it is an impermissible exercise by the Parliament of the judicial power of the Commonwealth – Whether the Confirmation Act is invalid in whole or in part because it impermissibly interferes with and undermines the institutional integrity of courts vested with federal jurisdiction.

*Special case referred to Full Court on 18 March 2025.*

[Return to Top](#)

---

*Farmer v Minister for Home Affairs & Anor*

[S160/2024](#): [\[2025\] HCATrans 32](#)

**Date heard:** 6 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ



**Catchwords:**

Constitutional law – Migration law – *Migration Act 1958* (Cth) – Where the plaintiff is a citizen of the United States and is not a citizen or resident of Australia – Where the plaintiff is an internationally recognised political commentator – Where the plaintiff arranged to conduct a speaking tour in Australia – Where the plaintiff applied for a Temporary Activity (Class GG) visa for her proposed travel to Australia – Where the Minister for Home Affairs decided to refuse to grant the plaintiff the visa, relying on s 501(6)(d)(iv) of the Act in making the decision – Where the Minister reasonably suspects that the plaintiff does not pass the character test and that it is in the national interest to refuse to grant the plaintiff a visa – Validity of s 501(6)(d)(iv) – Whether invalid on the ground that it infringes the implied freedom of political communication – Whether the Minister adopted an incorrect construction of s 501(6)(d)(iv).

*Special case referred to Full Court on 13 March 2025.*

[Return to Top](#)

---

*G Global 120E T2 Pty Ltd as trustee for the G Global 120E AUT v Commissioner of State Revenue*

*G Global 180Q Pty Ltd as trustee for the G Global 180Q AUT v Commissioner of State Revenue*

[B48/2024](#); [B49/2024](#); [B50/2024](#); [\[2025\] HCATrans 33](#); [\[2025\] HCATrans 34](#)

**Dates heard:** 7 and 8 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ

**Catchwords:**

Constitutional law – inconsistency – acquisition of property on just terms – taxation – international taxation agreements – where Agreement between Australia and the Federal Republic of Germany for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Fiscal Evasion and Avoidance (“German Agreement”) given legislative force under s 5(1) *International Tax Agreements Act 1953* (Cth) (“ITAA”) – where first respondent imposed foreign land tax surcharge under s 32(1)(b)(ii) of *Land Tax Act 2010* (Qld) (“LTA”) on basis that first respondent a foreign company or trustee of foreign trust – where first respondent contended this had effect of imposing more burdensome taxation on enterprise carried on by resident of Australia the capital of which partly owned by resident(s) of Germany than on other similar enterprises carried on by Australian resident contrary to art 24(4) of German Agreement - validity of *Treasury Laws Amendment (Foreign Investment) Act 2024* (Cth) which inserted s 5(3) into ITAA which provides that operation of a provision of a bilateral tax agreement provided for in s 5(1) “is subject to anything inconsistent with the provision contained in a law of the

Commonwealth, or of a State or Territory, that imposed a tax other than an Australian tax, unless expressly provided otherwise in that law” – where s 5(3) expressed to operate with retrospective effect – whether prior to commencement of the *Treasury Laws Amendment (Foreign Investment) Act 2024*, s 32(1)(b)(ii) of LTA invalid in application to appellants, by force of s 109 of the Constitution by reason of its inconsistency with s 5(1) of ITAA – if so, whether 5(3) of the International Tax Agreements Act 1953 (alternatively, cl 1 of Sch 1 to *Treasury Laws Amendment (Foreign Investment) Act*), in so far as it operates by reference to provision contained in a law of a State, supported by head of Commonwealth legislative power – if so whether s 5(3) of ITAA (alternatively, cl 1 of Sch 1 to *Treasury Laws Amendment (Foreign Investment) Act 2024*), when read with cl 2 of Sch 1 to *Treasury Laws Amendment (Foreign Investment) Act 2024*, effective to remove inconsistency between s 32(1)(b)(ii) of the LTA and s 5(1) of ITAA and any consequent invalidity – if so, whether s 5(3) of ITAA (alternatively, cl 1 of Sch 1 to *Treasury Laws Amendment (Foreign Investment) Act 2024*) when read with cl 2 of Sch 1 to *Treasury Laws Amendment (Foreign Investment) Act 2024* invalid (in whole or in part) because it effected an acquisition of the property of appellants otherwise than on just terms within meaning of s 51(xxxi) of the Constitution.

*Proceedings removed into the High Court from Supreme Court of Queensland under s 40 of the Judiciary Act 1903 (Cth); special case referred to Full Court on 19 December 2024.*

[Return to Top](#)

