



HIGH COURT BULLETIN

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High Court of Australia Library
[2018] HCAB 10 (18 December 2018)

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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1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Australian Securities & Investments Commission v Lewski & Anor; Australian Securities & Investments Commission v Wooldridge & Anor; Australian Securities & Investments Commission v Butler & Anor; Australian Securities & Investments Commission v Jaques & Anor; Australian Securities & Investments Commission v Clarke & Anor</i>	Corporations Law
<i>Commissioner of Taxation for the Commonwealth of Australia v Tomaras & Ors</i>	Family Law
<i>The Republic of Nauru v WET040 [No 2]</i>	Migration
<i>TTY167 v Republic of Nauru</i>	Migration
<i>Commissioner of State Revenue v Placer Dome Inc</i>	Stamp Duty

3: Cases Reserved

Case	Title
<i>Unions NSW & Ors v State of New South Wales</i>	Constitutional Law
<i>Australian Securities and Investments Commission v Kobelt</i>	Consumer Law
<i>McKell v The Queen</i>	Criminal Law

4: Original Jurisdiction

Case	Title
<i>Plaintiff M47/2018 v Minister for Home Affairs & Anor</i>	Constitutional Law

5: Section 40 Removal

6: Special Leave Granted

Case	Title
<i>Mann & Anor v Paterson Constructions Pty Ltd</i>	Contracts
<i>Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors</i>	Corporations
<i>Bell Lawyers Pty Ltd v Pentelow & Anor</i>	Costs
<i>The Northern Territory of Australia v Sangare</i>	Costs
<i>Masson v Parsons & Ors</i>	Family Law

7: Cases Not Proceeding or Vacated

Case	Title
<i>AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym)</i>	Criminal Law

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the December 2018 sittings.

Corporations Law

Australian Securities & Investments Commission v Lewski & Anor;
Australian Securities & Investments Commission v Wooldridge & Anor;
Australian Securities & Investments Commission v Butler & Anor;
Australian Securities & Investments Commission v Jaques & Anor;
Australian Securities & Investments Commission v Clarke & Anor

[M79/2018](#); [M80/2018](#); [M81/2018](#); [M82/2018](#); [M83/2018](#): [2018] HCA 63

Judgment delivered: 13 December 2018

Coram: Kiefel CJ, Bell, Gageler, Keane and Edelman JJ

Catchwords:

Companies – Managed investment schemes – Officers – Duties – Where each first respondent director of second respondent responsible entity of managed investment scheme – Where four directors resolved to amend scheme's constitution to introduce new fees payable to responsible entity out of scheme's assets – Where all five directors resolved to lodge and lodged amended constitution with Australian Securities & Investments Commission ("ASIC") – Where all five directors resolved to pay fees and caused payments to be made – Where ASIC alleged contraventions of *Corporations Act 2001* (Cth) by responsible entity and directors – Where proceedings alleging contraventions in relation to amendment resolution time-barred – Whether amendments to constitution adversely affected members' rights – Whether Full Court erred in holding amendments valid from lodgement until set aside – Whether Full Court erred in holding no breaches of duty occurred because of honest belief that constitution validly amended – Whether Full Court erred in holding directors not involved in contravention of s 208 of *Corporations Act* by responsible entity.

Words and phrases – "adversely affect", "breach of duty", "essential element of the contravention", "financial benefit", "honest belief", "improper use of a position", "interests", "interim validity", "invalid", "involved in a contravention", "listing fee payments", "lodgement", "loyalty", "member approval", "members' rights".

Corporations Act 2001 (Cth) – Pt 5C. 3, ss 9, 79, 136, 208, 209(2), 229, 601FC, 601FD, 601GA(2), 601GC, 601LC, 1317K, 1318, 1322.

Appealed from FCA (FC): [\[2017\] FCAFC 171](#); (2017) 352 ALR 64; (2017) 126 ACSR 1

Held: Appeals allowed in part

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Family Law

Commissioner of Taxation for the Commonwealth of Australia v Tomaras & Ors

B9/2018: [\[2018\] HCA 62](#)

Judgment delivered: 13 December 2018

Coram: Kiefel CJ, Gageler, Keane, Gordon and Edelman JJ

Catchwords:

Family law – Matrimonial cause – Proceedings to alter property interests – Where wife was indebted to Commissioner for certain taxation related liabilities plus general interest charge – Where wife applied for order that husband be substituted for wife as debtor and husband be solely liable to Commissioner for debt – Where s 90AE(1)(b) of *Family Law Act 1975* (Cth) permitted court to make order directed to creditor of one party to marriage to substitute other party to marriage in relation to debt owed to creditor – Whether s 90AE bound Commissioner in relation to debt owed to Commonwealth – Whether s 90AE(1)-(2) of *Family Law Act* granted court power to make order sought by wife.

Practice and procedure – Question stated – Where question of law stated by Federal Circuit Court of Australia under s 94A(3) of *Family Law Act* for opinion of Full Court of Family Court of Australia – Where question concerned jurisdiction to make order – Where preconditions to making of order in s 90AE(3) of *Family Law Act* unlikely to be satisfied – Whether stated case procedure was appropriate.

Words and phrases – "bind the Crown", "case stated", "common probability of fact", "creditor", "Crown immunity", "debt of a party to a marriage", "party to a marriage", "person", "presumption", "property of the parties to a marriage", "property settlement proceedings", "question of law", "rights, liabilities or property interests of a third party", "tax debt", "third party".

Family Law Act 1975 (Cth) – ss 79, 80, 90AA, 90AC, 90ACA, 90AD, 90AE, 94A, Pts VIII, VIII A.

