IN THE HIGH COURT OF AUSTRALIA NO P22 OF 2019

PERTH REGISTRY

IN THE MATTER OF:

JERROD JAMES CONOMY
Applicant

WRITTEN SUBMISSIONS OF THE ATTORNEY-GENERAL OF THE COMMONWEALTH AS AMICUS CURIAE

Part I CERTIFICATION

1. This submission is in a form suitable for publication on the internet.

Part II THE ISSUES

10 **Summary of submissions**

2. The Applicant seeks to bring an appeal from the orders made by Keane and Edelman JJ on 20 March 2019:

   (a) dismissing the applications for special leave to appeal in each of P3/2019 and P11/2019, together with each of the summonses filed on 22 February 2019 and 27 February 2019; and

   (b) ordering pursuant to s 77RN of the *Judiciary Act 1903* (Cth) that the Applicant be prohibited from instituting any further proceedings in the High Court relating to the convictions the subject of the two decisions by the Western Australian Court of Appeal – *Conomy v Maden* [2016] WASCA 30 (relating to the stalking
20 conviction) and *Conomy v Maden* [2016] WASCA 31 (relating to the VRO breach conviction).

3. In summary, the Attorney-General makes the following submissions.

   (a) Contrary to the Applicant's submission, the dismissal of the special leave applications and the orders refusing special leave to appeal in each of P3/2019 and P11/2019 were not made under s 77RN of the *Judiciary Act*. Those orders (along with the orders dismissing the summonses) were made in the

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determination of the special leave applications independently of s 77RN of the *Judiciary Act*. In so far as such orders were made in the exercise of original jurisdiction, they were interlocutory in nature, so that an appeal without leave under s 34(2) of the *Judiciary Act* would be incompetent.

(b) In any event, there was no error in the reasons for refusing special leave to appeal. Special leave to appeal should not be granted, because any appeal from the Court of Appeal's decision in *Conomy v Maden* [2016] WASCA 30 would have no prospect of success.

(c) The Applicant was given an opportunity of being heard before the vexatious proceedings order was made. That opportunity to be heard was reasonable in all the circumstances.

(d) In any event, there was no error in the reasons for making the vexatious proceedings order.

(e) Further or alternatively, the vexatious proceedings order should be affirmed by the Full Court. The power under s 77RN was enlivened, and the making of the order under s 77RN(2)(b) is an appropriate exercise of the discretion. The order is specific and narrowly confined. It applies only to a particular type of proceeding, arising from the matters the subject of the stalking conviction and the VRO breach conviction, in respect of which the appellate process has already been exhausted. In relation to stalking conviction, special leave to appeal from the Court of Appeal's decision has now been refused twice (on 16 October 2016 and on 20 March 2019). In relation to the VRO breach conviction, an application for special leave to appeal was deemed to have been abandoned on 7 June 2016, and successive applications for the reinstatement of that application have been refused.

Procedural issues

4. By a summons filed on 23 April 2019, the Applicant seeks (among other things) an order that his notice of appeal dated 3 April 2019 be accepted for filing and treated as filed on time. This is in substance an application for an enlargement of time in which to file a notice of appeal, which pursuant to rule 42.03 of the *High Court Rules 2004* was required to be filed by 3 April 2019 (but was in fact filed on 4 April 2019). To the extent that the appeal relates to final orders made in the exercise of original jurisdiction

(*e.g.* the vexatious proceedings order in Order 4), the Attorney-General makes no submission as to whether or not that application should be granted.[1]

5. The Attorney-General accepts that Order 4 of the Orders made on 20 March 2019 [CAB 2] was a final order made in the exercise of original jurisdiction conferred by s 77RN of the *Judiciary Act*, and that accordingly this Court has jurisdiction pursuant to s 34(1) of that Act to hear and determine an appeal from Order 4. The Attorney-General further accepts that s 77RP(1) of the *Judiciary Act* does not restrict the institution of an appeal from Order 4.

6. Orders 1 to 3, however, were made in the exercise of this Court's discretionary jurisdiction to determine applications for special leave to appeal. Those orders did not involve an exercise of power conferred by s 77RN of the *Judiciary Act*, that is, the applications for special leave to appeal were dismissed, and special leave was refused, on the merits of those applications, applying s 35A of the *Judiciary Act*, and not on the basis of a satisfaction formed by the Court under s 77RN(1) that the Applicant had "frequently instituted or conducted vexatious proceedings in Australian courts or tribunals".[2]

7. The separation of the special leave applications and the vexatious proceedings order is clear from the reasons of Keane and Edelman JJ read as a whole.

