



HIGH COURT BULLETIN

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[2012] HCAB 12 (20 December 2012)

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

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SUMMARY OF NEW ENTRIES

1: Cases Handed Down

Case	Title
The Public Service Association and Professional Officers' Association Amalgamated of NSW v Director of Public Employment	Constitutional Law
Westfield Management Limited v AMP Capital Property Nominees Limited	Contract Law/Corporations Law
Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Cross Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander	Costs/Statutory Interpretation
New South Wales v Williamson	Costs/Statutory Interpretation
Baini v The Queen	Criminal Law
Papaconstuntinos v Holmes a Court	Defamation

Tahiri v Minister for Immigration and Citizenship	Immigration
Newcrest Mining Limited v Thornton	Negligence
Lee v Commonwealth of Australia	Practice
Commissioner of Taxation v Consolidated Media Holdings Ltd	Taxation

2: Cases Reserved

Case	Title
Assistant Commissioner Michael James Condon v Pompano Pty Ltd & Anor	Constitutional Law
Huynh v The Queen	Criminal Law
Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd & Ors	Negligence
Maloney v The Queen	Statutes/Constitutional Law

3: Original Jurisdiction

Case	Title
There are no new matters ready for hearing in the original jurisdiction of the High Court since High Court Bulletin 11 [2012] HCAB 11.	

4: Special Leave Granted

Case	Title
Keating v Director of Public Prosecutions (Cth) - Removed from Magistrates' Court of Victoria	Constitutional Law
State of NSW v Kable	Constitutional Law/Torts
Director of Public Prosecutions (Cth) v JM – Referred to Full Court	Criminal Law
Kakavas v Crown Melbourne Limited & Ors	Equity/Trade Practices
Apotex Pty Ltd v Sanofi-Aventis Australia Pty Ltd & Ors	Intellectual Property
Commissioner of Taxation v Unit Trend Services Pty Ltd – Referred to Full Court	Taxation

1: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the December 2012 sittings.

Constitutional Law

The Public Service Association and Professional Officers' Association Amalgamated of NSW v Director of Public Employment

S127/2012: [\[2012\] HCA 58](#).

Judgment delivered: 12 December 2012.

Coram: French CJ, Hayne, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Constitutional law (Cth) – Judicial power of Commonwealth – Constitution, Ch III – Institutional integrity of State court vested with federal jurisdiction – Section 146C(1) of *Industrial Relations Act 1996* (NSW) provides that Industrial Relations Commission of New South Wales must "give effect to any policy ... that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission" when making or varying any award or order – Commission comprises judicial and non-judicial members – Judicial members of Commission sit as Industrial Court of New South Wales to exercise specific functions of Commission – Industrial Court is superior court of record and may be invested with federal jurisdiction – Whether s 146C(1) impairs institutional integrity of Industrial Court by requiring judicial members when sitting as Commission to comply with regulations when making or varying any award or order.

Appealed from NSWIRComm (FB): [2011] NSWIRComm 143.

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Contract Law

Westfield Management Limited v AMP Capital Property Nominees Limited

S181/2012: [\[2012\] HCA 54](#).

Judgment delivered: 5 December 2012.

Coram: French CJ, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Contract law – Interpretation – Unitholders' agreement prohibited sale of trust property without unitholders' prior written consent – Whether prohibition on sale without consent fettered unitholder's right to vote for extraordinary resolution to wind up managed investment scheme under s 601NB of the *Corporations Act 2001* (Cth).

Corporations law – Managed investment scheme – Trust registered as managed investment scheme under Ch 5C of the Corporations Act – Injunction obtained restraining majority unitholder from voting for extraordinary resolution to direct winding up of managed investment scheme under s 601NB of the *Corporations Act* without minority unitholder's consent – Minority unitholder alleged vote would contravene prohibition in unitholders' agreement – Whether unitholder's statutory right to vote under s 601NB can be fettered by contractual agreement.

Appealed from NSW SC (CA): [2011] NSWCA 386.

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Corporations Law

See also [Contract Law](#): *Westfield Management Limited v AMP Capital Property Nominees Limited*

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Costs

Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Cross

Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander

Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander

S417/2011; S418/2011; S419/2011: [\[2012\] HCA 56](#).

Judgment delivered: 12 December 2012.

Coram: French CJ, Hayne, Crennan, Kiefel and Bell JJ.

Catchwords:

Costs – Limit on maximum costs in connection with claim for "personal injury damages" – *Legal Profession Act 1987* (NSW), ss 198C and 198D – Where "personal injury damages" defined to have same meaning as in *Civil Liability Act 2002* (NSW) – Whether maximum costs limitation applies to claims for personal injury damages resulting from intentional acts.

Statutory interpretation – Principles – Reading provision in context – Whether, when operative statute adopts term in source statute, account must be taken of operation of term in source statute – Effect of amendments to statute.

Appealed from NSW SC (CA): [2011] NSWCA 136.

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New South Wales v Williamson

S416/2011: [\[2012\] HCA 57](#).

Judgment delivered: 12 December 2012.

Coram: French CJ, Hayne, Crennan, Kiefel and Bell JJ.

Catchwords:

Costs – Limit on maximum costs in connection with claim for "personal injury damages" – *Legal Profession Act 2004* (NSW), s 338 – Where "personal injury damages" defined to have same meaning as in *Civil Liability Act 2002* (NSW), Pt 2 – Whether maximum costs limitation applies to claims for personal injury damages resulting from intentional acts.

Costs – Limit on maximum costs in connection with claim for "personal injury damages" – *Legal Profession Act 2004* (NSW), s 338 – Claim for false imprisonment not claim for "personal injury damages" – Where such claim is included in claim for damages and not severable part of claim, the claim for damages not claim for "personal injury damages".

Statutory interpretation – Principles – Reading provision in context – Whether, when operative statute adopts term in source statute, account must be taken of operation of term in source statute – Effect of amendments to statute.

Appealed from NSW SC (CA): [2011] NSWCA 183.

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Criminal Law

Baini v The Queen

M87/2011: [\[2012\] HCA 59](#).

Judgment delivered: 12 December 2012.