Appealed from Fam CA (FC): [\[2017\] FamCAFC 216](#); (2017) 327 FLR 228; (2017) 106 ATR 878

Held: Appeal dismissed

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Migration

The Republic of Nauru v WET040 [No 2]
M154/2017: [\[2018\] HCA 60](#)

Judgment delivered: 5 December 2018

Coram: Gageler, Nettle and Edelman JJ

Catchwords:

Immigration – Refugees – Nauru – Appeal as of right from Supreme Court of Nauru – Where Secretary of Department of Justice and Border Control determined respondent not refugee and not owed complementary protection – Where Refugee Status Review Tribunal affirmed Secretary's determination – Where Supreme Court of Nauru allowed appeal because Tribunal found respondent's claims implausible without rational basis – Whether Tribunal's reasons adequate.

Words and phrases – "adequate reasons", "basic inconsistencies", "implausible", "independent country information", "probative material", "rational inference", "speculation or conjecture".

Migration Act 1958 (Cth) – s 430(1).

Refugees Convention Act 2012 (Nr) – s 34(4).

Appealed from Supreme Court of Nauru: [\[2017\] NRSC 79](#)

Held: Appeal allowed

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TTY167 v Republic of Nauru
S46/2018: [\[2018\] HCA 61](#)

Judgment delivered: 5 December 2018

Coram: Gageler, Nettle and Edelman JJ

Catchwords:

Immigration – Refugees – Nauru – Appeal as of right from Supreme Court of Nauru – Where Secretary of Department of Justice and Border Control determined appellant not refugee and not owed complementary protection – Where appellant applied to Refugee Status Review Tribunal for merits review of Secretary's determination – Where Tribunal sent letter to "Team Leader" of claims assistance provider inviting appellant to attend hearing – Where appellant and his representatives failed to attend Tribunal hearing – Where Tribunal affirmed Secretary's determination in appellant's absence – Where Supreme Court affirmed Tribunal's decision – Whether invitation to attend Tribunal hearing given to appellant – Whether legally unreasonable for Tribunal to decide matter without taking further action to allow or enable appellant to appear.

Words and phrases – "authorised representative", "given", "invitation to appear", "jurisdictional requirement", "legally unreasonable".

Interpretation Act 2011 (Nr) – ss 100, 101.

Refugees Convention Act 2012 (Nr) – ss 40(3), 41(1).

Held: Appeal allowed

Appealed from Supreme Court of Nauru: [\[2018\] NRSC 4](#)

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Stamp Duty

Commissioner of State Revenue v Placer Dome Inc

P6/2018: [\[2018\] HCA 59](#)

Judgement delivered: 5 December 2018

Coram: Kiefel CJ, Bell, Gageler, Nettle and Gordon JJ

Catchwords:

Stamp duties – Land-holding corporations – Acquisition of controlling interest – Whether corporation a "listed land-holder corporation" within meaning of Pt IIIIBA of Stamp Act 1921 (WA) – Whether value of land to which corporation entitled 60 per cent or more of value of property to which it was entitled – Valuation methodologies – Whether corporation had legal goodwill – Meaning

of legal goodwill – "Added value" approach to goodwill considered – Going concern value and goodwill distinguished.

Words and phrases – "acquisition", "assessment", "controlling interest", "custom", "discounted cash flow methodology", "going concern value", "goodwill", "listed land-holder corporation", "net asset value multiple", "property", "sources of goodwill", "stamp duty", "synergies", "top down".

Stamp Act 1921 (WA) – Pt IIIA.

Taxation Administration Act 2003 (WA) – ss 34, 37, 40.

State Administrative Tribunal Act 2004 (WA) – s 29.

Appealed from WASC (CA): [\[2017\] WASCA 165](#); (2017) 106 ATR 511

Held: Appeal allowed

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3: CASES RESERVED

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

Arbitration

Rinehart & Anor v Hancock Prospecting Pty Ltd & Ors; Rinehart & Anor v Georgina Hope Rinehart (in her personal capacity and as trustee of the Hope Margaret Hancock Trust and as trustee of the HFMF Trust) & Ors

S143/2018; S144/2018: [\[2018\] HCATrans 234](#); [\[2018\] HCATrans 236](#)

Date heard: 13 and 14 November 2018

Coram: Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

Catchwords:

Arbitration – Arbitration agreements – Interpretation – Where parties entered into series of deeds containing arbitration agreements – Where primary judge ordered trial of question whether arbitration agreements in deeds null and void, inoperative or incapable of being performed – Where Full Court stayed proceeding and referred parties to arbitration – Whether Full Court erred in concluding arbitration clauses expressed to cover disputes “under” agreement extended to disputes concerning the validity of the deeds or provisions thereof.

Appealed from FCA (FC): [\[2017\] FCAFC 170](#); (2017) 257 FCR 442; (2017) 350 ALR 658; [\[2017\] FCAFC 208](#)

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Constitutional Law

Clubb v Edwards & Anor

M46/2018: [\[2018\] HCATrans 206](#); [\[2018\] HCATrans 208](#); [\[2018\] HCATrans 210](#)

Date heard: 9, 10 and 11 October 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Constitutional law – Implied freedom of political communication – *Public Health and Wellbeing Act 2008* (Vic) s 185D – Where s 185D prohibits engaging in “prohibited behaviour” within “safe access zone” – Where “prohibited behaviour” defined to include “communicating by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, or attempting to access, or leaving premises at which abortions are provided and is reasonably likely to cause distress or anxiety” – Where appellant convicted of charge under s 185D in Magistrates’ Court – Whether 185D impermissibly burdens implied freedom of political communication.

Removed from Supreme Court of Victoria into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018

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Preston v Avery & Anor

H2/2018: [\[2018\] HCATrans 206](#); [\[2018\] HCATrans 208](#); [\[2018\] HCATrans 210](#)

Date heard: 9, 10 and 11 October 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Constitutional law – Implied freedom of political communication – *Reproductive Health (Access to Termination) Act 2013* (Tas) s 9(2) – Where s 9(2) prohibits protest in relation to terminations that is able to be seen or heard by person accessing or attempting to access premises at which terminations provided – Where appellant convicted in Hobart Court of Petty Sessions of contraventions of s 9(2) – Whether s 9(2) impermissibly burdens implied freedom of political communication.

