

BETWEEN:

CLONE PTY LTD (ACN 060 208 602), Appellant

and

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PLAYERS PTY LTD (IN LIQUIDATION)
(RECEIVERS & MANAGERS APPOINTED) (ACN 056 340 884), First Respondent
GREGORY MICHAEL GRIFFIN, Second Respondent
DARREN JOHN CAHILL, Third Respondent
CHRISTOPHER STEPHEN MCDERMOTT, Fourth Respondent
LIQUOR & GAMBLING COMMISSIONER, Fifth Respondent
ATTORNEY-GENERAL OF SOUTH AUSTRALIA, Sixth Respondent

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APPELLANT'S CHRONOLOGY

Part I:

I certify that this chronology is in a form suitable for publication on the internet.

Part II:

Date	Event / Description	Reference
August 1994	An 'Agreement to Lease' the premises at 73 – 79 Pirie Street, Adelaide, SA between the Appellant (Clone) and the First Respondent (Players) was negotiated between the parties, circulated and thereafter executed. The Second to Fourth Respondents guaranteed Players' obligations under the 'Agreement to Lease'.	Appeal Judgment at [2] and [505] – [511]
30/08/1994	Colliers Jardine (Clone's leasing agent) distributed one copy of the executed 'Agreement for Lease', to Clone and another copy to Players. Players received this copy and discovered it.	Primary Judgment at [40] Appeal Judgment at [31] and [513]

- 13/09/1994 Mr Greg Griffin, on behalf of Players, wrote to Mr Alistair Mackie at Colliers Jardine requesting a landlord consent letter and "executed lease" (which was in fact a reference to the 'Agreement to Lease') for purposes of lodging it with the Licensing Court as part of the hotel licence removal application for Grenfell Tavern. Mr Mackie appeared to have complied with Mr Griffin's request in some manner. Primary Judgment at [41]
Appeal Judgment at [33] and [515]
- 19/09/1994 A copy of the Agreement to Lease (so called '**3rd Copy Agreement**') was lodged by Players with the Licensing authority as part of Players' application for the transfer of the hotel license from the Grenfell Tavern to the leased premises. That copy was on 'the Grenfell Tavern Removal File'. Primary Judgment at [63] and [65]
Appeal Judgment at [34] and [646]
- April 1995 After correspondence between the parties, a Lease was executed between Clone as lessor and Players as lessee. The Second to Fourth respondents guaranteed Players' obligations under the lease. Primary Judgment at [1] and [18]
- 24/03/2004 Clone commenced Supreme Court Action 319 of 2004 (**Original Proceedings**) against the First to Fourth Respondents (**Players Parties**), the Fifth Respondent (**Commissioner**) and the Licensing Court of South Australia (**Licensing Court**) (amongst others). Appeal Judgment at [523]
- 02/04/2004 The Commissioner and the Licensing Court were excused from further appearance in the Original Proceedings '*on the understanding that they will abide the event*'. Primary Judgment at [93]
- 21/05/2004 Judge Bowen Pain directed all parties to complete discovery and inspection by 26 May 2004. Primary Judgment at [93]
- 08/06/2004 Judge Bowen Pain ordered that all parties file and serve lists of documents verified on oath by 2 July 2004. Primary Judgment at [93]
Appeal Judgment at [52]