Coram: French CJ, Hayne, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Criminal law – Appeal – Error or irregularity in trial – Failure to sever counts – Appellant charged with numerous counts of blackmail of one victim and one count of blackmail of another victim – Trial judge refused application to sever trial of separate count – Court of Appeal held that trial judge erred in refusing application – Whether refusal to sever resulted in "substantial miscarriage of justice" within meaning of s 276 of *Criminal Procedure Act 2009* (Vic).

Appealed from Vic SC (CA): [2011] VSCA 298.

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Defamation

Papaconstuntinos v Holmes a Court

S319/2011: [\[2012\] HCA 53](#).

Judgment delivered: 5 December 2012.

Coram: French CJ, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Defamation – Defences – Common law defence of qualified privilege – Respondent involved in proposal to invest funds in football club – Appellant was board member of affiliated club – Appellant opposed proposal – Respondent sent letter to appellant's employer conveying imputations defamatory of appellant – Defamatory statements made voluntarily and in protection of personal interests – Whether defence of qualified privilege required respondent to show "pressing need" to protect interests – Whether "pressing

need" to be adjudged by reference to test of "reasonable necessity"
– Consideration of *Bashford v Information Australia (Newsletters) Pty Ltd* [2004] HCA 5; (2004) 218 CLR 366.

Appealed from NSW SC (CA): [2011] Aust Torts Reports 82-081; [2011] NSWCA 59.

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Immigration

Tahiri v Minister for Immigration and Citizenship
M77/2012: [\[2012\] HCA 61](#).

Judgment delivered: 13 December 2012.

Coram: French CJ, Bell and Gageler JJ.

Catchwords:

Immigration – Visa – Refugee and Humanitarian (Class XB) visa – Subclass 202 Global Special Humanitarian – Public interest criterion 4015 – Combined application by mother and dependent children as additional applicants – Where applicants citizens of Afghanistan living in Pakistan – Where children's father missing – Where delegate found children's "home country" to be Afghanistan – Where delegate not satisfied that father or relatives of father consented to grant of visa – Whether delegate's decision based on correct legal understanding of public interest criterion 4015 – Whether failure to disclose adverse material.

This application for an order to show cause was filed in the original jurisdiction of the High Court of Australia.

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Negligence

Newcrest Mining Limited v Thornton
P59/2011: [\[2012\] HCA 60](#).

Judgment delivered: 13 December 2012.

Coram: French CJ, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Negligence – Damages – Statutory limit on recoverability of damages – Section 7(1)(b) of *Law Reform (Contributory Negligence and Tortfeasors' Contribution) Act 1947* (WA) provides that person bringing more than one action in respect of damage suffered as the result of a tort cannot recover more than "the amount of the damages awarded by the judgment first given" – Settlement of claim against concurrent tortfeasor given effect by consent judgment – Subsequent claim brought against different concurrent tortfeasor – Whether statutory limitation on recoverability of damages applied to subsequent claim.

Appealed from WA SC (CA): [2011] WASCA 92.

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Practice

Lee v Commonwealth of Australia

C5/2012: [\[2012\] HCA 62](#).

Judgment delivered: 29 November 2012.

Coram: French CJ.

Catchwords:

Practice – High Court – Case stated – Questions reserved – *Judiciary Act 1903* (Cth), s 18.

Practice – High Court – Remitter – *Judiciary Act 1903* (Cth), s 44.

This writ of summons was filed in the original jurisdiction of the High Court of Australia.

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Statutory Interpretation

See also [Costs](#): *Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Cross*; *Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander*; *Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Thelander*

See also [Costs](#): *New South Wales v Williamson*

Taxation

Commissioner of Taxation v Consolidated Media Holdings Ltd
S228/2012: [\[2012\] HCA 55](#).

Judgment delivered: 5 December 2012.

Coram: French CJ, Hayne, Crennan Bell and Gageler JJ.

Catchwords:

Taxation – Income tax – Share buy-back – Off-market purchase – Company's financial record of transaction – Whether dividend or capital gain – Whether purchase price "debited against amounts standing to the credit of ... the company's share capital account" – Meaning of "share capital account" – Relevance of legislative history.

Appealed from FCA (FC): (2012) 201 FCR 470; 87 ACSR 512; 2012 ATC 20-308; [2012] FCAFC 36.

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2: CASES RESERVED

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

Constitutional Law

See also [Statutes](#): *Maloney v The Queen*

See also [Statutes](#): *X7 v Australian Crime Commission and Anor*

Attorney-General for the State of South Australia v Corporation of the City of Adelaide & Ors

A16/2012: [\[2012\] HCATrans 233](#); [\[2012\] HCATrans 236](#).

Dates heard: 2 & 3 October 2012.

Coram: French CJ, Hayne, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Constitutional law (Cth) – Operation and effect of Constitution – Interpretation – Implied freedom of political communication about government or political matters – System of representative and responsible government – Local government – Clauses 2.3 and 2.8 of the Corporation of the City of Adelaide By-Law No 4 (Roads), inter alia, prohibited preaching, canvassing, haranguing, and distribution of printed matter without permission on roads ("by-law") – Whether by-law complies with limitations on legislative power delegated to local government under s 667(1)9(XVI) of the *Local Government Act 1934* (SA) – Whether impugned by-law effectively burdens freedom of communicating about government and political matters – Whether by-law reasonably appropriate and adapted to serve legitimate end in manner compatible with maintenance of representative and responsible government – Whether potential that by-law may be erroneously administered relevant to validity.

Appealed from SASC (FC): (2011) 110 SASR 334, (2011) 182 LGERA 181, (2011) 252 FLR 418, [2011] SASFC 84.

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Monis v The Queen & Anor; Droudīs v The Queen & Anor

S172/2012;S179/2012: [\[2012\] HCATrans 238](#); [\[2012\] HCATrans 241](#).

Dates heard: 3 & 4 October 2012.

Coram: French CJ, Hayne, Heydon, Crennan, Kiefel and Bell JJ.

Catchwords:

Constitutional law (Cth) – Operation and effect of Constitution – Interpretation – Implied freedom of political communication about government or political matters – System of representative and responsible government – Charges laid under s 471.12 of the Criminal Code 1995 (Cth) ("the Code") which creates an offence of using a postal or similar service in a way that reasonable persons would consider menacing, harassing or offensive – Whether s 471.12 of the Code is invalid to the extent it imposes criminal sanction for "offensive" use of a postal or similar service because it infringes the implied freedom of political communication about government or political matters.