   (a) The transcript commences by noting that the special leave applications were heard on 6 March 2019, and that the Applicant was "<u>also</u>" given an opportunity to make submissions on the question whether a vexatious proceedings order under s 77RN(2) should be made against him.

   (b) Immediately before publishing the orders, Keane J stated that "[f]or the reasons that I now publish, Justice Edelman and I would dismiss the applications for special leave to appeal and make the vexatious proceedings order", clearly indicating that the dismissal orders were not made as a vexatious proceedings order (i.e. an order made under s 77RN(2) of the *Judiciary Act*).

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[1] In this regard, it should be noted that the Applicant has subsequently filed an "Amended Notice of Appeal dated 11 June 2019 and a "Further Amended Notice of Appeal" dated 10 July 2019. The Applicant has also filed written submissions dated 11 June 2019 and amended written submissions dated 10 July 2019.

[2] Similarly, the summons filed on 22 February 2019 (seeking amendments to the special leave applications) was dismissed on the basis that, even on the assumption that those amendments were made (Transcript 6 March 2019, lines 20-24), they did not alter the basis on which special leave was refused. The summons filed on 27 February 2019 (seeking further time to provide written submissions) was dismissed on the basis that the Applicant had been given an opportunity to make written and oral submissions and was not disposed to grant him any further time (Transcript 6 March 2019, lines 50-106).

(c) Even more clearly, the reasons state that "[i]n order to understand the two applications for special leave before the Court, and the considerations which bear upon whether, if those applications are dismissed, a vexatious proceedings order should also be made against Mr Conomy, it is necessary to recount the history of Mr Conomy's proceedings in this Court" (emphasis added), thereby indicating that the question whether to make a vexatious proceedings order would only arise after any dismissal of the special leave applications – that is, the question whether to grant or refuse special leave was addressed as an anterior issue to any consideration of the making of a vexatious proceedings order.

(d) The separation of the special leave applications from the consideration under s 77RN is further supported by the structure of the reasons, including the separate heading dealing with the disposition of "The current applications for special leave to appeal" prior to the heading dealing with the making of orders under "Section 77RN".

(e) This is not affected by the fact that the reasons for dismissing the special leave applications had regard to whether those applications were "clearly vexatious" or an "exercise in futility", in so far as they sought to agitate arguments that were, or reasonably could and should have been, advanced in the Court of Appeal or in the first special leave application (P19/2016). Such considerations are relevant to the determination of an application for special leave to appeal, quite apart from any consideration of a vexatious proceedings order under s 77RN of the *Judiciary Act*.

8. The Applicant has drawn attention to the difference in language between the orders pronounced by the Court on 20 March 2019 and the authenticated orders drawn up pursuant to Rule 8.03 of the *High Court Rules*.[3] The former refer to the special leave applications being "dismissed", whereas the latter refer to each of the applications being "refused". It may be doubted whether there is any material distinction between the "dismissal" of an application for special leave to appeal, and an order that special leave is "refused", and both terms are often used interchangeably in special leave dispositions. To the extent the difference in language has any significance, the authenticated orders should take priority as the authoritative and definitive record of the orders made by the Court. In any event, the reference to the applications being "dismissed" does not itself indicate that the orders were made as a vexatious

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[3] See CAB 1-2.

proceedings order pursuant to s 77RN(2)(a), as opposed to the ordinary disposition of the applications for special leave to appeal.

9. This threshold issue has consequences for the competence of the proposed appeal in so far as it relates to Orders 1 to 3. A dismissal or refusal of a special leave application is not itself an exercise of the High Court's appellate jurisdiction, and is properly characterised as involving (or at least bearing "resemblance" to) original jurisdiction.[4] Such an order does not involve the determination of an appeal, and is properly regarded as interlocutory in nature.[5] Accordingly, as the orders dismissing the special leave applications (and each of the summonses) were not made under s 77RN(2) of
10 the *Judiciary Act*, they are not "final orders" pursuant to s 77RN(5), and leave to appeal is required under s 34(2) of the *Judiciary Act*.