Removed from Supreme Court of Tasmania into High Court under s 40 of Judiciary Act 1903 (Cth) on 23 March 2018

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Unions NSW & Ors v State of New South Wales

S204/2018: [\[2018\] HCATrans 255](#); [\[2018\] HCATrans 256](#)

Date heard: 5 and 6 December 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Constitutional law – Implied freedom of political communication – Where plaintiffs assert intention to incur electoral expenditure during capped State expenditure period within meaning of *Electoral Funding Act 2018* (NSW) – Where ss 29(1) and 35 of Act cap electoral expenditure by third-party campaigners – Whether s 29(10) and/or s 35 invalid because impermissibly burden implied freedom of political communication.

Special Case

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Work Health Authority v Outback Ballooning Pty Ltd & Anor

D4/2018: [\[2018\] HCATrans 144](#); [\[2018\] HCATrans 146](#)

Date heard: 14 and 15 August 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Constitutional law – Inconsistency – *Work Health and Safety (National Uniform Legislation) Act 2011* (NT) – Where hot air balloon passenger died from injuries suffered as result of scarf being sucked into inflation fan – Where appellant alleged first respondent breached s 32 of Act – Where magistrate dismissed complaint on basis *Air Navigation Act 1920* (Cth), *Civil Aviation Act 1988* (Cth) and other Commonwealth regulation covered field of safety of air navigation – Where Supreme Court quashed magistrate’s decision – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding federal civil aviation legislation excluded operation of *Work Health and Safety (National Uniform Legislation) Act 2011* (NT).

Appealed from NTSC (CA): [\[2017\] NTCA 7](#); (2017) 326 FLR 1

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Consumer Law

Australian Securities and Investments Commission v Kobelt

A32/2018: [\[2018\] HCATrans 252](#)

Date heard: 4 December 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Consumer law – *Australian Securities and Investments Act 2001* (Cth) s 12CB, 12CC – Unconscionable conduct – Where respondent operated general store in remote town – Where respondent provided credit to indigenous customers – Where primary judge held respondent contravened s 12CB(1) by engaging in system of unconscionable conduct in connection with supply of financial services to customers – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in construction and application of ss 12CB and 12CC – Whether Full Court gave due weight to special disadvantage or vulnerability of customers and gave undue weight to voluntary entry into agreements.

Appealed from FCA (FC): [\[2018\] FCAFC 18](#)

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Criminal Law

Director of Public Prosecutions Reference No 1 of 2017

M129/2018: [\[2018\] HCATrans 227](#)

Date heard: 6 November 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Criminal law – Trial by jury – *Prasad* direction – Where accused charged with murder – Where counsel for accused sought *Prasad* direction on basis prosecution case not strong insofar as prosecution required to prove beyond reasonable doubt accused not acting in self-defence – Where trial judge gave *Prasad* direction – Where jury returned verdicts of not guilty of murder or manslaughter – Where Director of Public Prosecutions referred point of law to Court of Appeal under s 308 of *Criminal Procedure Act 2009* (Vic) – Where Court of Appeal determined giving of *Prasad* direction not contrary to law – Where majority of Court of Appeal determined direction may continue to be administered to jury in criminal trial – Whether Court of Appeal erred in determining giving of *Prasad* direction not contrary to law – Whether majority of Court of Appeal erred in determining *Prasad* direction may continue to be administered to jury in criminal trial.

Appealed from VSC (CA): [\[2018\] VSCA 69](#)

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Grajewski v Director of Public Prosecutions (NSW)

S141/2018: [\[2018\] HCATrans 211](#)

Date heard: 12 October 2018

Coram: Kiefel CJ, Bell, Keane, Nettle and Gordon JJ

Catchwords:

Criminal law – Destroy or damage property – *Crimes Act 1900* (NSW) s 195(1) – Meaning of “damage” – Where appellant climbed machine causing operator to shut down machine – Where appellant convicted of intentionally or recklessly damaging property contrary to s 195(1)(a) – Where District Court dismissed appeal and referred question whether facts can support finding of guilt to Court of Criminal Appeal – Where Court of Criminal Appeal answered “yes” – Whether Court of Criminal Appeal erred in concluding “damage” can be established where no physical derangement of property – Whether Court of Criminal Appeal erred in concluding temporary physical interference with functionality of property may constitute “damage” for purpose of s 195.

Appealed from NSWSC (CA): [\[2017\] NSWCCA 251](#)

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McKell v The Queen

S223/2018: [\[2018\] HCATrans 257](#)

Date heard: 7 December 2018

Coram: Bell, Gageler, Keane, Gordon and Edelman JJ

Catchwords:

Criminal law – Trial by jury – Summing up – Where appellant intercepted two consignments between arrival in Sydney and transfer to freight forwarding agency – Where second consignment contained prohibited drug – Where appellant charged with importing commercial quantity of prohibited drug, conspiring to import commercial quantity of prohibited drug and dealing with proceeds of crime – Where appellant tried before jury – Where trial judge commented on evidence in summing up – Where appellant convicted of charges – Where majority of Court of Appeal dismissed appeal against convictions – Whether majority of Court of Appeal erred in failing to find trial judge’s summing up unbalanced and caused miscarriage of justice.

Appealed from NSWSC (CA): [\[2017\] NSWCCA 291](#)

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Interpretation

Williams v Wreck Bay Aboriginal Community Council & Anor
C5/2018: [\[2018\] HCATrans 183](#)

Date heard: 12 September 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Interpretation – Concurrent operation – Where Council leased property to appellant under residential tenancy agreement – Where appellant commenced proceedings in ACT Civil and Administrative Tribunal seeking orders for repairs and compensation – Where Tribunal referred questions of law to Supreme Court for determination – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding ACT laws retain subordinate status when applied to Jervis Bay Territory by force of s 4A of *Jervis Bay Territory Acceptance Act 1915* (Cth) – Whether Court of Appeal erred in concluding ss 8 and 9 of *Residential Tenancies Act 1997* (ACT) not capable of operating concurrently with *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* (Cth) such that ss 8 and 9 do not apply to “Aboriginal Land” for purposes of s 46 of *Aboriginal Land Grant (Jervis Bay Territory) Act*.