Appealed from NSW SC (CCA): (2011) 256 FLR 28; [2011] NSWCCA 231.

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Assistant Commissioner Michael James Condon v Pompano Pty Ltd & Anor

B59/2012: [\[2012\] HCATrans 332](#); [\[2012\] HCATrans 333](#).

Dates heard: 4 & 5 December 2012.

Coram: French CJ, Hayne, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Constitutional law (Cth) – Judicial power of Commonwealth – Constitution, Ch III – Vesting of federal jurisdiction in State courts – *Criminal Organisation Act 2009 (Q)* ('the Act') – The Act creates a scheme whereby the Commissioner of the Police Service ('the Commissioner') may apply to the Supreme Court for a declaration that an organisation is a 'criminal organisation' – The Act contemplates, inter alia, that in any substantive application under the Act that the Commissioner may rely on 'criminal intelligence' which cannot be disclosed to the respondent or the respondent's legal representative – Whether requirements, taken individually or in their cumulative operation, placed on Supreme Court in deciding if an organisation should be declared, repugnant to, or incompatible with, institutional integrity.

Removed from Qld SC.

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TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia and Anor
S178/2012: [\[2012\] HCATrans 277](#).

Date heard: 6 November 2012.

Coram: French CJ, Hayne, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Constitutional law – Judicial power of the Commonwealth – Constitution, Ch III – Following an arbitral hearing conducted in Australia in accordance with an agreement between the parties, the second defendant was awarded damages and costs – Proceedings commenced in the Federal Court of Australia seeking enforcement of arbitral awards – Plaintiff resisted enforcement proceedings – Whether *International Arbitration Act 1974* (Cth) ("the Act"), including by its application of the UNCITRAL Model Law on International Commercial Arbitration, substantially impairs the institutional integrity of the Federal Court of Australia – Whether the Act impermissibly vests Commonwealth judicial power on arbitral tribunals.

This application for an order to show cause was filed in the original jurisdiction of the High Court of Australia.

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Consumer Law

Google Inc v Australian Competition and Consumer Commission
S175/2012: [\[2012\] HCATrans 224](#).

Date heard: 11 September 2012.

Coram: French CJ, Hayne, Heydon, Crennan and Kiefel JJ.

Catchwords:

Consumer law – Misleading or deceptive conduct – Online advertising – Appellant operator of free internet search engine – Advertisers promoted their goods or services by means of sponsored links that appeared on search result pages displayed by appellant's internet search engine – Advertisements displayed in

response to user's search query – Whether in displaying sponsored links appellant engaged in conduct that was misleading or deceptive or likely to mislead or deceive for the purposes of s 52 of *Trade Practices Act 1974* (Cth) (now s 18 *Australian Consumer Law*) – Whether in displaying advertisements in response to particular user's search query appellant made representations contained in advertisements.

Appealed from FCA (FC): [2012] FCAFC 49.

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Corporations Law

Beck v Weinstock & Ors; Weinstock & Anor v Beck & Anor
S56/2012;S266/2012: [\[2012\] HCATrans 283](#); [\[2012\] HCATrans 284](#);
[\[2012\] HCATrans 285](#).

Dates heard: 14 & 15 November 2012.

Coram: French CJ, Hayne, Crennan, Kiefel and Gageler JJ.

Catchwords:

Corporations law – Redeemable preference shares – Validity of issue – Rights attaching to shares – Eight C class shares were allotted in the third respondent ("the Company") – No other shares in the Company over which the C class shares conferred any priority or preference were ever issued – Directors of the Company resolved to redeem the eight C class shares for a nominal amount – Whether other shares, over which preference is enjoyed, must exist for redeemable preference shares to be valid – Whether eight C class shares in the Company were redeemable preference shares for the purposes of the *Corporations Act 2001* (Cth) notwithstanding that there were never any other shares issued in the Company by reference to which the C class shares conferred preference.

Corporations law – Management and administration – Directors and other officers – Appointment removal and retirement of directors – Power of court to rectify corporate act which is taken in contravention of corporate constitution – Section 1322(4) of the *Corporations Act 2001* (Cth) confers on a court power to make an order that any "act, matter or thing purporting to be have been done" either under the *Corporations Act*, or "in relation to a corporation" is not invalid by reason of any "contravention of a provision of [the *Corporations Act*] or a provision of the constitution of a corporation" – Whether purported act contravening constitution by person never validly appointed to office is a "contravention" that

can be cured by s 1322(4) – Scope of power conferred by s 1322(4) of the *Corporations Act* 2001.

Appealed from NSW SC (CA): (2011) 252 FLR 462, [2011] NSWCA 228; (2012) 87 ACSR 672, [2012] NSWCA 76.

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Criminal Law

Huynh v The Queen; Duong v The Queen; Sem v The Queen
A30/2012; A31/2012; A32/2012: [\[2012\] HCATrans 334](#); [\[2012\] HCATrans 335](#).

Dates heard: 5 & 6 December 2012.

Coram: French CJ, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Criminal law – Appeal – Jury misdirection – Appellant and two co-accused convicted of murder after trial before jury – Trial judge gave oral summing relating facts in narrative form - Trial judge also provided written directions on request from jury – Trial judge’s directions omitted element of 'participation' from joint enterprise liability - Whether directions flawed for failure to identify 'participation' as an element of joint enterprise liability - Whether oral summing up and written redirection flawed on account of failure to apply legal directions to case against each individual co-accused.

Practice and procedure - Application for special leave to appeal - Application for special leave brought by two co-accused.

Appealed from SA SC (CCA): (2011) 110 SASR 296; [2011] SASFC 100.

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Jurisdiction

Commissioner of Police v Eaton and Anor
S86/2012: [\[2012\] HCATrans 260](#).

Date heard: 11 October 2012.

Coram: Heydon, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Jurisdiction – Subject matter jurisdiction – Industrial Relations Commission NSW ('IRC') – Probationary police officer employed and dismissed by Commissioner of Police ('Commissioner') under s 80(3) of the *Police Act* 1990 ('Police Act') – Probationary officer made an application to the IRC claiming dismissal was harsh, unreasonable or unjust under s 84(1) of the *Industrial Relations Act* 1996 (NSW) ('IR Act') – Whether the Industrial Relations Commission of NSW has the jurisdiction to hear and determine a claim alleging unfair dismissal under Part 6 of Chapter 2 of the IR Act brought by a probationary police officer employed and dismissed under s 80(3) of the Police Act 1990 – Whether Police Act contains an exhaustive regime for the appointment and termination of probationary police officers.

