



# HIGH COURT BULLETIN

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High Court of Australia Library  
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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              |
|--|--------------------|
| <u><a href="#">Attorney-General for the State of South Australia v Corporation of the City of Adelaide &amp; Ors</a></u> | Constitutional Law |
| <u><a href="#">Monis v The Queen &amp; Anor; Droudis v The Queen &amp; Anor</a></u>                                      | Constitutional Law |
| <u><a href="#">TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia and Anor</a></u>    | Constitutional Law |
| <u><a href="#">Assistant Commissioner Michael James Condon v Pompano Pty Ltd &amp; Anor</a></u>                          | Constitutional Law |
| <u><a href="#">Huynh v The Queen; Duong v The Queen; Sem v The Queen</a></u>   | Criminal Law       |
| <u><a href="#">Yates v The Queen</a></u>   | Criminal Law       |

## 2: Cases Reserved

| Case   | Title                     |
|--|---------------------------|
| <a href="#">SZOQQ v Minister for Immigration and Citizenship &amp; Anor</a>              | Citizenship and Migration |
| <a href="#">Fortescue Metals Group Limited &amp; Ors v The Commonwealth of Australia</a> | Constitutional Law        |
| <a href="#">Commissioner of Taxation v Unit Trend Services Pty Ltd</a>                   | Taxation                  |
| <a href="#">Wallace v Kam</a>  | Torts                     |

## 3: Original Jurisdiction

| Case   | Title |
|--|-------|
| There are no new matters ready for hearing in the original jurisdiction of the High Court. |       |

## 4: Special Leave Granted

| Case  | Title               |
|---|---------------------|
| <a href="#">Pantazis; Issa; &amp; Elias v The Queen &amp; Anor</a>                        | Criminal Law        |
| <a href="#">Nguyen v The Queen</a>  | Criminal Law        |
| <a href="#">Westpac Banking Corporation &amp; Ors v Bell Group Ltd (In Liq) &amp; Ors</a> | Equity              |
| <a href="#">Legal Services Board v Gillespie-Jones</a>                                    | Legal Practitioners |

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# 1: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the February-March 2013 sittings.

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## Constitutional Law

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

A16/2012: [\[2013\] HCA 3](#).

**Judgment delivered:** 27 February 2013.

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

**Catchwords:**

Constitutional law – Implied freedom of communication on government and political matters – Where by-law prohibited preaching and distributing printed matter on any road without permission – Whether by-law effectively burdened freedom of political communication – Whether by-law reasonably appropriate and adapted to achieving legitimate end in manner compatible with system of representative and responsible government.

Local government – Where power to make by-laws "for the good rule and government of the area, and for the convenience, comfort and safety of its inhabitants" – Whether generally expressed by-law making power must be narrowly or restrictively construed – Whether by-law exceeded limitations on power delegated to local government under *Local Government Act 1934 (SA)* – Whether by-law complied with limitations and procedures prescribed by *Local Government Act 1999 (SA)* – Whether by-law was reasonable and proportionate exercise of by-law making power.

Words and phrases – "could not reasonably have been adopted", "legitimate end", "licence", "political communication", "principle of legality", "proportionality".

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

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*Monis v The Queen & Anor; Droudis v The Queen & Anor*  
S172/2012; S179/2012: [\[2013\] HCA 4](#).

**Judgment delivered:** 27 February 2013.

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

**Catchwords:**

Constitutional law – Implied freedom of communication on government and political matters – Criminal offence under s 471.12 of *Criminal Code* (Cth) for person to use postal or similar service in way that "reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive" – Appellants allegedly sent communications to relatives of Australian soldiers and officials killed in Afghanistan and Indonesia – Communications criticised deployment of Australian troops in Afghanistan in terms critical of deceased – Appellants charged with using and aiding and abetting use of postal service in way that reasonable persons would regard as offensive – Whether s 471.12 in its application to "offensive" uses of postal service effectively burdens implied freedom of political communication – Whether s 471.12 in its application to "offensive" uses of postal service is reasonably appropriate and adapted to legitimate end in manner compatible with system of representative and responsible government.