Appealed from ACT (CA): [\[2017\] ACTCA 46](#); (2017) 12 ACTLR 207; (2017) 326 FLR 58; (2017) 230 LGERA 1

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Migration

BEG15 v Minister for Immigration and Border Protection & Anor
S135/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

Coram: Bell, Gageler, Keane, Nettle and Gordon JJ

Catchwords:

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Refugee Review Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where Tribunal did not inform appellant of certificate or disclose information to appellant – Where Tribunal affirmed delegate’s decision – Where Federal Circuit Court dismissed application for judicial review – Where Full Federal Court dismissed appeal – Whether Full Court erred in failing to find Tribunal fell into jurisdictional error in acting on invalid certificate – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error – Whether necessary for applicant to show denial of procedural fairness in addition to invalidity of certificate.

Appealed from FCA (FC): [\[2017\] FCAFC 198](#); (2017) 253 FCR 36

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CQZ15 v Minister for Immigration and Border Protection & Anor
M75/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

Coram: Bell, Gageler, Keane, Nettle and Gordon JJ

Catchwords:

Migration – Jurisdictional error – *Migration Act 1958* (Cth) s 438 – Where appellant applied for protection visa – Where application refused by delegate – Where appellant applied to Administrative Appeals Tribunal for review of decision – Where delegate issued certificate under s 438(1)(a) that disclosure of certain information would be contrary to public interest – Where certificate invalid – Where delegate issued further certificate – Where Tribunal did not inform appellant of certificates or disclose information to appellant – Where Tribunal affirmed delegate’s decision – Where Federal Circuit Court concluded Tribunal fell into jurisdictional error in acting upon invalid certificate and failing to disclose existence of certificates to appellant – Where Full Federal Court allowed appeal – Whether Full Court erred in departing from *Minister for Immigration and Border Protection v Singh* (2016) 244 FCR 305 by failing to find Tribunal fell into jurisdictional error in not disclosing certificates – Whether Full Court erred in failing to find not open to primary judge to withhold relief where decision affected by jurisdictional error.

Appealed from FCA (FC): [\[2017\] FCAFC 194](#); (2017) 253 FCR 1

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Minister for Immigration and Border Protection v SZMTA & Anor
S36/2018: [\[2018\] HCATrans 177](#)

Date heard: 10 September 2018

Coram: Bell, Gageler, Keane, Nettle and Gordon JJ

Catchwords:

Migration – Procedural fairness – *Migration Act 1958* (Cth) s 438(2) – Where first respondent applied for Protection (Class XA) visa – Where application refused by delegate – Where first respondent applied to Administrative Appeals Tribunal for review of decision – Where delegate notified Tribunal s 438(2)(a) applied to certain documents because given in confidence to Minister or Department – Where Tribunal did not inform first respondent of notification – Where copies of documents previously provided to first respondent – Where Federal Circuit Court dismissed application for judicial review – Where Federal Court allowed appeal on basis Tribunal denied first respondent procedural fairness – Whether Federal Court erred in relying on possibility Tribunal may not have had regard to certain information because of notification under s 438(2) in finding Tribunal denied first respondent procedural fairness – Whether Federal Court erred in holding Tribunal denied first respondent procedural fairness in circumstances where documents in possession of first respondent prior to Tribunal hearing.

Appealed from FCA: [\[2017\] FCA 1055](#); (2017) 255 FCR 215

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Native Title

KN (deceased) and Others on behalf of the Tjiwarl and Tjiwarl#2 Native Title Claim Groups v State of Western Australia & Ors
P38/2018: [\[2018\] HCATrans 233](#)

Date heard: 8 November 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Native title – Extinguishment – Exploration licence – *Native Title Act 1993* (Cth) s 47B – Where unallocated Crown land subject to exploration licence granted under *Mining Act 1978* (WA) – Where

native title determination application filed in respect of land – Where primary judge concluded s 47B applied because exploration licence not “lease” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding exploration licence is “lease” within meaning of s 47B(1)(b)(i).

Appealed from FCA (FC): [\[2018\] FCAFC 8](#); (2018) 351 ALR 491

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Northern Territory of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Commonwealth of Australia v Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples & Anor; Mr A Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples v Northern Territory of Australia & Anor

[D1/2018](#); [D2/2018](#); [D3/2018](#); [\[2018\] HCATrans 174](#); [\[2018\] HCATrans 175](#); [\[2018\] HCATrans 176](#)

Date heard: 4, 5 and 6 September 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Native title – Extinguishment – Compensation for extinguishment – *Native Title Act 1993* (Cth) – Where claim brought against Commonwealth and Northern Territory for extinguishment of non-exclusive native title rights and interests in Timber Creek – Where primary judge awarded claim group compensation for economic value of extinguished rights, interest, and solatium for loss or impairment of rights and interests – Where Full Court held primary judge erred in assessing value of extinguished rights and concluded value of rights was 65% of value of freehold title – Whether Full Court’s assessment of economic value of rights erroneous or manifestly excessive in light of restrictions and limitations on rights – Whether Full Court erred in failing to find primary judge erred in awarding interest as part of compensation under s 51(1) of Act and not as interest on compensation – Whether Full Court erred in assessing interest by reference to 65% of value of freehold title – Whether Full Court erred in failing to find primary judge erred in assessing compensation for non-economic loss – Whether Full Court erred in failing to find primary judge’s assessment of compensation for non-economic loss manifestly excessive – Whether Full Court erred in finding commercial agreements entered into by claimants containing solatium-type payments irrelevant to assessment of compensation.