Statutes – Implied repeal – Inconsistency or incongruity between the provisions of Police Act and IR Act – Whether Parliament intended the specific regime for apportionment and termination of probationary police officers contained in the Police Act to be affected by the general provisions of the IR Act.

Appealed from NSW SC (CA): [2012] NSWCA 30.

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Negligence

Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd & Ors S270/2012: [\[2012\] HCATrans 344](#).

Date heard: 12 December 2012.

Coram: French CJ, Hayne, Kiefel, Bell and Gageler JJ.

Catchwords:

Negligence – Proportionate liability – Loan and mortgage transactions effected by forged signatures of purported borrower/mortgagor – Mortgage registered but respondent lender's interest not indefeasible as security for loan amount – Respondent's solicitors ('the appellant') liable to respondent for negligence in failing to word mortgage so as to be indefeasible as security for loan amount – Sections 34 and 35 of the *Civil Liability Act* 2002 (NSW), inter alia, limit liability of a defendant who establishes that other parties are concurrently liable to a plaintiff in respect of the

damage or loss that is the subject of plaintiff's claim against the defendant – Whether insolvent fraudsters concurrent wrongdoer together with appellant – What is the correct approach to identifying 'the damage or loss that is the subject of the claim' within the meaning of s 34(2) of the *Civil Liability Act 2002*.

Negligence – Damages – Financial loss – Loss of Interest component – Forged mortgage – Scope of liability under s 5D *Civil Liability Act 2002* (NSW) – Whether Court of Appeal erred in holding that damages payable by applicant included amounts referable to interest rate provided in forged mortgage.

Appealed from NSW SC (CA): [2012] NSWCA 38.

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Practice and Procedure

See also [Criminal Law](#): *Huynh v The Queen*; *Duong v The Queen*; *Sem v The Queen*

Statutes

See also [Jurisdiction](#): *Commissioner of Police v Eaton and Anor*

Maloney v The Queen

B57/2012: [\[2012\] HCATrans 342](#); [\[2012\] HCATrans 343](#).

Dates heard: 11 & 12 December 2012.

Coram: French CJ, Hayne, Crennan, Kiefel, Bell and Gageler JJ.

Catchwords:

Statutes – Interpretation – Racial discrimination – The community area of the Palm Island Shire Council declared a 'restricted area' pursuant to s 147G of the *Liquor Act 1992* (Q) – Appellant convicted of possessing liquor in the Palm Island restricted area pursuant to s 168B(1) of the *Liquor Act* – Whether liquor

restrictions contravene s 10 of the *Racial Discrimination Act* 1975 (Cth) – Whether liquor restrictions valid as special measure within the meaning of s 8 of the Racial Discrimination Act.

Constitutional law (Cth) – Inconsistency between Commonwealth and State laws – Whether State law inconsistent with Commonwealth law and invalid to extent of inconsistency.

Appealed from Qld SC (CA): (2012) 262 FLR 172; [2012] QCA 105.

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X7 v Australian Crime Commission and Anor

S100/2012: [\[2012\] HCATrans 280](#).

Date heard: 7 November 2012.

Coram: French CJ, Hayne, Crennan, Kiefel and Bell JJ.

Catchwords:

Statutes – *Australian Crime Commission Act* 2002 (Cth) ('ACC Act') – ACC examiner required plaintiff to attend before examiner to give evidence – Before examination, plaintiff charged with offences – Plaintiff subsequently interviewed by ACC examiner – Whether authorisation of examination by ACCC Board authorised questioning of plaintiff on the subject of charged offences – Whether Div 2 of Pt II of the ACC Act empowers ACC examiner to examination of person charged where examination concerns the subject matter of the offence.

Constitutional law – Judicial power of Commonwealth – Constitution, Ch III – Whether Div 2 of Pt II of the ACC Act invalid to the extent that it is contrary to Ch III of the Constitution.

This writ of summons was filed in the original jurisdiction of the High Court of Australia.

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3: ORIGINAL JURISDICTION

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

Citizenship and Migration

Plaintiff M79 v Minister for Immigration and Citizenship
M79/2012

Catchwords:

Citizenship and Migration – Refugees – Plaintiff 'offshore entry person' – Plaintiff made a request for a refugee status assessment – Delegate determined that Plaintiff did not meet the definition of 'refugee' in Art 1A of the Refugees Convention – Plaintiff applied for independent merits review and subsequently judicial review – Judicial review decision remains reserved – Minister intervened under s 195A of the *Migration Act* 1958 (Cth) and granted the Plaintiff a temporary safe haven visa permitting a stay of seven days and a bridging E visa permitting a stay of six months – Grant of temporary safe haven visa bars plaintiff's application for protection visa under s 91L of the *Migration Act* – Whether temporary safe haven visa validly granted – Whether plaintiff's application for a protection visa valid.

This application for an order to show cause was filed in the original jurisdiction of the High Court of Australia.

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Constitutional Law

Fortescue Metals Group Limited and Ors v The Commonwealth of Australia
S163/2012

Catchwords:

Constitutional law (Cth) – Powers of the Commonwealth Parliament – Constitution, s 51(ii) – Taxation – Commonwealth Parliament passed several Acts establishing a 'minerals resource rent tax' – Whether any or all of *Minerals Resource Rent Tax (Imposition-Customs) Act* 2012 (Cth) s 3, *Minerals Resources Rent Tax (Imposition-Excise) Act* 2012 (Cth) s 3, *Minerals Resource Rent Tax*

(Imposition-General) Act 2012 (Cth) s 3 (collectively 'the Acts') are invalid to the extent that they discriminate between the States contrary to s 51(ii) of the Constitution.

Constitutional law (Cth) – Constitution, s 99 – Prohibition on Commonwealth preference in trade, commerce or revenue – Whether any or all of the Acts give preference to one State over another.

