

IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY

No. S187 of 2017

ON APPEAL FROM THE SUPREME COURT OF  
NEW SOUTH WALES, COURT OF APPEAL

BETWEEN:

**ATTORNEY GENERAL FOR  
NEW SOUTH WALES**

Appellant

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and

**GARRY BURNS**

First Respondent

**BERNARD GAYNOR**

Second Respondent

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**ATTORNEY-GENERAL FOR THE  
COMMONWEALTH**

Third Respondent

**NSW CIVIL &  
ADMINISTRATIVE  
TRIBUNAL**

Fourth Respondent

No. S188 of 2017

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BETWEEN:

**STATE OF NEW SOUTH WALES**

Appellant

and

**GARRY BURNS**

First Respondent

**BERNARD GAYNOR**

Second Respondent

**ATTORNEY-GENERAL  
FOR THE COMMONWEALTH**

Third Respondent

**CIVIL AND  
ADMINISTRATIVE  
TRIBUNAL OF NEW SOUTH  
WALES**

Fourth Respondent

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## **APPELLANTS' CHRONOLOGY**

### **Part I: Certification of form suitable for publication on the Internet**

1. The Attorney General for New South Wales and the State for New South Wales certify that this chronology is in a form suitable for publication on the Internet.

### **Part II: Chronology**

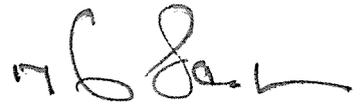
<b>Date</b>	<b>Event</b>	<b>Reference</b>
5, 7 and 20 May 2014	Mr Garry Burns complained to the Anti-Discrimination Board alleging three complaints of unlawful discrimination under s 49ZT of the	<u>Gaynor v Burns</u> [2015] NSWCATAP 150 at [6].

<b>Date</b>	<b>Event</b>	<b>Reference</b>
	<i>Anti-Discrimination Act 1977</i> (NSW) (“ <b>AD Act</b> ”) by Mr Bernard Gaynor.	
June 2014	The Anti-Discrimination Board referred the three complaints to the Tribunal, which were allocated the file number 1410372.	<u>Gaynor v Burns</u> [2015] NSWCATAP 150 at [1], [6].
20 January 2015	The application for summary dismissal of the three complaints was refused by NCAT.	<u>Burns v Gaynor</u> [2015] NSWCATAD 24 at [1].
30 January 2015	Mr Gaynor files a notice of appeal relating to the decision of Hennessy DP (file no AP15/05125).	
27 April 2015	By consent, the Appeal Panel of NCAT granted Mr Gaynor leave to appeal from NCAT’s decision on 20 January 2015, allowed the appeal and remitted the summary dismissal application.	<u>Gaynor v Burns</u> [2015] NSWCATAP 184 at [1], [5]-[8].
23 July 2015	Pursuant to s 60 of the Civil and Administrative Tribunal Act 2013 (NSW) (“ <b>NCAT Act</b> ”), the NCAT Appeal Panel ordered Mr Gaynor to pay Mr Burns’ costs for the appeal.	<u>Gaynor v Burns</u> [2015] NSWCATAP 150 at [64].
16 September 2015	Mr Gaynor filed a summons seeking leave to appeal from the decision of the Appeal Panel of NCAT on 23 July 2015 pursuant to s 83(1) of the NCAT Act (file no 2015/251109).	<u>Gaynor v Burns</u> [2016] NSWCA 44 at [1].
14 October 2015	The proceeding relating to the first three complaints (file no 1410372) was dismissed by NCAT. NCAT found that there was no public act in NSW by Mr Gaynor which could	<u>Burns v Gaynor</u> [2015] NSWCATAD 211 at [18], [22].

<b>Date</b>	<b>Event</b>	<b>Reference</b>
	constitute unlawful conduct proscribed by s 49ZT of the AD Act.	
11 November 2015	Mr Burns filed a notice of appeal with the Appeal Panel of NCAT in respect of the decision of NCAT on 14 October 2015.	<u>Burns v Corbett</u> (2017) 316 FLR 448; [2017] NSWCA 3 (“J”) at [7].
16 March 2016	The Court of Appeal granted Mr Gaynor leave to appeal from the decision of the Appeal Panel of NCAT on 23 July 2015 and made directions concerning the hearing of his appeal (proceeding no 2015/251109).	<u>Gaynor v Burns</u> [2016] NSWCA 44 at [46].
8 June 2016	Mr Gaynor filed a summons in the Equity Division of the Supreme Court (proceeding no 2016/175930) relevantly seeking a declaration as to NCAT’s jurisdiction.	J at [7], [102]; <u>Burns v Corbett</u> ; <u>Gaynor v Burns (No 2)</u> [2017] NSWCA 36 at [7].
4 July 2016	Court of Appeal Registrar removed the proceeding no 2016/175930 from Equity Division to Court of Appeal (proceeding no 2016/204768) to be heard at the same time as proceeding no 2015/251109.	
30 November 2016	Proceedings no 2015/251109 and 2016/204768 heard by Court of Appeal.	J.
3 February 2017	Court of Appeal made a declaration regarding NCAT’s jurisdiction to decide the three complaints and otherwise dismissed Mr	J at [110].

Date	Event	Reference
	Gaynor's summons in each proceeding.	
07 March 2017	In proceedings no 2015/251109 and 2016/204768, the Court of Appeal ordered Mr Gaynor pay Mr Burns' costs of Mr Gaynor's notice of motion seeking a costs order in his favour.	<u>Burns v Corbett; Gaynor v Burns (No 2)</u> [2017] NSWCA 36 at [3], [58].

Dated: 27 July 2017



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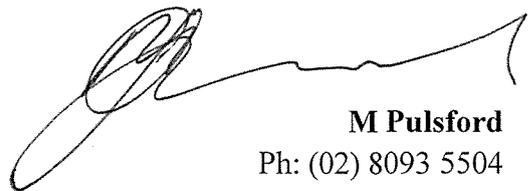
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