---

***MJZP v Director-General of Security & Anor***

**S142/2023**: [\[2024\] HCATrans 92](#); [\[2024\] HCATrans 93](#); [\[2025\] HCATrans 17](#)

**Date heard**: 12 and 13 December 2024; 11 March 2025

**Coram**: Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords**:

Constitutional law – Judicial power of Commonwealth – Procedural fairness – Where plaintiff company is carriage service provider within meaning of *Telecommunications Act 1997* (Cth) – Where in June 2021 Australian Security Intelligence Organisation ("ASIO") furnished to Minister for Home Affairs adverse security assessment in respect of plaintiff in connection with s 315A of *Telecommunications Act* – Where plaintiff applied to Administrative Appeals Tribunal ("Tribunal") for review of adverse security assessment – Where Minister made various certifications under *Administrative Appeals Tribunal Act 1975* (Cth) ("AAT Act") that disclosure of certain documents and evidence contrary to public interest – Where Tribunal provided open reasons to plaintiff and first defendant, and closed reasons only to first defendant – Where plaintiff appealed to Federal Court of Australia – Where s 46(1) of AAT Act requires Tribunal to send to Federal Court all documents before Tribunal in connexion

with proceeding, including documents subject to certificates issued by Minister – Where s 46(2) of AAT Act requires Federal Court to ensure matter subject to certificates not disclosed to any person other than member of Federal Court for purposes of appeal – Whether s 46(2) substantially impairs institutional integrity of Federal Court – Whether s 46(2) requires Federal Court to exercise Commonwealth judicial power in manner inconsistent with nature of that power – Whether s 46(2) invalid on basis it infringes Ch III of *Constitution*.

*Special case referred to the Full Court on 4 June 2024.*

[Return to Top](#)

---

***Ravbar & Anor v Commonwealth of Australia & Ors***

**S113/2024**: [\[2024\] HCATrans 90](#); [\[2024\] HCATrans 91](#)

**Date heard:** 10 and 11 December 2024

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Constitutional law – invalidity – implied freedom of political communication – acquisition of property on just terms – where first and second plaintiffs office bearers of Construction and General Division (“C&G Division”) of the Construction, Forestry, Mining and Energy Union – where s 333A(1) of *Fair Work (Registered Organisations) Act 2009* (Cth) (“FWRO Act”) provides C&G Division and each of its branches placed into administration from earliest time that both a legislative instrument made under s 333B(1) and appointment of administrator under s 323C in force – where s 323B(1) empowers Minister to determine scheme for administration of C&G Division and branches if satisfied in public interest – whether *Fair Work (Registered Organisations) Amendment (Administration) Act 2024* (Cth) (“Administration Act”) and provisions it inserted into *Fair Work (Registered Organisations) Act 2009* and *Fair Work Act 2009* (Cth) sufficiently connected to head of power in s 51 Constitution – whether impugned provisions infringe implied freedom of political communication – whether *Fair Work (Registered Organisations) (CFMEU Construction and General Division Administration) Determination 2024* invalid as unsupported by s 323B FWRO Act as partially disapplied or otherwise read down as to not infringe implied freedom of political communication – whether s 323B FWRO Act and Administration Act purport to confer judicial power of Commonwealth on Minister and thereby inconsistent with Ch III of Constitution – whether ss 323K(1) and 323M FWRO Act effect acquisition of property otherwise than on just terms contrary to s 51(xxxi) of Constitution.

*Special case referred to Full Court on 18 October 2024.*

[Return to Top](#)

---

*State of New South Wales v Wojciechowska & Ors*

**S39/2024:** [\[2025\] HCATrans 3](#); [\[2025\] HCATrans 4](#)

**Date heard:** 5 and 6 February 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Constitutional law – Judicial Power of Commonwealth – Where first respondent resided in Tasmania – Where first respondent commenced various proceedings in New South Wales Civil and Administrative Tribunal ("Tribunal") against third and fourth respondents, emanations of State of New South Wales – Where first respondent sought review of various decisions and conduct under *Government Information (Public Access) Act 2009* (NSW) ("GIPA Act") and *Privacy and Personal Information Protection Act 1998* (NSW) ("PPIP Act") – Where claim included claim for damages under s 52(2)(a) PPIP Act – Where first respondent challenged jurisdiction of Tribunal on basis functions performed by Tribunal when determining administrative review applications under GIPA Act and PPIP Act involved exercise of judicial power – Where Court of Appeal held determining administrative review under GIPA Act did not involve exercise of judicial power – Where Court of Appeal held determination of application for damages under s 55(2)(a) of PPIP Act brought by out-of-state resident would involve Tribunal exercising judicial power of Commonwealth – Whether *Burns v Corbett* (2018) 265 CLR 304 applies to exercise of non-judicial power – Whether Court of Appeal erred in holding Tribunal, when performing at instance of out-of-State resident claiming damages review of public sector agency conduct under Pt 5 of PPIP Act and *Administrative Decisions Review Act 1997* (NSW) exercises Commonwealth judicial power.

Courts – State tribunals – Jurisdiction.