Constitutional law (Cth) – *Melbourne Corporation* doctrine – Whether any or all of the Acts discriminate against or place a particular burden upon the operations or activities of the States, as to be beyond the legislative power of the Commonwealth.

Constitutional law (Cth) – Constitution, s 91 – Section 91 provides, inter alia, that '[n]othing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals' – Whether any or all of the Acts contravene s 91.

This writ of summons was filed in the original jurisdiction of the High Court of Australia.

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4: SPECIAL LEAVE GRANTED

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

Administrative Law

See also [Citizenship and Migration](#): *Minister for Immigration and Citizenship v Li and Anor*

Citizenship and Migration

Minister for Immigration and Citizenship v Li and Anor
B34/2012: [\[2012\] HCATrans 295](#).

Date heard: 16 November 2012 – *Special leave granted*.

Catchwords:

Citizenship and Migration – Immigration – Migration Review Tribunal ('MRT') – Procedural fairness – Right to be heard – Hearings – Respondent unsuccessfully applied for a 'Skilled Independent Overseas Student (Residence) (Class DD) Visa' – Respondent requested MRT to forbear from making review decision until final outcome of a second skills assessment by Trades Recognition Australia – Respondent sought to address procedural errors by Trades Recognition Australia – MRT made decision without second assessment – Whether MRT's refusal to adjourn denied applicant procedural fairness – Whether application doomed to failure – Whether ss 353 and 357A(3) of the *Migration Act* 1958 (Cth) impose requirements capable of supporting substantive grounds of review for jurisdictional error – *Migration Act* 1958 (Cth), ss 348, 353, 357A, 360.

Administrative law – *Wednesbury unreasonableness* – Proper test for unreasonableness in relation to adjournment – Whether failure to adjourn unreasonable.

Appealed from FCA (FC): (2012) 202 FCR 387; (2012) 127 ALD 238; (2012) 289 ALR 210; [2012] FCAFC 74.

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SZOQQ v Minister for Immigration and Citizenship and Anor
S97/2012: [\[2012\] HCATrans 292](#).

Date heard: 16 November 2012 – *Special leave granted*.

Catchwords:

Citizenship and Migration – Refugees – Refoulement – Applicant an Indonesian national convicted of serious criminal offences in Australia – Applicant found to have real chance of being persecuted if returned – Applicant was excluded by Art 33(2) of the Refugees Convention because of serious criminal convictions and threat posed to Australian community – Whether Minister required to take into account the likely consequence of returning a non-citizen to his or her home country when determining if Article 33(2) of the Refugees Convention applies to deny the benefit of non-refoulement – Convention Relating to the Status of Refugees 1951, Arts 33(1), 33(2) – *Migration Act* 1958 (Cth), ss 36 & 65.

Appealed from FCA (FC): (2012) 202 FCR 387; (2012) 127 ALD 238; (2012) 289 ALR 210; [2012] FCAFC 74.

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Constitutional Law

Keating v Director of Public Prosecutions (Cth)
M74/2012: [\[2012\] HCATrans 346](#).

Date heard: 14 December 2012 – *Matter removed from the Magistrates' Court of Victoria*.

Catchwords:

Constitutional law – Powers of the Commonwealth Parliament – Social Security Legislation – Retrospective application of offence – Section 66A of the *Social Security (Administration) Act* 1999 (Cth) ('the Administration Act') retrospectively creates duty for applicant to inform Centrelink of income increases – Applicant charged with three counts of obtaining financial advantage contrary to s 135(1) for failing to report increases in her income to Centrelink – Whether s 66A of the Administration Act invalid in so far as it operates retrospectively – Whether the sending or deemed receipt of a notice under s 68 of the Administration Act is sufficient to give

rise to a duty under law to perform an action for the purposes of s 4.3(b) of the *Criminal Code* (Cth).

Removed from Magistrates' Court of Victoria.

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State of NSW v Kable

S233/2012: [\[2012\] HCATrans 356](#).

Date heard: 14 December 2012 – *Special leave granted*.

Catchwords:

Constitutional law – Judicial power – Respondent detained pursuant to order of Supreme Court on application of Director of Public proceedings pursuant to purported State legislation – Legislation subsequently held invalid – Respondent sought damages from the appellant for false imprisonment – Whether orders of Supreme Court valid until set aside – Whether the orders of a State Supreme Court exercising federal jurisdiction in resolving the constitutionality of a State Act and exercising powers pursuant to that Act are deprived of the character of judicial orders by reason of the subsequent invalidity of the State Act.

Torts – False imprisonment – Defences – Lawful authority – Respondent held under order of Supreme Court that was subsequently set aside – Whether persons acting to obey orders of a State Supreme Court, which were valid on their face, have defence of lawful authority to tortious liability at common law.

Appealed from NSW (CA): [2012] NSWCA 243.

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Criminal Law

Director of Public Prosecutions (Cth) v JM

M73/2012: [\[2012\] HCATrans 347](#).

Date heard: 14 December 2012 – *Referred to Full Court*

Catchwords:

Criminal law – Market manipulation – *Corporations Act* 2001 (Cth), s 1041A – Transaction alleged to have or likely to have effect of creating artificial price for shares on ASX – Meaning of 'artificial

price' in s 1041 of the *Corporations Act* – Whether meaning of 'artificial price' informed by equivalent US jurisprudential conceptions of 'cornering' and 'squeezing'.

Appealed from Vic SC (CA): (2012) 90 ACSR 96; [2012] VSCA 21.

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Yates v The Queen

P21/2012: [\[2012\] HCATrans 286](#).

Date heard: 16 November 2012 – *Referred to Full Court*

Catchwords:

Criminal law – Sentencing – Detained during the Governor's pleasure – In 1987 Applicant was found guilty of one count of deprivation of liberty and one count of aggravated sexual assault upon a child under the age of 13 years – Applicant sentenced to seven years imprisonment on each count, to be served concurrently, followed by an indeterminate sentence imposed under s 662 of the *Criminal Code* (WA) – Section 662 of the *Criminal Code* (WA) empowered a court in certain circumstances to sentence a person to be detained during the Governor's pleasure – Whether it was open to sentence the applicant for an indeterminate period having regard to the applicant's antecedents, health and mental condition – Whether s 662 of the *Criminal Code* can be used for the purpose of manipulating the period of time which an offender must serve on parole following the expiration of a future term.