Statutes – Interpretation – Whether purpose of s 471.12 of *Criminal Code* (Cth) in its application to "offensive" uses of postal service is only to prohibit those offensive uses – Whether purpose of s 471.12 in its application to "offensive" uses of postal service is to prohibit misuse of service for intrusion of seriously offensive material into home or workplace – Whether s 471.12 in its application to "offensive" uses of postal service is limited to seriously offensive uses.

Words and phrases – "effectively burden", "legitimate end", "offensive", "proportionality", "reasonable person", "reasonably appropriate and adapted".

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

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*TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia and Anor*  
S178/2012: [\[2013\] HCA 5](#).

**Judgment delivered:** 13 March 2013.

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

**Catchwords:**

Constitutional law – Judicial power of Commonwealth – Constitution, Ch III – Section 16(1) of *International Arbitration Act* 1974 (Cth) provided that UNCITRAL Model Law on International Commercial Arbitration ("Model Law") has "force of law in Australia" – Article 35 of Model Law provided that arbitral award shall be enforced upon application to "competent court" – Where Federal Court of Australia had no power to refuse to enforce arbitral award for error of law on face of award – Whether institutional integrity of Federal Court impermissibly impaired – Whether judicial power of Commonwealth vested in arbitral tribunals.

Words and phrases – "arbitral award", "institutional integrity", "judicial power".

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

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*Assistant Commissioner Michael James Condon v Pompano Pty Ltd & Anor*

**B59/2012:** [\[2013\] HCA 7](#).

**Judgment delivered:** 14 March 2013.

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

**Catchwords:**

Constitutional law – Constitution, Ch III – Institutional integrity of State courts – Section 10(1) of *Criminal Organisation Act* 2009 (Q) ("Act") allowed Supreme Court of Queensland on application of commissioner of police service to declare organisation "criminal organisation" – Where criminal organisation application supported by "criminal intelligence" – Sections 66 and 70 of Act required closed criminal intelligence hearing with no notice given to respondents – Section 78(1) of Act required Supreme Court to close part of criminal organisation hearing when criminal intelligence considered – Whether provisions of Act denied procedural fairness to respondents to criminal organisation application – Whether provisions of Act repugnant to or inconsistent with continued institutional integrity of Supreme Court – Whether question of organisation being "unacceptable risk to the safety, welfare or order of the community" suitable for judicial determination – Whether ss 9 and 106 of Act prevented Supreme Court from extending time for respondents to file response to criminal organisation application.

Words and phrases – "closed hearing", "continued institutional integrity", "criminal intelligence", "criminal organisation",

"procedural fairness", "unacceptable risk to the safety, welfare or order of the community".

**Removed from Qld SC.**

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## Criminal Law

*Huynh v The Queen; Duong v The Queen; Sem v The Queen*  
A30/2012; A31/2012; A32/2012: [\[2013\] HCA 6](#).

**Judgment delivered:** 13 March 2013.

**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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*Yates v The Queen*

P21/2012: [\[2013\] HCA 8](#).

**Judgment delivered:** 14 March 2013.

**Catchwords:**

Criminal law – Sentence – Detention during Governor's pleasure on expiration of sentence under s 662 of *Criminal Code* (WA) – Whether evidence capable of supporting conclusion that applicant a constant danger to community – Whether order demonstrably necessary to protect society from physical harm.

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

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## Local Government

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See also [Constitutional Law](#): *Attorney-General for the State of South Australia v Corporation of the City of Adelaide & Ors*

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## Practice and Procedure

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

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## Statutes

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See also [Constitutional Law](#): *Monis v the Queen & Anor*; *Droudís v The Queen & Anor*

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## Words and Phrases

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See also [Constitutional Law](#): *Attorney-General for the State of South Australia v Corporation of the City of Adelaide & Ors*

See also [Constitutional Law](#): *Monis v the Queen & Anor*; *Droudís v The Queen & Anor*

See also [Constitutional Law](#): *TCL Air Conditioner (Zhongshan) Co Ltd v The Judges of the Federal Court of Australia and Anor*

See also [Constitutional Law](#): *Assistant Commissioner Michael James Condon v Pompano Pty Ltd & Anor*

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## 2: CASES RESERVED

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

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### Administrative Law

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

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### Citizenship and Migration

*Plaintiff M79 v Minister for Immigration and Citizenship*  
M79/2012: [\[2013\] HCATrans 7](#).