**Appealed from NSWSC (CA):** [\[2023\] NSWCA 191](#); (2023) 379 FLR 256

[Return to Top](#)

---

*Stott v The Commonwealth of Australia & Anor*

**M60/2024:** [\[2025\] HCATrans 33](#); [\[2025\] HCATrans 34](#)

**Dates heard:** 7 and 8 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Constitutional law – inconsistency – acquisition of property on just terms – taxation – international taxation agreements – where *Land Tax Act 2005* (Vic) imposes land tax on taxable land payable by owner – where second defendant assessed taxable land under *Taxation Administration Act 1997* (Vic) – where *State Taxation Acts Amendment Act 2015* (Vic) created higher rate of land tax for “absentee owner” – where plaintiff ordinarily resident in New Zealand and “absentee owner” – where Australia and New Zealand signed Convention for the Avoidance of Double Taxation with respect to Taxes on Income and Fringe Benefits and the Prevention of Fiscal Evasion (“Convention”) – where Convention given legislative force in *International Tax Agreements Act 1953* (Cth) – where art 24(1) of Convention provides nationals of contracting State shall not be subjected to “any taxation ... which is more burdensome than the taxation... to which national of the other State in the same circumstances, in particular with respect to residence, are or may be subjected” – where plaintiff commenced representative proceedings in Federal Court seeking restitution of difference between absentee owner rate and ordinary rate – where proceedings remain on foot – where on 8 April 2024 *Treasury Laws (Amendment Foreign Investment) Act 2024* (Cth) commenced – where on 4 December 2024 ss 42 and 54 of *State Taxation Further Amendment Act 2024* (Vic) commenced – whether prior to commencement of *Treasury Laws (Amendment Foreign Investment) Act* s109 of Constitution invalidates ss 7, 8, 25, 104B and cl 4.1-4.5 of Sch 1 to the *Land Tax Act 2005* to extent of inconsistency of art 24(1) of Convention – if so, whether s 5(3) of *International Taxation Agreements Act 1953* valid or effective to remove inconsistency – whether s 5(3) invalid on ground law is with respect of acquisition of property from a person otherwise than on just terms within meaning of s 51(xxxi) Constitution – whether s 106A *Land Tax Act 2005* invalid or inoperative on plaintiff by force of art 24(1) and s 109 Constitution.

*Special case referred to Full Court on 18 December 2024.*

[Return to Top](#)

---

## Elections

*Laming v Electoral Commissioner of the Australian Electoral Commission*

[B75/2024](#): [\[2025\] HCATrans 28](#)

**Date heard:** 9 April 2025

**Coram:** Gageler CJ, Gordon, Edelman, Gleeson, Jagot JJ

**Catchwords:**

Elections – electoral matter – *Commonwealth Electoral Act 1918* (Cth), s 321D(5) – where appellate contravened s 321D(5) by communicating electoral matter without disclosing prescribed details by posting on particular

Facebook page – where primary judge found single act of publication of publication of post constituted single breach of s 321D(5) irrespective of how many times post viewed – where Full Federal Court allowed appeal – whether Full Court erred in finding s 321D(5) breached on each occasion person viewed post rather than finding contravention when appellant caused post to be published – meaning of “communicated to a person” in s 321D(1).

**Appealed from FCAFC:** [\[2024\] FCAFC 109](#); (2024) 304 FCR 561

[Return to Top](#)

---

## Evidence

*MDP v The King*

**B72/2023:** [\[2024\] HCATrans 84](#)

**Date heard:** 3 December 2024

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

### Catchwords:

Evidence – Propensity evidence – Miscarriage of justice – Where appellant convicted of various child sexual assault and domestic violence offences against former partner’s daughter – Where evidence included evidence from complainant’s sister that appellant smacked complainant on bottom – Where trial judge directed jury if they accepted bottom slapping evidence was true, and that it displayed sexual interest of appellant in complainant beyond reasonable doubt, they could use it to reason that it was more likely that offences occurred – Where Court of Appeal found bottom slapping evidence did not meet test for admissibility of propensity evidence – Where Court of appeal found evidence admissible under s 132B of *Evidence Act 1977* (Qld) (“evidence of domestic violence”) – Whether Court of Appeal erred holding that no miscarriage of justice occurred when evidence inadmissible as propensity evidence was nonetheless left to jury to be used as propensity evidence.

**Appealed from QLDSC (CA):** [\[2023\] QCA 134](#)

[Return to Top](#)

---

## Immigration

*Khalil v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs & Anor*

**M112/2024:** [\[2025\] HCATrans 22](#)



**Date heard:** 1 April 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot and Beech-Jones JJ

**Catchwords:**

Immigration – Ministerial Directions under s 499 of *Migration Act 1958* (Cth) – visa cancellation – point in time of application of Direction – where Ministerial Direction 65 applied at time of delegate’s decision refusing to revoke cancellation of appellant’s visa – whether Full Court erred in failing to find Administrative Appeals Tribunal erred in applying later Ministerial Direction 90 in conducting review – whether appellant had accrued right for Direction 65 to be applied for purposes of s 7(2)(c) *Acts Interpretation Act 1901* (Cth).

**Appealed from FCAFC:** [\[2024\] FCAFC 119](#); (2024) 305 FCR 26

[Return to Top](#)

---

## Industrial Law

*Helensburgh Coal Pty Ltd v Bartley & Ors*  
**S119/2024:** [\[2025\] HCATrans 15](#)

**Date heard:** 6 March 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward and Beech-Jones JJ

**Catchwords:**

Industrial law – unfair dismissal – genuine redundancy – redeployment – *Fair Work Act 2009* (Cth), ss 385(b), 389(2) – where s 385(d) provides applicant for unfair dismissal remedy must demonstrate dismissal not case of genuine redundancy – where s 389(2) provides no genuine redundancy if reasonable in all the circumstances to redeploy employee within employer’s enterprise – where respondent scaled back mining operations and terminated respondents’ employment – whether Full Federal Court erred in construing s389(2) as authorising Fair Work Commission to inquire into whether employer could have made alternative changes to enterprise (including by terminating other operational or staffing arrangements) so as to make position available to otherwise redundant employee – whether determination of genuine redundancy discretionary decision reviewable only for *House v King* error.