Appealed from FCA (FC): [\[2017\] FCAFC 106](#); (2017) 256 FCR 478; (2017) 346 ALR 247

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Tjungarrayi & Ors v State of Western Australia & Ors
P37/2018: [\[2018\] HCATrans 233](#)

Date heard: 8 November 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

Catchwords:

Native title – Extinguishment – Petroleum exploration permits – *Native Title Act 1993* (Cth) s 47B – Where land subject to petroleum exploration permits granted under *Petroleum and Geothermal Energy Resources Act 1967* (WA) – Where native title determination application filed in respect of land – Where primary judge concluded s 47B applied because petroleum exploration permits not “leases” within meaning of s 47B(1)(b)(i) – Where Federal Court allowed appeal – Whether Federal Court erred in concluding petroleum exploration permits “leases” within meaning of s 47B(1)(b)(i).

Appealed from FCA (FC): [\[2018\] FCAFC 35](#); (2018) 359 ALR 256

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Tort

Parkes Shire Council v South West Helicopters Pty Limited
S140/2018: [\[2018\] HCATrans 237](#)

Date heard: 14 November 2018

Coram: Kiefel CJ, Bell, Keane, Gordon and Edelman JJ

Catchwords:

Tort – Negligence – Psychiatric injury – Where Council engaged South West Helicopters to provide helicopter and pilot for aerial survey – Where Council employees died in helicopter crash – Where relatives brought proceedings in negligence for nervous shock against Council and South West Helicopters under *Compensation to Relatives Act 1897* (NSW) – Where primary judge upheld claim – Where majority of Court of Appeal allowed appeal on basis any

liability South West Helicopters might have had under *Compensation to Relatives Act* or general law excluded by *Civil Aviation (Carriers' Liability) Act 1959* (Cth) – Whether majority of Court of Appeal erred in construction of s 35 of *Civil Aviation (Carriers' Liability) Act* – Whether majority of Court of Appeal erred in failing to conclude claims against carriers brought by non-passengers following death of passenger not regulated by s 35.

Appealed from NSW (CA): [\[2017\] NSWCA 312](#); (2017) 327 FLR 110

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4: ORIGINAL JURISDICTION

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

Constitutional Law

Glencore International AG & Ors v Commissioner of Taxation of the Commonwealth of Australia & Ors

[S256/2018](#): Demurrer

Catchwords:

Constitutional law – Constitution s 75(iii) – Where defendants obtained documents held by overseas law practice – Where plaintiffs claim documents created by law practice for sole or dominant purpose of providing legal advice to plaintiffs – Whether documents subject to legal professional privilege – Whether plaintiffs entitled to injunction under *Judiciary Act 1903* (Cth) s 31 or s 32 restraining defendants and any other officer of Australian Taxation Office from relying upon, referring to or making use of documents – Whether common law of Australia confers on privilege holder actionable right to restrain use by third party of privileged communication – Whether defendants entitled and/or obliged to retain and use communications under *Income Tax Assessment Act 1936* (Cth) s 166.

Referred to Full Court on 5 November 2018

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Plaintiff M47/2018 v Minister for Home Affairs & Anor

[M47/2018](#): Special Case

Catchwords:

Constitutional law – Constitution Ch III – Detention – Immigration detention – Where plaintiff arrived in Australia in 2010 – Where plaintiff detained under ss 189 and 196 of *Migration Act 1958* (Cth) – Where plaintiff claims he has no right, or entitlement to obtain right, to enter or reside in any country – Whether ss 189 and 196 of Act authorise detention of plaintiff – If yes, whether ss 189 and 196 of Act beyond legislative power of Commonwealth insofar as they apply to plaintiff.

Referred to Full Court on 21 November 2018

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5: SECTION 40 REMOVAL

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

Constitutional Law

Comcare v Banerji

C12/2018: *Removed into High Court under s 40 of Judiciary Act 1903 (Cth) on 12 September 2018*

Catchwords:

Constitutional law – Implied freedom of political communication – Where employee of Department of Immigration and Citizenship used Twitter account to post anonymous “tweets” critical of Department – Where Department terminated employment under s 15 of *Public Service Act 1999* (Cth) on basis employee used social media in breach of ss 13(1), 13(7) and 13(11) of Australian Public Service Code of Conduct – Where employee submitted claim for compensation under s 14 of *Safety, Compensation and Rehabilitation Act 1988* (Cth) on basis termination led to psychological condition – Where Comcare rejected claim – Where Administrative Appeals Tribunal set aside decision on basis termination infringed implied freedom of political communication so termination not “reasonable administrative action taken in a reasonable manner” within meaning of s 5A of *Safety, Compensation and Rehabilitation Act* – Whether ss 13(11) and 15 of *Public Service Act* incompatible with implied freedom of political communication – Whether Tribunal erred in failing to find decision to terminate employment constituted “reasonable administrative action taken in a reasonable manner”.

Removed from Federal Court of Australia

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6: SPECIAL LEAVE GRANTED

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

Consumer Law

Frugtniet v Australian Securities & Investments Commission

M136/2018: [\[2018\] HCATrans 155](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Consumer law – Banning orders – *National Consumer Credit Protection Act 2009* (Cth) s 80 – *Crimes Act 1914* (Cth) s 85ZZH – Where Commission made banning order under s 80 on basis appellant not “fit and proper person to engage in credit activities” – Where Administrative Appeals Tribunal affirmed Commission’s order – Where primary judge and Full Federal Court dismissed appeals – Whether Full Federal Court erred in holding Tribunal not prevented by *Crimes Act* from considering “spent convictions”.

Appealed from FCA (FC): [\[2017\] FCAFC 162](#); (2017) 255 FCR 96

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Contracts

Mann & Anor v Paterson Constructions Pty Ltd

M151/2018: [\[2018\] HCATrans 261](#)

Date heard: 14 December 2018 – *Special leave granted.*

Catchwords:

Contracts – Termination – Repudiation – Where appellants and respondent entered into building contract – Where appellants purported to terminate on basis respondent repudiated – Where respondent then purported to terminate on basis appellants’ conduct constituted repudiation – Where Victorian Civil and Administrative Tribunal upheld claim by respondent for quantum meruit in amount exceeding contract price – Where Supreme Court and Court of Appeal dismissed appeals – Whether Court of Appeal erred in holding respondent entitled to sue on quantum meruit for works carried out – Whether Court of Appeal erred in holding

contract price did not operate as ceiling on amount claimable – Whether Court of Appeal erred in concluding respondent able to recover for variations to works because s 38 of *Domestic Building Contracts Act 1995* (Vic) did not apply to quantum meruit claim.