Appealed from WA SC (CCA): (1987) 25 A Crim R 361.

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Evidence

Aristocrat Technologies Australia Pty Ltd and Ors v Global Gaming Supplies Pty Ltd and Ors

S168/2012: [\[2012\] HCATrans 296](#).

Date heard: 16 November 2012 – *Referred to Full Court*

Catchwords:

Evidence – Tendency evidence – *Evidence Act* 1995 (Cth), s 97 – Applicants engaged in business of manufacturing and selling electronic gaming machines – Applicants alleged that the respondents infringed copyright under s 38 of the *Copyright Act*

1968 (Cth) by selling counterfeited gaming machines – Infringement of copyright in circumstances where respondent 'knew, or ought reasonably to have known, the making of the article constituted an infringement of copyright' – Email chain that demonstrated that the respondents had a tendency to engage in infringing transactions – Whether emails inadmissible tendency evidence – Whether the limitation on tendency evidence in s 97 of the *Evidence Act* 1995 applies to evidence of a person's awareness or state of mind about that person's own prior activities where the issue is the person's knowledge or reasons to believe under s 38 of the *Copyright Act* 1968 (Cth).

Intellectual Property – Copyright – *Copyright Act* 1968 (Cth), s 38 – Infringement – Infringement by dealing – Whether respondents infringed applicants' copyright.

Appealed from FCA (FC): (2012) 95 IPR 242; [2012] FCAFC 34.

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Equity

Kakavas v Crown Melbourne Limited & Ors
M53/2012: [\[2012\] HCATrans 348](#).

Date heard: 14 December 2012 – *Special leave granted*.

Catchwords:

Equity – Unconscionable dealing – Appellant gambled at respondent's casino over extended period of time – Appellant alleged to suffer from psychiatric condition known as "pathological gambling" – Appellant also subject to "interstate exclusion order" for purposes of *Casino Control Act* 1991 (Vic) at all relevant times – Whether series of gambling transactions between appellant and respondent affected by unconscionable dealing – Whether respondent liable for unconscionable dealing in circumstances where its officers did not bring to mind matters known to them which placed the appellant at a special disadvantage – What constitutes constructive notice of a special disadvantage in a claim of unconscionable dealing against a corporate person – Whether 'equality of bargaining position' test for determining whether person under 'special disadvantage'.

Trade practices – Unconscionable conduct – Gambling transactions – Section 51AA for the *Trade Practices Act* 1974 (Cth) – Whether gambling transactions involved a contravention of s 51AA of the *Trade Practices Act*.

Appealed from Vic SC (CA): [\[2012\] VSCA 95](#).

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Intellectual Property

See also **Evidence:** *Aristocrat Technologies Australia Pty Ltd and Ors v Global Gaming Supplies Pty Ltd and Ors*

Apotex Pty Ltd v Sanofi-Aventis Australia Pty Ltd & Ors
S219/2012: [\[2012\] HCATrans 357](#).

Date heard: 14 December 2012 – *Special leave granted*.

Catchwords:

Intellectual Property – Patents – Patent claimed administration of pharmaceutical drug as method of preventing or treating particular condition – Administration of drug for different purpose than that specified in patent had effect of preventing or treating condition referred to in patent – Whether methods of treating human body patentable inventions within the meaning of s 18(1)(a) of the *Patents Act* 1900 (Cth) – Whether second or subsequent medical uses of previously known products patentable inventions.

Intellectual Property – Patents – Infringement – Patent claims use of compound for treatment of a specified disease – Whether a person who supplies the compound and indicates its use for treatment of a different disease infringes the patent under s 177(1) of the *Patents Act* 1990 (Cth).

Appealed from FCA (FC): (2012) 204 FCR 494; (2012) 290 ALR 1; (2012) 96 IPR 185; [2012] FCAFC 102

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Native Title

Akiba and Mye on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth of Australia & Ors
B19/2012: [\[2012\] HCATrans 245](#).

Date heard: 5 October 2012 – *Special leave granted.*

Catchwords:

Native title – Preservation of native title rights – Prior extinguishment – Native title claim over maritime area – Native title right to take fish and other aquatic life for commercial purposes – Whether native title rights extinguished by fisheries legislation prohibiting, in the absence of a licence, taking of such resources for commercial purposes – Whether rights to take resources from an area constitute native title rights or interests within the meaning of s 223(1) of the *Native Title Act 1993* (Cth) where those rights are held under traditional laws and customs on the basis of a 'reciprocal relationship' with a holder of 'occupation based' native title rights.

Appealed from FCA (FC): (2012) 289 ALR 400, [2012] FCAFC 25.

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Karpany & Anor v Dietman

A18/2012: [\[2012\] HCATrans 210](#).

Date heard: 7 September 2012 –*Referred to Full Court*

Catchwords:

Native title – Preservation of native title rights – Prior extinguishment – Native title right to take fish – Applicants convicted of possession of an aquatic resource contrary to s 72(2)(c) Fisheries Management Act 2007 (SA) – Whether native title rights to take fish extinguished by virtue of s 29 of the Fisheries Act 1971 (SA) – Whether s 72(2)(c) Fisheries Management Act 2007 (SA) inoperative due to inconsistency with s 221 of the *Native Title Act 1993* (Cth).

Appealed from SA SC (FC): (2012) 112 SASR 51; (2012) 262 FLR 292; [2012] SASCF 53.

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Property

Castle Constructions Pty Limited v Sahab Holdings Pty Ltd & Anor
S110/2012 [\[2012\] HCATrans 223](#).

Date heard: 7 September 2012 – *Special leave granted.*

Catchwords:

Property – Real property – Powers of Registrar-General – On applicant's request the Registrar-General intentionally, albeit incorrectly, removed easement from applicant's property in the nature of a right of way benefitting neighbouring property – Subsequent purchaser of neighbouring property requested Registrar-General reinstate easement – Registrar-General declined – Whether, contrary to the principles of indefeasibility embodied in the *Real Property Act* 1900 (NSW) ('the Act') the easement should be reinstated to the Register – Whether Registrar-General has power to reinstate easement under s 12(1)(d) of the Act – Whether the term 'omission' in ss 12(1)(d) and 42(1)(a1) of the Act encompasses deliberate removal of easement from the Register – Whether a court has power to reinstate easement under s 138 of the Act – Whether proceedings barred by s 12A(3) of the Act by reason of a failure to respond to notice of intention to remove the easement.