**Appealed from FCAFC:** [\[2024\] FCAFC 45](#); (2024) 302 FCR 589

---

# Land Law

*La Perouse Local Aboriginal Council ABN 89136607167 & Anor v Quarry Street Pty Ltd ACN 616184117 & Anor*

**S121/2024:** [\[2025\] HCATrans 20](#)

**Date heard:** 13 March 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward and Jagot JJ

## Catchwords:

Land law – indigenous land rights – *Aboriginal Land Rights Act 1983* (NSW), s 36 – claimable Crown land – where second respondent Minister proved in part an Aboriginal land claim in relation to Crown Land in Paddington – where first respondent lessee of site described as “Paddington Bowling Club” but site fallen into disuse other than “oral sublease” over small portion of land – where land subject to reservation of Crown land under s 87 *Crown Lands Act 1989* (NSW) for use as community and sporting club facilities and tourist facilities and services – where first respondent unsuccessfully sought judicial review of Minister’s decision to approve claim – where Court of Appeal allowed appeal – where Court of Appeal found land being “used” for purposes of s 36(1) of *Aboriginal Land Rights Act* such that land was not “claimable Crown land” – whether Court of Appeal erred in finding Minister required to find land was “claimable Crown land” – whether concept of “use” in s 36(1)(b) requires examination of activities on claimed land as opposed to away from or in relation to claimed land – whether definition of “land” in s 4(1) has result that “use” of “any estate or interest” in respect of land either individually or cumulatively will satisfy s 36(1)(b) – whether leasing of land by Crown a “use” within s 36(1)(b).

**Appealed from NSWCA:** [\[2024\] NSWCA 107](#)

---

# Land Valuation

*Valuer-General Victoria v WSTI Properties 490 SKR Pty Ltd*

**M96/2024:** [\[2025\] HCATrans 16](#)

**Date heard:** 7 March 2025

**Coram:** Gageler CJ, Gordon, Steward, Gleeson and Jagot JJ

## Catchwords:

Land valuation – assessment of land value under *Valuation of Land Act 1960* (Vic) – where respondent owner of land subject to heritage-related planning restrictions – where house built in 1897 on land – where respondent successfully objected to valuations in Victorian Civil and Administrative Tribunal



– where valuation required assumption that improvements had not been made  
– where improvements defined in s 2(1) of *Valuation of Land Act* as “all work actually done or material used on and for the benefit of the land, but only in so far as the effect of the work done or material used increases the value of the land” – proper time for assessment of improvements – whether Court of Appeal erred in construing defining of “improvement” as requiring that effect of work done or material used increased value of land at time that work actually done or material used.

**Appealed from VSCA:** [\[2024\] VSCA 157](#)

---

## Representative proceedings

*Kain v R&B Investments Pty Ltd as trustee for the R&B Pension Fund & Ors*

*Ernst & Young (a Firm) ABN 75 288 172 749 v R&B Investments Pty Ltd as trustee for the R&B Pension Fund & Ors*

*Shand v R&B Investments Pty Ltd as trustee for the R&B Pension Fund & Ors*

[S146/2024](#); [S144/2024](#); [S143/2024](#): [\[2025\] HCATrans 13](#);  
[\[2025\] HCATrans 14](#)

**Date heard:** 4 and 5 March 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ

### Catchwords:

Representative proceedings – common fund orders – open class securities action – application for approval of notice to group members prior to opt-out – where question reserved for Full Federal Court under s 25(6) of *Federal Court of Australia Act 1976* (Cth) whether under Pt IVA of Act Court has power upon settlement or judgment of representative proceeding to make common fund order for distribution of funds to solicitor otherwise than as payment for costs and disbursements incurred in conduct of proceeding – whether Full Court erred in answer question in affirmative.

**Appealed from FCAFC:** [\[2024\] FCAFC 89](#); (2024) 304 FCR 395

[Return to Top](#)

---

## Statutes

## *CD & Anor v Director of Public Prosecutions (SA) & Anor*

**A24/2024:** [\[2025\] HCATrans 36](#)

**Date heard:** 13 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ

### **Catchwords:**

Statutes – construction – *Telecommunications (Interception and Access) Act 1979* (Cth) (“the Act” – admissibility of evidence obtained communications obtained through encrypted application “ANOM” installed on mobile devices – where appellants charged with participating in criminal organisation and firearms offences – where prosecution seeks to lead evidence of communications obtained through “ANOM” application – where “ANOM” operated such that when mobile device user pressed ‘send’ on text message separate second message created in ANOM application with copy of message and additional data and sent via XMPP server to an “iBot” server which then re-transmitted to servers accessible by Australian Federal Police – whether AFP’s conduct in obtaining evidence of ANOM communications involved interception of communication passing over telecommunications system contrary to s7(1) of Act and thereby inadmissible – where Court of Appeal found use of ANOM application and platform did not involve interception of communication – where s 5F of Act provides communication taken to start passing over telecommunications system when sent or transmitted by person send communication and taken to continue to pass over system until accessible to intended recipient – whether Court of Appeal erred in failing to find under s 5F(a) of Act that having composed text message and pressing ‘send’ on mobile device connected to telecommunications system start of process for sending message over that system – whether Court of Appeal erred in failing to find covert copying of text message and covert transmission of message upon pressing ‘send’ unlawful interception – whether Court of Appeal erred in construction of term “intended recipient” by finding “iBot” server intended recipient under ss 5F(b) and 5GH of Act.