Appealed from VSC (CA): [\[2018\] VSCA 231](#)

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Corporations

Carter Holt Harvey Woodproducts Australia Pty Ltd v Commonwealth of Australia & Ors

M137/2018: [\[2018\] HCATrans 156](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Corporations – Trustee corporations – *Corporations Act 2001* (Cth) s 433(2) – Where creditors resolved to wind up corporate trustee – Where receivers sought directions – Where primary judge held receivers justified in proceeding on basis receivership surplus properly characterised as trust property and s 433 did not apply to surplus – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding “property of the company” in s 433(2) included not only trustee’s right of indemnity but also underlying trust assets to which trustee company could have recourse – Whether Court of Appeal erred in concluding corporate trustee’s right of indemnity from trust assets was “property comprised in or subject to a circulating security interest” for purposes of s 433(2).

Appealed from VSC (CA): [\[2018\] VSCA 41](#); (2018) 54 VR 230; (2018) 330 FLR 149; (2018) 354 ALR 789; (2018) 124 ACSR 246

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Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors

M131/2018: [\[2018\] HCATrans 263](#)

Date heard: 14 December 2018 – *Special leave granted.*

Catchwords:

Corporations – Financial assistance to acquire shares – *Corporations Act 2001* (Cth) s 260A – Where appellants’ constitutions require member who wishes to transfer shares of particular class to first offer shares to existing holders of that class (“pre-emptive rights

provisions”) – Where appellants commenced proceeding alleging first and second respondents entered into agreement to avoid preemptive rights provisions – Where primary judge held proceeding not instituted in breach of s 260A – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in holding appellants’ conduct capable of amounting to financial assistance to acquire shares within meaning of s 260A – Whether Court of Appeal erred in concluding open to primary judge to characterise appellants’ conduct as net transfer of value to appellants’ shareholders – Whether Court of Appeal erred in concluding open to primary judge to characterise conduct as capable of materially prejudicing interests of appellants and/or shareholders or creditors – Whether Court of Appeal erred in concluding financial assistance directed to enabling appellants’ shareholders to acquire shares.

Appealed from VSC (CA): [\[2018\] VSCA 180](#); (2018) 359 ALR 159

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Costs

Bell Lawyers Pty Ltd v Pentelow & Anor
S205/2018: [\[2018\] HCATrans 264](#)

Date heard: 14 December 2018 – *Special leave granted.*

Catchwords:

Costs – *Chorley* exception – *London Scottish Benefit Society v Chorley* (1884) 13 QBD 872 – Where first respondent is barrister – Where first respondent commenced proceedings against appellant – Where Supreme Court entered judgment for first respondent and ordered appellant to pay first respondent’s costs – Where first respondent sought to recover costs for work performed by her in addition to costs and disbursements of solicitors and counsel – Where costs assessor and review panel disallowed costs for work performed by first respondent – Where Court of Appeal allowed appeal – Whether Court of Appeal erred in concluding first respondent entitled to recover costs for time spent in conduct of proceedings – Whether Court of Appeal erred in concluding *Chorley* exception applied in circumstances where first respondent had retained solicitors and counsel – Whether Court of Appeal erred in determining s 98 of *Civil Procedure Act 2005* (NSW) permitted application of *Chorley* exception.

Appealed from NSWSC (CA): [\[2018\] NSWCA 150](#)

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The Northern Territory of Australia v Sangare
D10/2018: [\[2018\] HCATrans 254](#)

Date determined: 5 December 2018 – *Special leave granted.*

Catchwords:

Costs – Discretion to award costs – Impecuniosity – Where Department of Infrastructure offered employment to respondent – Where respondent sought support for skilled migration visa application from Minister for Infrastructure – Where Departmental officers provided briefing to Minister – Where respondent alleged briefing contained defamatory material fabricated by Department – Where respondent commenced proceedings seeking damages for publication of defamatory statements in briefing – Where Supreme Court dismissed claim – Where Court of Appeal dismissed respondent’s appeal – Where Court of Appeal declined to award appellant costs because respondent impecunious – Whether Court of Appeal erred in refusing to award costs because respondent unlikely to be able to pay any costs awarded against him.

Appealed from NTSC (CA): [\[2018\] NTCA 10](#)

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Criminal Law

OKS v The State of Western Australia

P62/2018: [\[2018\] HCATrans 242](#)

Date heard: 16 November 2018 – *Special leave granted.*

Catchwords:

Criminal law – Jury directions – Application of proviso – *Criminal Appeals Act 2004* (WA) s 30(4) – Where appellant charged with four counts of indecently dealing with child – Where appellant acquitted of all but one count – Where trial judge directed jury not to reason all complainant’s evidence dishonest and cannot be relied upon on basis complainant told or admitted she told lie – Where Court of Appeal found direction erroneous but dismissed appeal on basis no substantial miscarriage of justice occurred – Whether the Court of Appeal erred in applying proviso and failing to quash the appellant’s conviction.

Appealed from WASC (CA): [\[2018\] WASCA 48](#); (2018) 52 WAR 482

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Family Law

Masson v Parsons & Ors

S197/2018: [\[2018\] HCATrans 265](#)

Date heard: 14 December 2018 – *Special leave granted.*

Catchwords:

Family law – Parentage – Artificial insemination – Where appellant and first respondent conceived child using artificial insemination – Where appellant listed on child’s birth certificate as father – Where primary judge found appellant was “parent” for purpose of *Family Law Act 1975* (Cth) because provided genetic material for purpose of fathering child he expected to parent – Where Full Court allowed appeal on basis s 79 of *Judiciary Act 1903* (Cth) picked up s 14(2) of *Status of Children Act 1996* (NSW) which operated to determine appellant not “parent” – Whether Full Court erred in concluding s 14(2) of *Status of Children Act* operated to determine appellant not “parent” for purpose of *Family Law Act* – Whether Full Court erred in concluding s 60H of *Family Law Act* exhaustively defines parents of child for purpose of *Family Law Act*.