10. In so far as the Applicant might seek to apply for leave to appeal from the orders to dismiss or refuse the special leave applications in P3/2019 and P11/2019, any such application for leave would be a proceeding that relates to the conviction the subject of *Conomy v Maden* [2016] WASCA 30, and is covered by the vexatious proceedings order made in Order 4. Accordingly, unless and until Order 4 is set aside or leave is granted pursuant to s 77RQ(2) of the *Judiciary Act*, the proceeding would be stayed by operation of s 77RP(2) in so far as it relates to an application for leave to appeal from Orders 1 to 3.

20 11. Further, and in any event, there are no circumstances that would warrant or justify the re-opening of the applications for special leave in P3/2019 and P11/2019 (which applications themselves sought to re-open the application for special leave in P19/2016 that was refused on 12 October 2016). The special leave applications in P3/2019 and P11/2019 were correctly refused for the reasons given by Keane and Edelman JJ.

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[4] See *Eastman v The Queen* (2000) 203 CLR 1 at 59-60 [182] (Gummow J), 110-111 [338] (Callinan J), *cf.* at 67-68 [207] (Kirby J); *Attorney-General (Cth) v Finch [No 2]* (1984) 155 CLR 107 at 115.

[5] *DJL v Central Authority* (2000) 201 CLR 226 at 248 [47] (Gleeson CJ, Gaudron, McHugh, Gummow and Hayne JJ): "An application for special leave "is not in the ordinary course of litigation" and, until the grant of special leave, "there are no proceedings inter partes before the Court" [*Collins v The Queen* (1975) 133 CLR 120 at 122]. Further, the disposition of a special leave application is not the determination of an appeal [*Attorney-General (Cth) v Finch [No 2]* (1984) 155 CLR 107 at 115]. The result is that the refusal of an application for special leave does not produce a final judgment of this Court which forecloses the re-opening of the matter in an appropriate and, necessarily, very special case where the interests of justice so require." See also *Re Sinanovic's Application* (2001) 180 ALR 448 at 450 [7] (Kirby J); compare *Plaintiff S164/2018 v Minister for Home Affairs* [2018] HCA 51 (Edelman J) (in relation to the incompetency of an appeal from an interlocutory order of a single Justice dismissing an application for an order to show cause).

Substantive issues

12. Assuming leave is granted, the Applicant in effect raises three substantive issues for determination:

Issue 1:

(a) Whether this Court heard or gave the Applicant an opportunity to be heard within the meaning of s 77RN(4) of the Act before making the Orders:

i) Grounds 2.1 and 2.3 of the Notice of Appeal dated 3 April 2019 (the **3 April grounds**);

ii) Ground 2.3 of the Amended Notice of Appeal dated 11 June 2019 (the **11 June grounds**); and

iii) Ground 3 of the Further Amended Notice of Appeal dated 10 July 2019 (the **10 July grounds**).

Issue 2:

(b) Whether this Court could have been satisfied the Applicant had "frequently instituted or conducted vexatious proceedings in Australian courts ..." within the meaning of s 77RN(1)(a) of the Act, such that it had jurisdiction to make Order 4 dated 20 March 2019:[6]

i) Grounds 2.2 and 2.4 of the 3 April grounds;

ii) Ground 2.2 of the 11 June grounds; and

iii) Ground 2 of the 10 July grounds.

Issue 3:

(c) Whether this Court erred in dismissing the applications for special leave filed in P3 and P11 of 2019:

i) Ground 2.1 of the 11 June grounds; and

ii) Ground 1 of the 10 July grounds.

Part III SECTION 78B NOTICE

13. The Attorney-General does not consider that a notice is required to be given pursuant to s 78B of the *Judiciary Act*.

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[6] CAB 2 (collectively, the **Orders**).

Part IV FACTS

14. On 7 August 2014, the Applicant was convicted in the Magistrates Court of Western Australia of an offence under s 338E(2) of the *Criminal Code 1913* (WA) (the **stalking conviction**).[7] On 16 January 2015, the Applicant was convicted in the Magistrates Court of Western Australia of an offence under s 61(1) of the *Restraining Orders Act 1997* (WA) of breaching a violence restraining order (the **VRO breach**).[8] The Applicant unsuccessfully appealed each of those convictions separately to the Supreme Court of Western Australia,[9] and unsuccessfully sought leave to appeal in each of those matters to the Court of Appeal.[10]

10 15. The Applicant subsequently filed an application for special leave to appeal from each of the stalking appeal (proceeding P19/2016) and the VRO breach appeal (proceeding P20/2016). Neither of those applications was granted.