**Appealed from SASCA:** [\[2024\] SASCA 82](#)

[Return to Top](#)

---

## **Taxation**

*Commissioner of Taxation v PepsiCo, Inc*  
*Commissioner of Taxation v Stokely-Van Camp, Inc*  
*Commissioner of Taxation v PepsiCo, Inc*  
*Commissioner of Taxation v PepsiCo, Inc*  
*Commissioner of Taxation v Stokely-Van Camp, Inc*

*Commissioner of Taxation v Stokely-Van Camp, Inc*

[M98/2024](#); [M99/2024](#); [M100/2024](#); [M101/2024](#); [M102/2024](#); [M103/2024](#):  
[\[2025\] HCATrans 23](#); [\[2025\] HCATrans 25](#)

**Dates heard:** 2 and 3 April 2025

**Coram:** Gageler CJ, Gordon, Edelman, Steward, Gleeson, Jagot, and Beech-Jones JJ

**Catchwords:**

Taxation – royalty withholding tax – diverted profits tax – where non-resident taxpayer entered into exclusive bottling agreements (“EBAs”) with Australian company (SAPL) for bottling and sale of PepsiCo branded beverages – where EBAs included licence of taxpayers’ trademarks and other intellectual property but did not provide for royalty – whether Full Federal Court ought to have found payments made under EBAs included “royalty” paid “as consideration for” use of or right to use intellectual property licensed to SAPL within meaning of s 6(1) *Income Tax Assessment Act 1936* (Cth) (“ITAA”) – whether Full Court ought to have found royalty component of EBA was income “derived” by and “paid to” PepsiCo under s 128(2B) ITAA and thereby withholding tax payable under s 128B(5A) – whether if no royalty withholding tax payable Full Court ought to have found liability for diverted profits tax for purposes of ss 177J and 177P ITAA.

**Appealed from FCAFC:** [\[2024\] FCAFC 86](#); (2024) 303 FCR 1

[Return to Top](#)

---

## Torts

*Hunt Leather Pty Ltd ACN 000745960 & Anor v Transport for NSW*  
*Hunt Leather Pty Ltd ABN 46000745960 & Ors v Transport for NSW*

[S135/2024](#); [S136/2024](#): [\[2025\] HCATrans 37](#); [\[2025\] HCATrans 38](#)

**Dates heard:** 15 and 16 May 2025

**Coram:** Gageler CJ, Gordon, Edelman, Jagot, and Beech-Jones JJ

**Catchwords:**

TORTS – nuisance – private nuisance – appellants claimed their properties were affected by construction of Sydney Light Rail – whether interference with enjoyment of appellants’ property substantial and unreasonable – whether failure by appellants to establish a failure to take reasonable care determinative – whether respondent bore onus of establishing that it took reasonable care – whether respondent failed to take reasonable care – significance to cause of

action in nuisance of taking reasonable care – whether use of road for construction purposes exceptional – whether interference with reasonable enjoyment inevitable – whether delay in construction attributable to discovery of unknown utilities – whether damages should include a “recovery period” – whether s 43A of *Civil Liability Act 2002* (NSW) applicable – damages – pure economic loss – funded litigation – funding agreement included commission to funder – whether commission recoverable as component of damages.

**Appealed from NSWCA:** [\[2024\] NSWCA 227](#)

[Return to Top](#)

---

## 4: ORIGINAL JURISDICTION

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

---

### Constitutional Law

*Government of the Russian Federation v Commonwealth of Australia*

[C9/2023](#)

**Catchwords:**

Constitutional law – heads of power – acquisition of property – where plaintiff held lease granted by defendant in 2008 over parcel of land (“land”) in Australian Capital Territory – where in 1990 National Capital Plan took effect under s 21(2) of *Australian Capital Territory (Planning and Land Management) Act 1908* (Cth) (“PLM Act”) – where land fell in designated area under s 10(1) of PLM Act – where land is ‘national land’ under s 27(1) PLM Act – where lease limited use to diplomatic consular or official purpose of Government of Russian Federation – where limited work undertaken on land – where in 2023 *Home Affairs Act 2023* (Cth) (“HAA”) came into effect – where plaintiff’s lease terminated under s 5 of HAA – where defendant maintains lease terminated on basis of national security – whether HAA invalid on ground that not supported by head of Commonwealth power – whether if HAA otherwise valid operation of HAA results of acquisition of property from plaintiff under s 51(xxxi) *Constitution* requirement payment of reasonable compensation under s 6(1) HAA.