**Date heard:** 8 February 2013.

**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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*Minister for Immigration and Citizenship v Li and Anor*  
B68/2012: [\[2013\] HCATrans 6](#).

**Date heard:** 7 February 2013.

**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:** [\[2013\] HCATrans 44](#).

**Date heard:** 12 March 2013.

**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

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

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

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### *Fortescue Metals Group Limited and Ors v The Commonwealth of Australia*

**S163/2012**: [\[2013\] HCATrans 41](#); [\[2013\] HCATrans 42](#); [\[2013\] HCATrans 43](#).

**Dates heard**: 6, 7 & 8 March 2013.

#### **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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# 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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## Native Title

*Leo Akiba on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth of Australia & Ors*

**B58/2012:** [\[2013\] HCATrans 15](#).

**Date heard:** 12 February 2013.

**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 prohibited, 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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## 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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## Property

*Castle Constructions Pty Limited v Sahab Holdings Pty Ltd & Anor* S263/2012 [\[2013\] HCATrans 5](#).

**Date heard:** 6 February 2013.

**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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## Statutes

*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 ACC 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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## Taxation

*Commissioner of Taxation v Unit Trend Services Pty Ltd*  
**B61/2012:** [\[2013\] HCATrans 46](#).

**Date heard:** 14 March 2013.

**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:** [\[2013\] HCATrans 4](#).

**Date heard:** 5 February 2013.

**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: [\[2013\] HCATrans 45](#).

**Date heard:** 13 March 2013.

**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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## 3: ORIGINAL JURISDICTION

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

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### Administrative Law

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See also [Citizenship and Migration: Plaintiff S138 v Director-General of Security and Ors](#)

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### Citizenship and Migration

*Plaintiff S138 v Director-General of Security and Ors*  
**S138/2012:** *Special case.*

**Catchwords:**

Citizenship and migration – Migration – Refugees – Protection visas – Plaintiff found to be a refugee but refused protection visa due to adverse security assessment by Australian Security Intelligence Organisation – Department relied on public interest criterion 4002 which requires that applicant not be assessed by ASIO to be a risk to security – In Plaintiff M47 v Director-General of Security public interest criterion 4002 found to be beyond power conferred by s 31(3) of the Migration Act 1958 (Cth) – Whether the Secretary made an error of law by relying on public interest criterion 4002

Citizenship and migration – Mandatory detention – Plaintiff held in detention as unlawful non-citizen – No third country currently available to receive plaintiff – Whether ss 189 and 196 of Act authorise plaintiff's detention

Administrative law – Procedural fairness – Adverse security assessment – ASIO interviewed plaintiff – Plaintiff did not meet requirements for protection visa – Plaintiff never informed of the reasons why or nature of apparent risk he poses to security – Whether Director-General failed to accord plaintiff procedural fairness

Constitutional law – Whether ss 189, 196 and 198 of Act are beyond the legislative power of the Commonwealth

This special case 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.

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### Constitutional Law

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See also [Criminal Law](#): *Jason Lee (aka Do Young Lee) & Anor v New South Wales Crime Commission*

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#### *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

*Agius v The Queen*

S254/2012: [\[2013\] HCATrans 30](#).

**Date heard:** 15 February 2013 – *Special leave granted*.

**Catchwords:**

Criminal law – Conspiracy – In 2001 the *Crimes Act 1914* (NSW) s 29D dealing with the offence of conspiracy was repealed and replaced with the *Criminal Code Act 1995* (Cth) s 135 – Whether proof of conspiracy under the *Criminal Code Act 1995* (Cth) requires evidence of an agreement entered into after the Code began operation on 24 May 2001 – Whether the *Criminal Code Act 1995* (Cth) can apply retrospectively to an agreement entered into before 24 May 2001 – Whether physical element of conduct constituted by a conspiracy can be “a state of affairs”

**Appealed from NSW (CA):** [2011] NSWCCA 119.

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*Jason Lee (aka Do Young Lee) & Anor v New South Wales Crime Commission*

S292/2012: [\[2013\] HCATrans 27](#).