16. On 7 June 2016, proceeding P20/2019 was deemed to have been abandoned.[11] The Applicant then made several attempts to have that matter reinstated. Each of those attempts was unsuccessful.[12]

17. On 12 October 2016, Bell and Gageler JJ refused special leave in proceeding P19/2016.[13] The Applicant then made several attempts to seek orders in relation to the refused application. Each of those attempts was unsuccessful.[14]

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7 See the findings of the learned Magistrate given on 7 August 2014 at CAB 266-286 (the **stalking conviction**), and *Conomy v Maden* [2016] WASCA 30.

8 See *Conomy v Western Australian Police* [2016] WASCA 31 at [5] (the **VRO breach**).

9 See *Conomy v Maden* [2015] WASC 178 and *Conomy v Maden* [2015] WASC 179.

10 See *Conomy v Maden* [2016] WASCA 30 (the **stalking appeal**) and *Conomy v Western Australian Police* [2016] WASCA 31 (the **VRO breach appeal**).

11 See FMB 64-65.

12 See applications filed on 7 April 2017 (see FMB 65, dismissed on 19 April 2017: [2017] HCATrans 87), on 26 April 2017 (see FMB 65-66, refused on 17 May 2017: [2017] HCATrans 117 CAB 63), on 1 June 2017 (in P24 of 2017, refused on 15 August 2017: [2017] HCATrans 154) and an application refused on 9 November 2017: [2017] HCATrans 225.

13 [2016] HCASL 242: CAB 432.

14 See summons dated 7 November 2017 (refused for filing on 22 November 2017: FMB 68), application to file documents dated 13 December 2007 (FMB 43, refused on 14 March 2018: FMB 95), application filed 12 April 2018 (FMB 99, refused on 20 April 2018: FMB 180), summons dated 27 April 2018 (FMB 258, refused for filing on 9 May 2018: FMB 258), application filed 8 June 2018 (FMB 196, refused on 12 September 2018: FMB 182), summons dated 3 August 2018 (FMB 191, refused 15 August 2018: FMB 194), summons dated 30 August 2018 (FMB 224, refused for filing on 17 September 2018), application for leave to file dated 21 September 2018 (FMB 220, dismissed on 17 October 2018: FMB 229), application for leave to appeal dated 5 October 2018 (FMB 232, refused 14 December 2018: FMB 272), and an application for leave to appeal dated 2 November 2018 (FMB 274, refused 6 February 2019: FMB 302).

18. On 11 January 2019 and 31 January 2019 respectively, the Applicant filed two further applications for special leave to appeal in relation to the stalking conviction (proceedings P3/2019 and P11/2019).[15]

19. On 13 February 2019, the Applicant was advised that the applications for special leave in P3/2019 and P11/2019 would be listed for hearing on 6 March 2019 and informed of the possibility that a vexatious proceeding order may be made, and was invited to file submissions in relation to that possibility.[16]

20. On 22 February 2019, the Applicant filed a summons, supported by an affidavit, seeking leave to amend his applications for special leave in P3/2019 and P11/2019.[17]

21. On 27 February 2019, the Applicant filed an "interim response regarding potential vexatious proceedings order"[18] and a summons, supported by an affidavit, seeking an extension of time in which to file his written submissions.[19]

22. On 1 March 2019, the Applicant was advised that his arguments in support of the applications for special leave and his summonses would be heard on 6 March 2019, and that he would have the opportunity to make submissions about whether the Court should make a vexatious proceedings order.[20] He was specifically advised that:

> You will also have the opportunity to make submissions on whether the Court should make vexatious proceedings orders in respect of these and related proceedings.

23. The various applications came on for hearing on 6 March 2019 before Keane and Edelman JJ.[21]

24. On 20 March 2019, Keane and Edelman JJ refused each of the applications for special leave in P3/2019 and P11/2019, dismissed the summonses filed on 22 February 2019 and 27 February 2019, and ordered that:[22]

> The applicant be prohibited from instituting any further proceedings in this Court relating to the convictions the subject of *Conomy v Maden* [2016] WASCA 30 and *Conomy v Maden* [2016] WASCA 31.