Appealed from NSW SC (CA): (2011) 15 BPR 29,627; [2011] NSWCA 395; [2012] NSWCA 42; [2012] NSWCA 72.

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Taxation

Commissioner of Taxation v Unit Trend Services Pty Ltd
B61/2012: [\[2012\] HCATrans 361](#).

Date heard: 14 December 2012 – *Referred to Full Court*.

Catchwords:

Taxation – Goods and services tax – Anti-avoidance – Anti-avoidance provisions in Div 165 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) enable Commissioner of Taxation to negate GST benefit derived from a scheme – Provisions do not apply if GST benefit attributable to the making of a "choice, election, application or agreement expressly provided for by the GST law" – Where property development scheme involved a combination of several choices provided for by GST law – Whether GST benefit attributable to choice or to scheme – Meaning of s 165-5(1)(b) of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Appealed from FCA (FC): (2012) 205 FCR 29; [2012] ATC 20-342; [2012] FCAFC 112.

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Torts

Beckett v The State of New South Wales
S144/2012: [\[2012\] HCATrans 252](#).

Date heard: 5 October 2012 – *Application referred to Full Court.*

Catchwords:

Torts – Malicious Prosecution – Elements of action – Applicant convicted of multiple charges – Applicant subsequently acquitted of one charge and remaining convictions quashed and new trial ordered – Prosecution decided not to proceed with outstanding charges – Applicant brought action for malicious prosecution – Whether plaintiff must prove innocence – Whether *nolle prosequi* filed with court or whether alternative characterisation appropriate – Whether *Davis v Gell* (1924) 35 CLR 275 should be overruled.

Appealed from NSW SC (CA): [2012] NSWCA 114.

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Wallace v Kam
S122/2012: [\[2012\] HCATrans 251](#).

Date heard: 5 October 2012 – *Special leave granted.*

Catchwords:

Torts – Negligence – Causation – Medical practitioner – Failure to warn – Duty to warn patient of material risks inherent in applicant's proposed back surgery – Multiple material risks – Applicant suffered nerve damage on account of one of several risks materialising – Applicant argued that he would not have undergone surgery if told of all risks – Whether failure to warn of material risks that did not eventuate causally connected to damage – *Civil Liability Act 2002* (NSW), s 5D.

Appealed from NSW SC (CA): [2012] Aust Torts Reports 82-101, [2012] AMLC 30-032, [2012] NSWCA 82.

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Trade Practices

See also [Equity](#): *Aristocrat Technologies Australia Pty Ltd and Ors v Global Gaming Supplies Pty Ltd and Ors*

5: CASES NOT PROCEEDING OR VACATED

The following cases in the High Court of Australia are not proceeding or have been vacated since *High Court Bulletin* 11 [2012] HCAB 11.

6: SPECIAL LEAVE REFUSED

Canberra: 5 December 2012

(Publication of reasons)

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
Amos	Brisbane City Council (B47/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 206	Application Dismissed [2012] HCASL 159
Kosteska	Commissioner of Police (B49/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 219	Application Dismissed [2012] HCASL 160
Moder	Commonwealth of Australia (B53/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 92	Application Dismissed [2012] HCASL 161
Sochorova	Commonwealth of Australia (B54/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 92	Application Dismissed [2012] HCASL 161
Frugtniet	Law Institute of Victoria Ltd (M90/2012)	Supreme Court of Victoria (Court of Appeal) [2012] VSCA 178	Application Dismissed [2012] HCASL 162
Boulos	Martin (S170/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 161	Application Dismissed [2012] HCASL 163
Boulos	Martin (S171/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 162	Application Dismissed [2012] HCASL 163
McGinn	Ashfield Council (S235/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 238	Application Dismissed [2012] HCASL 164
SZQSH & Ors	Minister for Immigration and Citizenship & Anor (S240/2012)	Federal Court of Australia [2012] FCA 876	Application Dismissed [2012] HCASL 165
SZQUI	Minister for Immigration and Citizenship & Anor (S242/2012)	Federal Court of Australia [2012] FCA 839	Application Dismissed [2012] HCASL 166

Gorman	NSW Health Care Complaints Commission (HCCC) (S248/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 251	Application Dismissed [2012] HCASL 167
SZQPZ	Minister for Immigration and Citizenship & Anor (S252/2012)	Federal Court of Australia [2012] FCA 853	Application Dismissed [2012] HCASL 168
SZQRP	Minister for Immigration and Citizenship & Anor (S255/2012)	Federal Court of Australia [2012] FCA 885	Application Dismissed [2012] HCASL 169
SZQWC	Minister for Immigration and Citizenship & Anor (S271/2012)	Federal Court of Australia [2012] FCA 852	Application Dismissed [2012] HCASL 170
SZQOS	Minister for Immigration and Citizenship & Anor (S281/2012)	Federal Court of Australia [2012] FCA 982	Application Dismissed [2012] HCASL 171
SZOYU	Minister for Immigration and Citizenship & Anor (S284/2012)	Federal Court of Australia [2012] FCA 936	Application Dismissed [2012] HCASL 172
Reimers	Health Care Complaints Commission & Anor (S301/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 317	Application Dismissed [2012] HCASL 173
Mark Bain Constructions Pty Ltd	Avis & Anor (B24/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 100	Application Dismissed with costs [2012] HCASL 174
Mark Bain Constructions Pty Ltd	Barnscape Pty Ltd & Anor (B25/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 100	Application Dismissed with costs [2012] HCASL 174
Robson & Anor	Robson (B30/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 119	Application Dismissed with costs [2012] HCASL 175
Fazio	Fazio & Ors (P10/2012)	Supreme Court of Western Australia (Court of Appeal) [2012] WASCA 72	Application Dismissed with costs [2012] HCASL 176
Starrs & Anor	Retravisio (WA) Ltd (P12/2012)	Supreme Court of Western Australia (Court of Appeal) [2012] WASCA 67	Application Dismissed with costs [2012] HCASL 177
Garzo	Liverpool/Campbelltown Christian School Ltd & Anor (S166/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 151	Application Dismissed with costs [2012] HCASL 178