*Special case referred to Full Court on 18 December 2024.*

[Return to Top](#)

---

### Immigration Law

*Plaintiff S15/2025 v Minister for Immigration and Multicultural Affairs*

[S15/2025](#)

**Catchwords:**

Immigration – *Migration Act 1958* (Cth) – s 501(1) – application for a Resident Return (Class BB) visa – where plaintiff had previously held a Protection Visa – s 501(6)(d)(i) – character test – where delegate of the Minister refused to grant visa – risk that the person would engage in criminal conduct in Australia – whether delegate acted on a misunderstanding of the law – whether jurisdictional error – whether material error – procedural fairness – natural

justice – whether delegate denied the plaintiff procedural fairness by failing to respond to his submissions about the practical consequences of refusing his application for a visa and his contentions that the refusal would amount to "constructive refoulement" by Australia and would be damaging to Australia's international reputation – whether reasoning of the delegate was legally unreasonable, illogical or irrational.

*Application referred to Full Court on 6 May 2025.*

[Return to Top](#)

---

### ***Plaintiff S22/2025 v Minister for Immigration and Multicultural Affairs*** **S22/2025**

#### **Catchwords:**

Immigration – where plaintiff's Temporary Protection Visa was cancelled following his criminal conviction and prison sentence – application for revocation – *Migration Act 1958* (Cth) – s 501CA(4) – where delegate of the Minister decided not to revoke the cancellation of the visa – whether delegate failed to consider the legal consequences of the decision or proceeded on a misunderstanding of the law – whether delegate misapplied Ministerial Direction 110 – consideration of the expectations of the Australian community – procedural fairness – natural justice – use of privileged and confidential material – whether privilege waived – materiality – extension of time.

*Special case referred to Full Court on 22 May 2025.*

[Return to Top](#)

---

## 5: SECTION 40 REMOVAL

The following cases have been removed into the High Court of Australia under s 40 of the *Judiciary Act 1903* (Cth).

---

---

## 6: SPECIAL LEAVE GRANTED

The following cases have been granted special leave to appeal to the High Court of Australia.

---

### Constitutional Law

*Farshchi v The King*

[M20/2025: \[2025\] HCADisp 41](#)

**Date determined:** 6 March 2025 – *Special leave granted*

**Catchwords:**

Constitutional law – Inconsistency – Criminal law – Appeal – Conviction – Where appellant charged with causing a person to remain in forced labour and conducting a business involving forced labour – *Criminal Code Act 1995* (Cth) – ss 270.6A(1) and (2) – Trial – *Jury Directions Act 2015* (Vic) – s 64(1)(e) – Where trial judge directed the jury as to the meaning of the phrase “beyond reasonable doubt” – Whether trial judge erred by directing the jury that a reasonable doubt is not an unrealistic possibility – Whether direction diminishes the criminal standard of proof – Whether direction inconsistent with s 13.2 of the *Criminal Code* (Cth) and s 80 of the *Constitution* – Whether s 64(1)(e) is thereby not picked up by s 68(1) of the *Judiciary Act 1903* (Cth) to apply to trials conducted in federal jurisdiction.

**Appealed from VSCA:** [\[2024\] VSCA 235](#)

[Return to Top](#)

---

### Contract Law

*R Lawyers v Mr Daily & Anor*

[A8/2025: \[2025\] HCADisp 48](#)

**Date determined:** 6 March 2025 – *Special leave granted*

**Catchwords:**

Contract law – Negligence – Where parties to a marriage entered into a binding financial agreement – Where the purpose of the agreement was to agree in advance how the parties’ existing and after-acquired property would be divided in the event of their later separation – Where advice of solicitors for one party in relation to the preparation and negotiation of agreement was inadequate –



Where, following the parties' separation, the financial agreement was found to be unenforceable – Whether the party's contract claim against former solicitors was statute barred – Time when a negligently drawn contract first sees damage sustained – Whether loss and damage was sustained by the party upon entry into the defective contract or a later date – Where primary judge found that no loss or damage was sustained by the party until, at the earliest, the date of separation, such that the party's claim against his former solicitors was not statute barred – Where through a solicitor's negligence in the drafting and preparation of a contract a client fails to secure contractual protection against a contingent loss or liability – Whether actionable damage is sustained immediately at the time of the entry into the contract or only upon the occurrence of the contingency.

**Appealed from FedCFamC1A:** [\[2024\] FedCFamC1A 185](#)

[Return to Top](#)

*Shao v Crown Global Capital Pty Ltd (in prov liq) ACN 604 292 140 & Anor*

**S46/2025:** [\[2025\] HCADisp 81](#)

**Date determined:** 3 April 2025 – *Special leave granted*

**Catchwords:**

Where Facility Agreement required two lenders nominate a bank account into which proceeds could be paid — where only one lender nominated an account — where proceeds of facility paid into nominated account in breach of requirements of agreement such that borrower did not obtain good discharge of its debt — where proceedings as between the two lenders were litigated — whether those proceedings amounted to ratification of rogue lender's nomination such that the borrower obtained good discharge of its debt — whether right of action now lies against borrower — where debtor repays a debt in breach of contract by, for example, repaying it into the wrong bank account (or otherwise contrary to the contractual instructions of the creditor) — whether the creditor can accept repayment of the debt but sue the debtor for damages arising from the breach of contract.