**Date heard:** 15 February 2013 – *Special leave granted*.

**Catchwords:**

Criminal law – Recovery of proceeds of crime – Examination orders – Whether examination would interfere with the administration of justice in criminal proceedings – Whether examination order may be made where criminal charges pending against examinee – Whether procedural protections available to prevent abuse of power – *Criminal Assets Recovery Act 1990* (NSW), ss 13A, 31D, 63

Constitutional law – Ch III of the Constitution – Separation of judicial powers – Functions incompatible with institutional integrity of State Supreme Court – Validity of s 31D of *Criminal Assets Recovery Act 1990* (NSW) – Whether requiring a State Supreme Court to make an examination order without regard to the capacity of that order to prejudice the fair trial of the person is incompatible with Ch III

Statutes – *Criminal Assets Recovery Act 1990* (NSW) ss 13A, 31D, 63 – Examination orders – Whether power to order examination limited by general law principles relating to a fair trial

**Appealed from NSW (CA):** [2012] NSWCA 276

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*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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*Nguyen v The Queen*

**M94/2012:** [\[2013\] HCATrans 57](#).

**Date heard:** 15 March 2013 – *Special leave granted*.

**Catchwords:**

Criminal law – Murder – Attempted murder – Jury directions – Accused found guilty by complicity with another – Whether alternative verdict of manslaughter sufficiently left to jury on the charge of murder – Whether failure by trial judge to direct jury as to alternative verdict caused a substantial miscarriage of justice

**Appealed from VSC (CA):** [2010] VSCA 23

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*Pantazis; Issa; & Elias v The Queen & Anor*  
M80, M81, M82/2012: [\[2013\] HCATrans 51](#).

**Date heard:** 15 March 2013 – *Special leave granted*.

**Catchwords:**

Criminal law – Sentencing – Most appropriate offence – *Liang & Li* principle – Maximum penalty for the offence of attempting to pervert the course of justice at common law is prescribed by section 320 of the *Crimes Act* 1958 (Vic) at 25 years imprisonment – Under section 43 of the *Crimes Act* 1914 (Cth) maximum penalty at relevant time was five years imprisonment – Whether Court of Appeal erred in failing to have regard to the lighter sentence.

**Appealed from VSC (CA):** [2012] VSCA 60.

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## Equity

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See also [Legal Practitioners](#): *Legal Services Board v Gillespie-Jones*

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*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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*Westpac Banking Corporation & Ors v Bell Group Ltd (In Liq) & Ors*

**P29/2012:** [\[2013\] HCATrans 49](#).

**Date heard:** 15 March 2013 – *Special leave granted*.

**Catchwords:**

Equity – fiduciary duty – Judicial review – Whether courts can intervene to review the exercise of powers by directors on the basis of a lack of reasonable grounds for decision.

Equity – Fiduciary duty – Breach – Remedies – Equitable compensation versus account of profits – Whether compound interest should be utilised for restitutionary purposes – If so, whether the appropriate measure of compound interest can be determined – Whether on appeal the measure of compound interest was “grossly excessive” or a simple disgorgement of profits.

Equity – Fiduciary duty – *Barnes v Addy* – Particularisation of breach of fiduciary duty by directors – Whether recipient liability is available against a person who enters an executory transaction with a company involving a balance of rights and obligations that are performed on both sides before any act of avoidance – Whether accessorial liability requires a dishonest and fraudulent design by the trustee.

**Appealed from WASC (CA):** [\[2012\] WASCA 157](#).

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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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## Intellectual Property

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

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*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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## Legal Practitioners

*Legal Services Board v Gillespie-Jones*  
M46/2012: [\[2013\] HCATrans 53](#).

**Date heard:** 15 March 2013 – *Special leave granted*.

### Catchwords:

Legal Practitioners – Fidelity fund – Moneys paid to solicitor to be paid into trust account and used for express purpose of paying counsel's fees – Moneys used by solicitor for own purpose – Whether counsel entitled to claim against Fund – Whether claim barred by lack of costs agreement.

Equity – Trusts and trustees – *Quistclose* trust – Whether moneys paid to solicitor for purpose of paying counsel's fees held on *Quistclose* trust.

Words and phrases – “Actual pecuniary loss” – “Interests” – “For or on behalf of”.