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Canberra: 12 December 2012

(Publication of reasons)

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
Underwood	Queensland Department of Communities (B38/2012)	Supreme Court of Queensland (Court of Appeal) [2012] QCA 158	Application Dismissed [2012] HCASL 179
Re Mowen	(B41/2012)	High Court of Australia [2012] HCATrans 097	Application Dismissed [2012] HCASL 180
Buchwald	The Queen (M9/2012)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 445	Application Dismissed [2012] HCASL 181
Pham	Nguyen (M21/2012)	Supreme Court of Victoria (Court of Appeal) No MNC	Application Dismissed [2012] HCASL 182
BN	The Queen (M50/2012)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 406	Application Dismissed [2012] HCASL 183
Thomas	Natwest Markets Australia Pty Ltd (M57/2012)	Supreme Court of Victoria (Court of Appeal) [2012] VSCA 103	Application Dismissed [2012] HCASL 184
Xu	Director of Housing (M62/2012; M63/2012; M64/2012)	Supreme Court of Victoria (Court of Appeal) (no media neutral citation)	Application Dismissed [2012] HCASL 185
Agapis	The State of Western Australia (P25/2012)	Supreme Court of Western Australia (Court of Appeal) [2012] WASCA 132	Application Dismissed [2012] HCASL 186
SJX	The State of Western Australia (P43/2011)	Supreme Court of Western Australia (Court of Criminal Appeal) [2010] WASCA 243	Application Dismissed [2012] HCASL 187
Plaintiff S62/2012	Minister for Immigration and Citizenship & Ors (S145/2012)	High Court of Australia [2012] HCATrans 124	Application Dismissed [2012] HCASL 188

BZABK	Minister for Immigration and Citizenship & Anor (S217/2012)	Federal Court of Australia [2012] FCA 774	Application Dismissed [2012] HCASL 189
SZROZ	Minister for Immigration and Citizenship & Anor (S232/2012)	Federal Court of Australia [2012] FCA 843	Application Dismissed [2012] HCASL 190
Viavattene	Attorney General in and for the State of New South Wales (S238/2012)	Supreme Court of New South Wales [2012] NSWSC 902	Application Dismissed [2012] HCASL 191
Viavattene	Senior Constable Greg Davison & Anor (S239/2012)	Supreme Court of New South Wales [2012] NSWSC 901	Application Dismissed [2012] HCASL 192
SZQOP	Minister for Immigration and Citizenship & Anor (S241/2012)	Federal Court of Australia [2012] FCA 861	Application Dismissed [2012] HCASL 193
Norman	National Australia Bank Limited (M67/2012)	Supreme Court of Victoria (Court of Appeal) (no media neutral citation)	Application Dismissed with costs [2012] HCASL 194
Duncan	The Queen (S158/2012)	Supreme Court of New South Wales (Court of Criminal Appeal) [2004] NSWCCA 431	Application Dismissed [2012] HCASL 195
Frost & Anor	Sheahan (A9/2012)	Full Court of the Federal Court of Australia [2012] FCAFC 46	Application Dismissed with costs [2012] HCASL 196
Howroyd	Howroyd (H4/2012)	Full Court of the Supreme Court of Tasmania (no media neutral citation)	Application Dismissed with costs [2012] HCASL 197
Steele	Marshan (S148/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA141	Application Dismissed with costs [2012] HCASL 198

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Sydney: 14 December 2012

(Publication of reasons)

Civil

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
Joly Pty Ltd	Director General, Dept of Environment, Climate Change and Water (S152/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 133	Special leave refused [2012] HCATrans 364
Cameron	Commissioner of Taxation (S173/2012)	Full Court of the Federal Court of Australia [2012] FCAFC 76	Special leave refused with costs [2012] HCATrans 360
Daily Examiner Pty Ltd	Mundine & Anor (S198/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 195	Special leave refused with costs [2012] HCATrans 362
Brown	Mundine & Anor (S199/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 195	Special leave refused with costs [2012] HCATrans 362
Area Concrete Pumping Pty Limited & Anor	Childs & Anor (S209/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 208	Special leave refused with costs [2012] HCATrans 359
Serena & Anor	Childs & Anor (S210/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 208	Special leave refused with costs [2012] HCATrans 359
Griffiths	The Trustee of the Parliamentary Contributory Superannuation Fund (S234/2012)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 231	Special leave refused with costs [2012] HCATrans 363

Criminal

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
Hudson	Director General, Department of Environment, Climate Change and Water (S151/2012)	Supreme Court of New South Wales (Court of Criminal Appeal) [2012] NSWCCA 92	Special leave refused [2012] HCATrans 364
The Queen	May (S176/2012)	Supreme Court of New South Wales (Court of Criminal Appeal) 2012] NSWCCA 111	Special leave refused [2012] HCATrans 358

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Melbourne: 14 December 2012
(Publication of reasons)

Civil

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
Commissioner of State Revenue	Challenger Listed Investments Ltd (as Trustee of Challenger Diversified Property Trust 1 (M174/2011))	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 272	Special leave refused with costs [2012] HCATrans 352
Shirreff	Elazac Pty Ltd (M176/2011)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 405	Special leave refused with costs [2012] HCATrans 354
3143 Victoria Street Doncaster Pty Ltd	Retirement Services Australia (RSA) Pty Ltd (M68/2012)	Supreme Court of Victoria (Court of Appeal) [2012] VSCA 134	Special leave refused with costs [2012] HCATrans 351

Criminal

<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
The Director of Public Prosecutions for Victoria	Chalmers (M6/2012)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 436	Special leave refused with costs [2012] HCATrans 353
The Queen	JPR (M40/2012)	Supreme Court of Victoria (Court of Appeal) [2012] VSCA 50	Special leave refused [2012] HCATrans 349
Loader	The Queen & Anor (M43/2012; M44/2012)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 292	Special leave refused [2012] HCATrans 355
Quach	The Queen (M45/2012)	Supreme Court of Victoria (Court of Appeal) [2011] VSCA 390	Special leave refused [2012] HCATrans 350
Director of Public Prosecutions for the State of Victoria	Moran (M78/2012)	Supreme Court of Victoria (Court of Appeal) [2012] VSCA 154	Special leave refused with costs [2012] HCATrans 353

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