**Appealed from NSWCA:** [\[2024\] NSWCA 302](#)

## Criminal Law

*The King v McGregor*

**S45/2025:** [\[2025\] HCADisp 66](#)

**Date determined:** 3 April 2025 – *Special leave granted*

**Catchwords:**

Sentencing — appeal against sentence — statutory mandatory minimum sentence prescribed — proper construction of s 16AAC of the *Crimes Act 1914* (Cth) — reduction of mandatory minimum where provisions in s 16AAC(3) apply — whether provision is to be treated as capping maximum discount as a proportion of the mandatory minimum, as opposed to provision setting a minimum floor — federal offenders — sentence by State court for offence against Commonwealth law — whether aggregate sentencing under s 53A of *Crimes (Sentencing Procedure) Act 1999* (NSW) can be applied to federal offences — whether s 53A is capable of being picked up by s 68(1) of the *Judiciary Act 1903* (Cth) and applied to the sentencing of all federal offenders in New South Wales.

**Appealed from NSWCCA:** [\[2024\] NSWCCA 200](#)

[Return to Top](#)

## Negligence

*Cullen v State of New South Wales*

[S47/2025](#): [\[2025\] HCADisp 82](#)

**Date determined:** 3 April 2025 – *Special leave granted*

**Catchwords:**

Duty of care — public authorities — injury — bystander — whether police officers owe duty to take reasonable care to avoid risk of harm to class of persons in immediate vicinity of operational response during protest march — risk of harm in police actions inflicting physical injury on identified class of persons — s 43A of *Civil Liability Act 2002* (NSW) - breach — whether regard to be had to police obligations to take actions to prevent breaches of the peace even in crowded situations — causation — whether conduct of the officers was causative of the harm suffered by the appellant — whether beyond the scope of the respondent's legal liability under s 5D(1)(b) of the *Civil Liability Act 2002* (NSW).

**Appealed from NSWCA:** [\[2024\] NSWCA 310](#)

## Restitution

*Gray v Lavan (A Firm)*

[P7/2025](#): [\[2025\] HCADisp 77](#)

**Date determined:** 3 April 2025 – *Special leave granted*

**Catchwords:**

Unjust enrichment – where client engaged a firm of solicitors to conduct litigation on his behalf – where the firm issued, and the client paid, invoices for legal work performed by the firm over many years – where invoices were subject to the client's right to obtain a taxation and the return of excessive charges – where 10 years after the final payment the parties resolved their dispute as to the amount overpaid, but excluding the client's claim to interest, on the basis that the firm would repay \$900,000, this amount reflecting what would have been found to be excessive as not fair and reasonable and ordered to be refunded to the client by the firm if the taxation had proceeded – whether the firm was unjustly enriched, because there had been a failure of basis, or a total failure of consideration, in respect of those overpaid sums, that warranted their repayment – whether the measure of the firm's enrichment was not merely the value of the principal sum, but also the use value of that sum for ten years prior to repayment – whether to reverse its unjust enrichment, the firm was obliged to pay interest to the client (whether simple or compound), and not merely the principal sum.

**Appealed from WASCA:** [\[2024\] WASCA 147](#)

[Return to Top](#)

---

## Statutes

*Palmanova Pty Ltd v Commonwealth of Australia*

**S147/2024:** [\[2024\] HCASL 294](#)

**Date determined:** 7 November 2024 – *Special leave granted*

**Catchwords:**

Statutes – construction – *Protection of Movable Cultural Heritage Act 1986* (Cth) (“the Act”) – where Bolivian artefact purchased by applicant from US gallery in 2020 seized upon entry into Australia under Act – whether artefact exported from Bolivia to US prior to 1960 – where artefact seized upon entry into Australia under s 14 of Act – whether artefact liable for forfeiture – temporal operation of Act – whether majority of Full Federal Court erred in interpretation of s 14(1) of Act by concluding Act not limited in application to protected object of foreign country exported from that country after date of commencement of Act (1 July 1987) – whether majority erred in concluding unnecessary to consider extrinsic material in construction of s 14.

**Appealed from FCAFC:** [\[2024\] FCAFC 90](#); (2024) FCR 163

[Return to Top](#)

---

*Badari & Ors v Minister for Housing and Homelands & Anor*  
*Badari & Ors v Minister for Territory Families and Urban Housing & Anor*

**D1/2025;D7/2025**: [\[2025\] HCADisp 94](#); [\[2025\] HCADisp 95](#)

**Date determined:** 8 May 2025 – *Application referred to the Full Court; Special leave granted*

**Catchwords:**

Statutes – *Supreme Court Act 1979* (NT) – s 21(1) – referral of proceedings – where Full Court of the Supreme Court of the Northern Territory declined to accept the referral of part of a proceeding – where the Full Court later gave judgment and made orders dismissing the proceeding – whether the Full Court erred in not hearing from the parties before proceeding to give judgment – *Housing Act 1982* (NT) – s 23 – power in Minister to determine rents and impose conditions in relation to public housing – where determination overrides rent agreed between the parties to the existing tenancy agreement – whether principles of natural justice intended to apply to Minister's determinations – whether Minister's power conditioned by a requirement to afford procedural fairness – whether affected person or group should be afforded a hearing – whether presumption displaced by public finance and political considerations – where no reasons given – whether determinations legally unreasonable.