**Appealed from VSC (CA):** [2012] VSCA 68

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## Native Title

*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] SASCFC 53.

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## Trade Practices

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

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## Words and Phrases

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See also [Legal Practitioners](#): *Legal Services Board v Gillespie-Jones*

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## **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* 1 [2013] HCAB 1.

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## 6: SPECIAL LEAVE REFUSED

### Sydney: 26 February 2013

(Publication of Reasons)

| <i>Applicant</i>        | <i>Respondent</i>   | <i>Court appealed from</i>  | <i>Result</i>   |
|-------------------------|---|---|---|
| Re Tkachenko            | (A26/2012)  | High Court of Australia<br>[2012] HCATrans 183                            | Application<br>Dismissed<br><a href="#">[2013] HCASL 1.</a>             |
| Coronis                 | Jilt Pty Ltd & Anor<br>(B36/2012)                                 | Supreme Court of Queensland<br>(Court of Appeal)<br>[2012] QCA 66         | Application<br>Dismissed<br><a href="#">[2013] HCASL 2.</a>             |
| Mount Cathay Pty<br>Ltd | Lend Lease Funds<br>Management Limited &<br>Ors<br>(B62/2012)     | Supreme Court of Queensland<br>(Court of Appeal)<br>[2012] QCA 274        | Application<br>Dismissed<br><a href="#">[2013] HCASL 3.</a>             |
| Freeman                 | The Queen<br>(B63/2012)   | Supreme Court of Queensland<br>(Court of Appeal)<br>[2012] QCA 192        | Application<br>Dismissed<br><a href="#">[2013] HCASL 4.</a>             |
| Hettiarachchi           | The Queen<br>(M96/2012)   | Supreme Court of Victoria<br>(Court of Appeal)<br>[2009] VSCA 270         | Application<br>Dismissed<br><a href="#">[2013] HCASL 5.</a>             |
| SZQRD & Ors             | Minister for Immigration<br>and Citizenship & Anor<br>(S251/2012) | Federal Court of Australia<br>[2012] FCA 874                              | Application<br>Dismissed<br><a href="#">[2013] HCASL 6.</a>             |
| Raashed                 | Hussein & Anor<br>(S265/2012)                                     | Supreme Court of New South<br>Wales (Court of Appeal)<br>[2012] NSWCA 264 | Application<br>Dismissed<br><a href="#">[2013] HCASL 7.</a>             |
| SZQPT                   | Minister for Immigration<br>and Citizenship & Anor<br>(S287/2012) | Federal Court of Australia<br>[2012] FCA 929                              | Application<br>Dismissed<br><a href="#">[2013] HCASL 8.</a>             |
| SZQPX                   | Minister for Immigration<br>and Citizenship & Anor<br>(S291/2012) | Federal Court of Australia<br>[2012] FCA 983                              | Application<br>Dismissed<br><a href="#">[2013] HCASL 9.</a>             |
| SZQTS & Ors             | Minister for Immigration<br>and Citizenship & Anor<br>(S313/2012) | Federal Court of Australia<br>[2012] FCA 1094                             | Application<br>Dismissed<br><a href="#">[2013] HCASL 10.</a>            |
| Kocalidis               | Andrews<br>(M70/2012)   | Supreme Court of Victoria<br>(Court of Appeal)<br>[2012] VSCA 127         | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 11.</a> |

|                      |  |   |   |
|----------------------|--|---|---|
| O'Donoghue           | The Honourable<br>Brendan O'Connor,<br>Minister for Justice &<br>Ors<br>(P11/2012) | Full Court of the Federal Court<br>of Australia<br>[2012] FCAFC 47        | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 12.</a> |
| Bott                 | Carter & Anor<br>(S129/2012)   | Supreme Court of New South<br>Wales (Court of Appeal)<br>[2012] NSWCA 89  | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 13.</a> |
| Gacic & Anor         | Minister for Immigration<br>and Citizenship & Anor<br>(S161/2012)                  | Federal Court of Australia<br>[2012] FCA 531                              | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 14.</a> |
| Romeo                | Papalia & Ors<br>(S224/2012)   | Supreme Court of New South<br>Wales (Court of Appeal)<br>[2012] NSWCA 221 | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 15.</a> |
| CTC Group Pty<br>Ltd | Perpetual Trustee<br>Company Limited<br>(S250/2012)                                | Supreme Court of New South<br>Wales (Court of Appeal)<br>[2012] NSWCA 252 | Application<br>Dismissed with Costs<br><a href="#">[2013] HCASL 16.</a> |
| Chalmers             | Liang & Anor<br>(M59/2012)   | Supreme Court of Victoria<br>(Court of Appeal)<br>[2011] VSCA 439         | Application<br>Dismissed<br><a href="#">[2013] HCASL 17.</a>            |
| GA                   | The Queen<br>(M66/2012)  | Supreme Court of Victoria<br>(Court of Appeal) [2012] VSCA<br>108         | Application<br>Dismissed<br><a href="#">[2013] HCASL 18.</a>            |

