

ON APPEAL FROM THE
FULL COURT OF THE FEDERAL COURT OF AUSTRALIA

BETWEEN: COMMONWEALTH OF AUSTRALIA
Appellant

AND: DR ROBERT CLARKE
First Respondent

DR LEON SHAPERO, DR RODNEY McMAHON
AND DR BRIAN MORTON CONSTITUTING THE
PROFESSIONAL SERVICES REVIEW COMMITTEE
NO 631

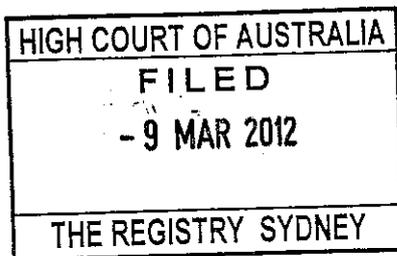
Second Respondent

DETERMINING AUTHORITY ESTABLISHED BY
SECTION 106Q OF THE *HEALTH INSURANCE ACT*
1973 (Cth)

Third Respondent

THE DIRECTOR OF PROFESSIONAL SERVICES
REVIEW

Fourth Respondent



CHRONOLOGY OF THE APPELLANT

PART I

- 10 This chronology is in a form suitable for publication on the internet.

PART II

Date	Event	Page
8 January 2009	Medicare Australia sends request number 631 to the Director of Professional Services Review ('the Director') pursuant to ss 86(1) of the <i>Health Insurance Act 1973</i> (Cth) ('the Act').	
19 August 2009	The Director purports to constitute Professional Services Review ('PSR') Committee number 631 ('the Committee') pursuant to ss 93(1) of the Act, comprising Dr Leon Shapero as Chairperson and Dr Rodney McMahon and Dr Brian Morton as members. The	

Filed on behalf of the Appellant by:

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Date of this document: March 2012

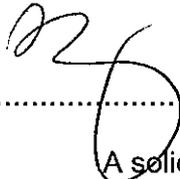
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- Director makes PSR referral number 631 to the Committee in respect of Dr Clarke purportedly pursuant to ss 93(1) of the Act.
- 4 September 2009 The Committee holds a meeting, purportedly pursuant to s 97 of the Act, and determines that an oral hearing is warranted.
- 17, 18 & 25 November, 2 & 3 December 2009 The Committee holds an oral hearing purportedly pursuant to ss 101(1) of the Act. Dr Clarke attends the hearing, accompanied by his legal representative.
- 23 November 2009 The Minister executes an instrument stating that she appoints (amongst others) Dr Rodney McMahon and Dr Brian Morton to be Panel Members under ss 84(2) of the Act, with effect from 25 January 2010 until the expiration of 24 January 2015.
- 23 November 2009 The Minister executes an instrument stating that she appoints (amongst others) Dr Leon Shapero to be a Deputy Director of PSR pursuant to ss 85(1) of the Act, with effect from 25 January 2010 until the expiration of 24 January 2015.
- 19 February 2010 The Committee sends a copy of the Committee's draft report, purportedly prepared pursuant to s 106KD of the Act, to Dr Clarke, care of his legal representative.
- 25 May 2010 The Committee sends a copy of the Committee's final report, purportedly prepared pursuant to section 106L of the Act, to Dr Clarke, care of his legal representative.
- 23 June 2010 The First Respondent files an Application for an Order of Review pursuant to ss 5 and 6 of the *Administrative Decisions (Judicial Review) Act 1977* and s 39B(1A) of the *Judiciary Act 1903* (Cth) in the Federal Court of Australia. That Application seeks to review the decision, conduct or actions of the Second and Fourth Respondents and Appellant in the above process, and the potential future decisions, conduct or action of the Third Respondent.
- 29 June 2010 The Committee sends a copy of the Committee's final report, purportedly pursuant to ss 106L(3) of the Act, to the Determining Authority.
- 8 April 2011 By consent, Justice Flick orders that agreed questions be determined separately and before any trial in the proceedings. Justice Flick further reserves those questions for consideration and determination by the Full Court, pursuant to ss 25(6) of the *Federal Court of*

Australia Act 1976 (Cth).

- 28 July 2011 The Full Court of the Federal Court comprised of Rares, Flick and Katzmann JJ order that the agreed questions be answered as set out in its reasons and as formalised in the orders dated 22 August 2011.
- 24 August 2011 The Appellant files an Application for Special Leave to Appeal the decision of the Full Court of the Federal Court, in the High Court of Australia.
- 10 February 2012 The High Court of Australia orders that Special Leave to Appeal be granted.
- 23 February 2012 The Appellant files a Notice of Appeal in the High Court of Australia.
- 1 March 2012 The First Respondent files a Notice of Contention and Notice of Constitutional matter in the High Court of Australia.

Date of filing: 9 March 2012


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Hervee Dejean
A solicitor employed by
Australian Government Solicitor
Solicitor for the Appellant