Appealed from FamCA (FC): [\[2018\] FamCAFC 115](#)

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Insurance Law

Lee v Lee & Ors; Hsu v RACQ Insurance Limited; Lee v RACQ Insurance Limited

B61/2018; B62/2018; B63/2018: [\[2018\] HCATrans 241](#)

Date heard: 16 November 2018 – *Special leave granted.*

Catchwords:

Insurance law – Motor vehicles – Personal injury – Where appellant injured in motor vehicle collision – Where appellant alleged injuries caused by negligence of father – Where appellant gave evidence father driving vehicle at time of collision – Where appellant’s blood located on driver airbag – Where pathologist gave evidence relating to possible source of blood – Where mechanical engineer gave evidence relating to seatbelts and airbag design – Where trial judge concluded appellant driving vehicle – Where Court of Appeal dismissed appeal – Whether Court of Appeal failed to give adequate

reasons by failing to address aspects of mechanical engineer's evidence and inferences arising from evidence – Whether Court of Appeal erred by failing to conclude trial judge misused advantage as trial judge – Whether finding appellant was driver contrary to compelling inferences from uncontroverted evidence.

Appealed from QSC (CA): [\[2018\] QCA 104](#); (2018) 84 MVR 316

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Interpretation

Victorian Building Authority v Andriotis

M134/2018: [\[2018\] HCATrans 154](#)

Date heard: 17 August 2018 – *Special leave granted.*

Catchwords:

Interpretation – *Mutual Recognition Act 1999* (Cth) s 17, 20 – Where respondent registered in New South Wales as waterproofing technician – Where respondent applied to appellant for registration under *Building Act 1993* (Vic) – Where appellant refused to grant registration because respondent not of “good character” as required by s 170(1)(c) of *Building Act* – Where Administrative Appeals Tribunal affirmed decision – Where Full Federal Court allowed appeal – Whether Full Federal Court erred in holding appellant required by s 20(2) to register respondent for equivalent occupation under *Building Act* notwithstanding appellant found respondent not of good character – Whether Full Federal Court erred in holding exception to mutual recognition principle in s 17(2) of *Mutual Recognition Act* does not quality “entitlement” to be registered under s 20(1) – Whether Full Court erred in holding “good character” requirement in *Building Act* not law regulating “manner” of carrying out occupation within meaning of s 17(2) of *Mutual Recognition Act*.

Appealed from FCA (FC): [\[2018\] FCAFC 24](#); (2018) 359 ALR 427

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Procedure

Brisbane City Council v Amos

B47/2018: [\[2018\] HCATrans 186](#)

Date heard: 14 September 2018 – *Special leave granted.*

Catchwords:

Procedure – Limitation periods – *Limitation of Actions Act 1974* (Qld) – Where Council commenced proceeding against respondent for overdue rates and charges – Where primary judge gave judgment for Council – Where majority of Court of Appeal allowed appeal on basis part of claim beyond 6 year limitation period in s 10(1)(d) of Act – Whether majority erred in holding proceeding falls within both ss 10(1)(d) and 26(1) of Act and inconsistency should be resolved by applying shorter limitation period in s 10(1)(d).

Appealed from QSC (CA): [\[2018\] QCA 11](#); (2018) 230 LGERA 51

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7: CASES NOT PROCEEDING OR VACATED

Criminal Law

AB (a pseudonym) v CD (a pseudonym); EF (a pseudonym) v CD (a pseudonym)

M73/2018; M74/2018: [\[2018\] HCA 58](#)

Reasons published: 3 December 2018

Coram: Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon, Edelman JJ

Catchwords:

Criminal law – Prosecution's duty of disclosure – Public interest immunity – Where legal counsel for several accused ("EF") was enlisted as police informer – Where EF provided information to police that had potential to undermine each accused's defences to criminal charges – Where each accused convicted of criminal offences – Where first respondent proposed to disclose to each convicted person information about EF's conduct – Whether information subject to public interest immunity – Whether first respondent permitted to make proposed disclosures.

Practice and procedure – High Court – Special leave to appeal – Whether special leave to appeal ought to be revoked.

Words and phrases – "adequately protect", "disclosure", "police informer", "integrity of the criminal justice system", "public interest immunity", "witness protection".

Witness Protection Act 1991 (Vic) – s 3B(2)(b).

Appealed from VSC (CA): [\[2017\] VSCA 338](#)

Special leave revoked on 5 November 2018

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8: SPECIAL LEAVE REFUSED

Publication of Reasons: 5 December 2018

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Singh	Minister for Immigration and Border Protection & Anor (M146/2018)	Federal Court of Australia [2018] FCA 1231	Application dismissed [2018] HCASL 365
2.	Anderson	Westpac Banking Corporation (M152/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 226	Application dismissed [2018] HCASL 366
3.	DOQ17	Australian Financial Security Authority (AFSA) & Ors (S220/2018)	Application for Removal	Application dismissed [2018] HCASL 367
4.	DOD16	Minister for Immigration and Border Protection & Anor (S260/2018)	Federal Court of Australia [2018] FCA 1359	Application dismissed [2018] HCASL 368
5.	SZWAQ	Minister for Home Affairs & Anor (S262/2018)	Federal Court of Australia [2018] FCA 1482	Application dismissed [2018] HCASL 369
6.	Macatangay	State of New South Wales (S273/2018)	Supreme Court of New South Wales (Court of Appeal) [2012] NSWCA 374	Application dismissed [2018] HCASL 370
7.	Singh	Minister for Immigration and Border Protection & Anor (S274/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 162	Application dismissed [2018] HCASL 371
8.	Harkness	Roberts & Anor (M149/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 215	Application dismissed [2018] HCASL 372
9.	ARA17	Minister for Home Affairs & Anor (P51/2018)	Federal Court of Australia [2018] FCA 1378	Application dismissed [2018] HCASL 373
10.	SZNBX & Ors	Minister for Immigration and Border Protection & Anor (S255/2018)	Federal Court of Australia [2018] FCA 1172	Application dismissed [2018] HCASL 374
11.	CMY17	Minister for Immigration and Border Protection & Anor (S257/2018)	Federal Court of Australia [2018] FCA 1333	Application dismissed [2018] HCASL 375