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## Canberra: 13 March 2013

(Publication of Reasons)

| <i>Applicant</i> | <i>Respondent</i>                          | <i>Court appealed from</i>  | <i>Result</i>   |
|------------------|--|---|---|
| Laing            | The Queen<br>(B70/2012)                    | Supreme Court of<br>Queensland<br>(Court of Appeal)<br>[2008] QCA 317                       | Application Dismissed<br><a href="#">[2013] HCASL 19.</a> |
| Challen          | Golder Associates Pty<br>Ltd<br>(B72/2012) | Supreme Court of<br>Queensland<br>(Court of Appeal)<br>[2012] QCA 339                       | Application Dismissed<br><a href="#">[2013] HCASL 20.</a> |
| Stamp            | The Queen<br>(D7/2012)                     | Supreme Court of the<br>Northern Territory<br>(Court of Criminal Appeal)<br>[2012] NTCCA 15 | Application Dismissed<br><a href="#">[2013] HCASL 21.</a> |
| Henderson & Anor | Thackray & Anor<br>(P34/2012)              | Supreme Court of Western<br>Australia<br>(Court of Appeal)<br>[2012] WASCA 197              | Application Dismissed<br><a href="#">[2013] HCASL 22.</a> |
| Rahman           | Dubs<br>(S314/2012)                        | Federal Court of Australia<br>[2012] FCA 1081   | Application Dismissed<br><a href="#">[2013] HCASL 23.</a> |

|              |   |   |   |
|--------------|---|---|---|
| Patsalis     | State of New South Wales (S325/2012)  | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 307                 | Application Dismissed <a href="#">[2013] HCASL 24.</a>            |
| Dhiman       | Minister for Immigration and Citizenship & Anor (S331/2012)                             | Federal Court of Australia [2012] FCA 1254  | Application Dismissed <a href="#">[2013] HCASL 25.</a>            |
| Reznytska    | State of New South Wales (S332/2012)  | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 103                 | Application Dismissed <a href="#">[2013] HCASL 26.</a>            |
| SZOIG & Anor | Minister for Immigration and Citizenship & Anor (S335/2012)                             | Federal Court of Australia [2012] FCA 1250  | Application Dismissed <a href="#">[2013] HCASL 27.</a>            |
| Evans        | Secretary Department of Families, Community Services and Indigenous Affairs (S336/2012) | Full Court of the Federal Court of Australia [2012] FCAFC 81                        | Application Dismissed <a href="#">[2013] HCASL 28.</a>            |
| SZQZH        | Minister for Immigration and Citizenship & Anor (S338/2012)                             | Federal Court of Australia [2012] FCA 1251  | Application Dismissed <a href="#">[2013] HCASL 29.</a>            |
| SZRAJ & Ors  | Minister for Immigration and Citizenship & Anor (S339/2012)                             | Federal Court of Australia [2012] FCA 1237  | Application Dismissed <a href="#">[2013] HCASL 30.</a>            |
| SZQQY        | Minister for Immigration and Citizenship & Anor (S340/2012)                             | Federal Court of Australia [2012] FCA 1231  | Application Dismissed [2013] HCASL 31.                            |
| SZRES        | Minister for Immigration and Citizenship & Anor (S351/2012)                             | Federal Court of Australia [2012] FCA 1308  | Application Dismissed <a href="#">[2013] HCASL 32.</a>            |
| Ogawa        | Minister for Immigration and Citizenship & Anor (B66/2011)                              | Federal Court of Australia [2011] FCA 1358  | Application Dismissed with Costs <a href="#">[2013] HCASL 33.</a> |
| Prasad       | Minister for Immigration and Citizenship & Anor (B32/2012)                              | Federal Court of Australia [2012] FCA 591   | Application Dismissed with Costs <a href="#">[2013] HCASL 34.</a> |
| Memery       | Trilogy Funds Management Limited (B39/2012)   | Supreme Court of Queensland (Court of Appeal) [2012] QCA 160                        | Application Dismissed with Costs <a href="#">[2013] HCASL 35.</a> |
| Davey        | Herbst & Ors (C1/2012)  | Supreme Court of the Australian Capital Territory (Court of Appeal) [2012] ACTCA 31 | Application Dismissed with Costs <a href="#">[2013] HCASL 36.</a> |