**Appealed from NTCA:** [\[2025\] NTCA 1](#)

[Return to Top](#)

---

## Torts

*Michael Stewart by his litigation guardian Carol Schwarzman v Metro North Hospital and Health Service (ABN 184 996 277 942)*

**B10/2025**: [\[2025\] HCADisp 35](#)

**Date determined:** 6 March 2025 – *Special leave granted*

**Catchwords:**

Torts – Assessment of damages – Cost of future care – Location – Where the appellant suffered personal injuries arising from his treatment as a patient at a hospital operated by the respondent – Where, at trial, the respondent admitted duty, breach and causation – Where the assessment of damages for the injuries was at issue – Where the primary judge awarded damages in the sum of \$2,190,505.48, before management fees to the appellant – Where the basis of the primary judge's award of damages was to provide enhanced care and

therapy while the appellant resided at a care facility – Where the appellant sought significantly higher damages, on the basis the appellant has communicated a desire to live independently, rather than in a care facility – Whether the primary judge erred in assessing damages.

**Appealed from SCQCA:** [\[2024\] QCA 225](#)

[Return to Top](#)

---

## Trade Marks

*Bed Bath 'N' Table Pty Ltd (ACN 005 216 866) v Global Retail Brands Australia Pty Ltd (ACN 006 348 205)*

**M32/2025:** [\[2025\] HCADisp 65](#)

**Date determined:** 3 April 2025 – *Special leave granted*

### Catchwords:

Consumer law – misleading or deceptive conduct – passing off – whether, by its use of trade mark in relation to soft homewares in a market in which the appellant's trade mark has a significant reputation accumulated over a 40 year period in the soft homewares market, the respondent contravened s 18(1) of the *Australian Consumer Law* – whether respondent's use of trade mark was misleading and deceptive – where primary judge found that the respondent's representatives were "wilfully blind" to the risk of confusion – "fitted for purpose" test.

**Appealed from FCAFC:** [\[2024\] FCAFC 139](#)

---

*Taylor v Killer Queen LLC & Ors*

**S49/2025:** [\[2025\] HCATrans 031](#)

**Date determined:** 11 April 2025 – *Special leave granted*

### Catchwords:

Infringement – defence to infringement – where infringing mark is deceptively similar to the registered mark – whether person using the infringing mark would obtain registration – honest concurrent use – whether concurrent use established – whether honest use established – cancellation – whether, because of reputation in prior mark, use of the registered mark would be likely to deceive or cause confusion – where ground of cancellation established – whether discretion should be exercised not to cancel the registration of the registered mark.

**Appealed from FCAFC:** [\[2024\] FCAFC 149](#)

---

## **7: CASES NOT PROCEEDING OR VACATED**

---

---

# 8: SPECIAL LEAVE REFUSED

## Publication of Reasons: 8 May 2025

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	OCA	The King (B7/2025)	Supreme Court of Queensland (Court of Appeal) [2024] QCA 105	Special leave refused [2025] HCADisp 87
2.	Zhong	Attorney-General of Victoria (M12/2025)	Supreme Court of Victoria (Court of Appeal) [2025] VSCA 1	Special leave refused [2025] HCADisp 88
3.	Zhong	Attorney-General of Victoria (M13/2025)	Supreme Court of Victoria (Court of Appeal) [2025] VSCA 1	Special leave refused [2025] HCADisp 88
4.	Quach	ATM Residential Pty Ltd trading as McGrath North Canberra (C7/2025)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2024] ACTCA 38	Special leave refused [2025] HCADisp 89
5.	In the matter of an application by Youhua Mao for leave to appeal (S31/2025)		High Court of Australia [2025] HCASJ 9	Leave refused [2025] HCADisp 90
6.	In the matter of an application by Susan Jane Scott for leave to appeal (A9/2025)		High Court of Australia [2025] HCASJ 11	Leave refused [2025] HCADisp 91
7.	Michael Wilson & Partners, Limited	Emmott (S162/2024)	Supreme Court of New South Wales (Court of Appeal) [2024] NSWCA 269	Special leave refused with costs [2025] HCADisp 92
8.	Patrick Brooks (a pseudonym)	The King (M11/2025)	Supreme Court of Victoria (Court of Appeal) [2024] VSCA 305	Special leave refused [2025] HCADisp 93
9.	Grubisa	Australian Competition and Consumer Commission & Anor (S14/2025)	Full Court of the Federal Court of Australia [2024] FCAFC 171	Special leave refused with costs [2025] HCADisp 96
10.	Frigger	The State of Western Australia (P4/2025)	Supreme Court of Western Australia (Court of Appeal) [2025] WASCA 7	Special leave refused [2025] HCADisp 97
11.	Sawyer	Steeplechase Pty Ltd (ACN 109 392 449) (B8/2025)	Supreme Court of Queensland (Court of Appeal) [2025] QCA 2	Special leave refused with costs [2025] HCADisp 98
12.	Rout	Director of Public Prosecutions (SA) (A4/2025)	Supreme Court of South Australia (Court of Appeal) [2024] SASCA 72	Special leave refused [2025] HCADisp 99