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
12.	DUV17	Minister for Immigration and Border Protection & Anor (S263/2018)	Federal Court of Australia [2018] FCA 1492	Application dismissed [2018] HCASL 376
13.	Buadromo	Minister for Immigration and Border Protection (S270/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 151	Application dismissed [2018] HCASL 377
14.	Plaintiff S73/2018	Honourable Justice Rares & Ors (S271/2018)	High Court of Australia [2018] HCATrans 169	Application dismissed [2018] HCASL 378
15.	Dickens (a pseudonym)	State of New South Wales (S276/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 222	Application dismissed [2018] HCASL 379
16.	Construction, Forestry, Maritime, Mining and Energy Union	Australian Building and Construction Commissioner & Anor (B44/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 126	Application dismissed with costs [2018] HCASL 380
17.	Defteros	Google LLC (M121/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 176	Application dismissed with costs [2018] HCASL 381
18.	SZTYV & Anor	Minister for Immigration and Border Protection & Anor (S209/2018)	Federal Court of Australia [2018] FCA 1076	Application dismissed with costs [2018] HCASL 382
19.	Liem	Republic of Indonesia & Ors (S234/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 135	Application dismissed with costs [2018] HCASL 383
20.	Joondalup Hospital Pty Ltd	Waldron (S243/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 182	Application dismissed with costs [2018] HCASL 384
21.	Mineralogy Pty Ltd	BGP Geexplorer Pte Ltd (B39/2018)	Supreme Court of Queensland (Court of Appeal) [2018] QCA 174	Application dismissed with costs [2018] HCASL 385
22.	Sangare	The Northern Territory of Australia (D9/2018)	Supreme Court of the Northern Territory (Court of Appeal) [2018] NTCA 10	Application dismissed with costs [2018] HCASL 386
23.	Cottrell	Ross (M119/2018)	Application for Removal	Application dismissed [2018] HCASL 387
24.	Mondous & Anor	Commissioner of State Revenue (M125/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 185	Application dismissed with costs [2018] HCASL 388

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
25.	Larussa	Carr & Ors (P46/2018)	Supreme Court of Western Australia (Court of Appeal) [2018] WASCA 127	Application dismissed with costs [2018] HCASL 389
26.	Muriniti	King & Ors (S148/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 98	Applications dismissed with costs [2018] HCASL 390
	Muriniti	King & Anor (S154/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 98	
	Muriniti	King & Ors (S155/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 98	
	Muriniti	King & Ors (S156/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 98	
27.	Muriniti & Anor	Hughes Trueman Pty Ltd & Ors (S222/2018)	Federal Court of Australia [2017] FCA 456	Application dismissed with costs [2018] HCASL 391

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Publication of Reasons: 14 December 2018

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Tutos	State of Victoria & Anor (M148/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 213	Application dismissed [2018] HCASL 392
2.	AYT15	Minister for Immigration and Border Protection & Anor (M155/2018)	Federal Court of Australia [2018] FCA 1444	Application dismissed [2018] HCASL 393
3.	BHI16	Minister for Immigration and Border Protection & Anor (M156/2018)	Federal Court of Australia [2018] FCA 1441	Application dismissed [2018] HCASL 394
4.	In the matter of an application by Jerrod James Conomy for leave to appeal (P52/2018)		High Court of Australia [2018] HCATrans 212	Applications dismissed [2018] HCASL 395
	In the matter of an application by Jerrod James Conomy for leave to appeal (P53/2018)		High Court of Australia [2018] HCATrans 182	
5.	Priddle	Director, Child Protection Litigation & Ors (S158/2017)	Application for Removal	Application dismissed with costs [2018] HCASL 396
6.	EKW17	Minister for Immigration and Border Protection & Anor (S261/2018)	Federal Court of Australia [2018] FCA 1366	Application dismissed [2018] HCASL 397
7.	Franklin	Commissioner of Police, NSW Police Force & Anor (S264/2018)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 206	Application dismissed [2018] HCASL 398
8.	AIF15	Minister for Home Affairs & Anor (S269/2018)	Federal Court of Australia [2018] FCA 1435	Application dismissed [2018] HCASL 399
9.	Gray	Darwin Food Pty Ltd (A33/2018)	Full Court of the Supreme Court of South Australia [2018] SASFC 84	Application dismissed with costs [2018] HCASL 400
10.	Zonneveld	The Queen (C11/2018)	Supreme Court of the Australian Capital Territory (Court of Appeal) [2018] ACTCA 31	Application dismissed [2018] HCASL 401
11.	Bodycorp Repairers Pty Ltd & Anor	Australian Associated Motor Insurers Ltd Trading as AAMI & Ors (M118/2018)	Supreme Court of Victoria (Court of Appeal) [2018] VSCA 174	Application dismissed with costs [2018] HCASL 402

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14 December 2018: Sydney

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	Bucca	The Queen (A28/2018)	Supreme Court of South Australia (Court of Criminal Appeal) [2018] SASCF 42	Application refused [2018] HCATrans 262
2.	CLV16	Minister for Immigration and Border Protection & Anor (S165/2018)	Full Court of the Federal Court of Australia [2018] FCAFC 80	Application refused with costs [2018] HCATrans 266
3.	Perkins	The Queen (S188/2018)	Supreme Court of New South Wales (Court of Criminal Appeal) [2018] NSWCCA 62	Application refused [2018] HCATrans 267

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