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**Sydney: 15 March 2013**

| <i>Applicant</i>                                 | <i>Respondent</i>   | <i>Court appealed from</i>  | <i>Result</i>  |
|--|---|---|--|
| Lesdor Properties Pty Limited                    | Cordon Investments Pty Limited & Ors (S193/2012)                    | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 184                   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCASL 60.</a>    |
| Cordon Investments Pty Limited & Ors             | Lesdor Properties Pty Limited (S196/2012)                           | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 184                   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCASL 60.</a>    |
| SZQUR  | Minister for Immigration & Citizenship & Anor (S268/2012)           | Federal Court of Australia [2012] FCA 906   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCASL 67.</a>    |
| Lynch  | Victims Compensation Fund Corporation & Anor (S288/2012)            | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 273                   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCATrans 62.</a> |
| Tobin & Anor                                     | Ezekiel & Anor (S295/2012)  | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 285                   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCATrans 61.</a> |
| Manildra Flour Mills (Manufacturing) Pty Limited | National Union of Workers on behalf of Craig Fahy & Ors (S302/2012) | Federal Court of Australia [2012] FCA 1010  | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCATrans 63.</a> |
| Ingram   | Alana Fay Axiak by her tutor Donna Marie Axiak & Ors (S305/2012)    | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 311                   | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCATrans 64.</a> |
| Dennis   | The Queen (S308/2012)   | Supreme Court of New South Wales (Court of Criminal Appeal) [2012] NSWCCA 120         | Application Dismissed.   |
| Lloyd-Jones                                      | Allen (S312/2012)   | Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 230; [2012] NSWCA 315 | Application Dismissed with costs <a href="#">[2013]</a> <a href="#">HCASL 66.</a>    |

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**Melbourne: 15 March 2013**

| <i>Applicant</i> | <i>Respondent</i>   | <i>Court appealed from</i>                                  | <i>Result</i>   |
|------------------|---------------------|---|---|
| Bui              | The Queen (M1/2012) | Supreme Court of Victoria (Court of Appeal) [2011] VSCA 404 | Application Dismissed <a href="#">[2013]</a> <a href="#">HCATrans 56.</a> |
| UCORP Pty Ltd &  | ACOHS Pty Ltd       | Full Court of the Federal Court of Australia [2012]         | Application Dismissed with costs <a href="#">[2013]</a>                   |



|                         |   |   |  |
|-------------------------|---|---|--|
| Anor                    | (M54/2012)  | FCAFC 67  | <a href="#">HCATrans 52.</a>   |
| SNF (Australia) Pty Ltd | CIBA Specialty Chemicals Water Treatment Limited & Anor (M75/2012)                            | Full Court of the Federal Court of Australia 2012] FCAFC 95 | Application Dismissed with costs <a href="#">[2013] HCATrans 54.</a> |
| Healthscope Ltd & Anor  | Specialist Diagnostic Services Pty Ltd (formerly Symbion Pathology Pty Ltd) & Anor (M89/2012) | Supreme Court of Victoria (Court of Appeal) [2012] VSCA 175 | Application Dismissed with costs <a href="#">[2013] HCATrans 50.</a> |
| KRI                     | The Queen (M92/2012)  | Supreme Court of Victoria (Court of Appeal) [2012] VSCA 186 | Application Dismissed <a href="#">[2013] HCATrans 55.</a>            |

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