- 06/07/2004 Following correspondence and discussions between Mr Mackintosh on behalf of the Commissioner and the Licensing Court and the solicitors for Players and Clone, Judge Bowen Pain made an order dispensing with the requirement that the Commissioner and the Licensing Court make discovery (the so called '**discovery dispensation order**'). The order was in the following terms:
"On the understanding that the 5th and 6th defts will make available to the other parties their files in relation to this matter, I dispense with the need for them to comply with para 3 of the order made by me on 8 June 2004" [which had required lists of documents verified on oath by all parties]. Primary Judgment at [93]
Appeal Judgment at [53]
- 14/01/2005 Mr Field (a lawyer for the Players Parties attended at the Commissioner's offices to inspect documents, at a time when the Gaming Machine Application File, which contained another copy of the Agreement to Lease, was then available for inspection. Primary Judgment at [276 (1)]
- 31/01/2005 Mr Tisato (the lawyer for the Players Parties) had a telephone conversation with the Commissioner's office about retrieving files. Primary Judgment at [270]
Appeal Judgment at [276] and [531]
- 07/02/05 (continuing until at least July 2005) The Grenfell Tavern Removal and Oaks Tavern Files were retrieved and were available at the Commissioner's offices for inspection from about 7 February until at least July 2005. Primary Judgment at [270]
- 08/02/2005 Mr Secker (a lawyer for the Players Parties) inspected the Grenfell Tavern Removal File (containing the 3rd Copy Agreement) and prepared a memorandum to Mr Tisato, the senior solicitor for the Players Parties, which the latter received. Primary Judgment at [272] and [273]; upheld on appeal at [265]-[268] per Blue J; Stanley J agreeing at [420]
- 01/03/2005 Mr Field inspected the Commissioner's files. At that time the Grenfell Tavern Removal File was available for inspection by Mr Field. Primary Judgment at [270] and [276]
- 07/03/2005 Trial of Original Proceedings commenced before Vanstone J. Appeal Judgment at [533]

- 07/03/2005 Clone tendered the Players Parties' copy of the Agreement to Lease (becoming Exhibit 'P9') and attempted to tender Clone's copy of the Agreement to Lease. (Exhibit 'P9' was received into evidence at that time but Clone's copy of the Agreement to Lease was not received into evidence at that point due to an objection by counsel for the Players Parties. It was later tendered by counsel for the Players Parties and marked as Exhibit 'D9'.) Appeal Judgment at [55] and [56]
- 01/04/2005 Mr Griffin (a director of Players, and a partner of the law firm representing the Players Parties and personally a defendant in the proceedings) inspected Commissioner's files (at which time the Grenfell Tavern Removal File was available for inspection). Primary Judgment at [206] and [270]
- 07/04/2005 Clone's junior counsel in the Original Proceedings (Arturo Dal Cin) attended the offices of the Commissioner to inspect (and did inspect) the 3rd Copy Agreement located in the Commissioner's Grenfell Tavern Removal File. Primary Judgment at [170] Appeal Judgment at [135] and [543]
- 08/04/2005 Mr Field undertook an inspection of the Commissioner's files (at which time the Grenfell Tavern Removal File was at the Commissioner's office and was available for inspection). He did not specifically ask to inspect that file. Primary Judgment at [276]
- 26/04/2005 Trial of Original Proceedings before Vanstone J concluded. Appeal Judgment at [588]
- 22/07/2005 Vanstone J delivered judgment in the Original Proceedings in favour of Clone. Appeal Judgment at [588]
- 24/04/2006 The Full Court of the Supreme Court of South Australia delivered judgment on appeal. It varied certain orders granted by Vanstone J but otherwise dismissed the Players Parties' appeal. Appeal Judgment at [559]
- 10/11/2006 The Players' Parties application for special leave to appeal was refused by the High Court. Appeal Judgment at [560]

- December 2009 Legal Practitioners Conduct Board informed Mr Griffin of the 3rd copy Agreement. Primary Judgment at [65]
Appeal Judgment at [562]
- 2010 Players Parties commenced proceedings to set-aside the earlier judgments by: Primary Judgment at [6]
Appeal Judgment at [11]
- application for a re-trial commenced in Action SCCIV-04-319 of the South Australian Supreme Court by Notice for Specific Directions dated 17 December 2010, amended on 11 April 2011,
 - instituting a fresh action - Supreme Court of South Australia Action SCCIV-10-819,
- (collectively, the **set aside proceedings**).
- 24/08/2015 Hargrave AJ delivered reasons for judgment in the set aside proceedings in favour of the Players Parties.
- 09/11/2015 Hargrave AJ made final orders in the set aside proceedings.
- 30/11/2015 Clone appealed against the entirety of Hargrave AJ's judgments in the set aside proceedings to the Full Court of the Supreme Court of South Australia.
- 08/12/2016 The Full Court of the Supreme Court of South Australia delivered judgment on appeal and, by majority, dismissed Clone's appeal.

Dated:


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Name: Mr John Hanna Karkar QC
Telephone: 03 9225 7714
Email: jhkarkar@vicbar.com.au