25. While the Applicant does not appear to dispute the history of proceedings recounted in *Conomy v Madden* [2019] HCATrans 049 (the **Reasons**) at lines 106-209 and 231-330,

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15 See applications for special leave in P3/2019 and P11/2019: CAB 360 and CAB 379.
16 Letter from Deputy Registrar Gesini dated 13 February 2019: CAB 397.
17 CAB 379.
18 CAB 398.
19 CAB 401.
20 CAB 410.
21 CAB 37.
22 CAB 1-2.

the Applicant's Chronology filed on 21 May 2019 (the **Applicant's Chronology**) does not refer to all of those matters. The Attorney-General has prepared a table of proceedings instituted and matters filed by the Applicant, which is attached to these submissions.

26. The Applicant partially disputes the facts found in the proceedings "below" and "related proceedings": see paragraphs 6 and 8 his submissions dated 11 June 2019 (the **first submission**) and his amended submissions dated 10 July 2019 (the **second submission**). The disputed facts are at times identified in the Applicant's Chronology.

Part V OUTLINE OF ARGUMENT

10 **Part XAB of the Act**

27. On 11 June 2013, by Schedule 3 of the *Access to Justice (Federal Jurisdiction) Amendment Act 2012*, Part XAB was inserted into the Act to implement the Standing Committee of Attorneys-General vexatious proceedings model law.[23]

28. Equivalent schemes are in force in other courts exercising federal jurisdiction,[24] and in New South Wales,[25] Queensland,[26] Tasmania,[27] and the Australian Capital Territory and the Northern Territory.[28]

29. The statutory provisions do not limit or otherwise affect any powers this Court has to deal with vexatious proceedings: s 77RM.

30. The key provision is s 77RN. Section 77RN(2) provides this Court with a discretionary
20 power to make a vexatious proceedings order. Such an order may only be made if the Court is satisfied of the matters set out in s 77RN(1), which relevantly provides:

> (1) This section applies if the High Court is satisfied:
>
> (a) a person has frequently instituted or conducted vexatious proceedings in Australian courts or tribunals; ...

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[23] Explanatory Memorandum to the Access to Justice (Federal Jurisdiction) Amendment Bill 2011, p 53 [355].
[24] See: Part VAAA of the *Federal Court of Australia Act 1976* (Cth); Part XIB of the *Family Law Act 1975* (Cth) and Part 6B of the *Federal Circuit Court of Australia Act 1999* (Cth).
[25] *Vexatious Proceedings Act 2008* (NSW).
[26] *Vexatious Proceedings Act 2005* (QLD).
[27] *Vexatious Proceedings Act 2011* (Tas).
[28] *Vexatious Proceedings Act 2006* (NT).

31. In *Mbuzi v Griffith University*, Griffiths J (with whom Logan and Pagone JJ agreed) observed of an order pursuant to s 37OA of the *Federal Court Act 1976* (Cth), in the same terms as s 77RN, that:[29]

> There are two conditions to the Court's power or discretion to make such an order. The first is that the relevant person "has... instituted or conducted vexatious proceedings" (which need not be the current proceeding). The second is that the vexatious proceedings have been instituted or conducted "frequently".

32. In determining whether a proceeding is "vexatious", it is necessary to consider whether the proceeding is vexatious and not whether it was instituted vexatiously.[30] The question is whether the "the overall impression created by the number of proceedings, their general character and their results" is vexatious.[31] Returning to the terms of the *Judiciary Act*, a vexatious proceeding is defined in s 77RL(1) as follows:

> ***Vexatious proceeding*** includes:
>
> (a) a proceeding that is an abuse of the process of a court or tribunal; and
>
> (b) a proceeding instituted in a court or tribunal to harass or annoy, to cause delay or detriment, or for another wrongful purpose; and
>
> (c) a proceeding instituted or pursued in a court or tribunal without reasonable ground; and
>
> (d) a proceeding conducted in a court or tribunal in a way so as to harass or annoy, cause delay or detriment, or achieve another wrongful purpose.

33. The term "frequently" is not otherwise defined in the *Judiciary Act*. It therefore has its ordinary meaning.[32] In *Quach v New South Wales Health Care Complaints Commission*,[33] Gleeson JA (with whom Simpson JA and Sackville AJA agreed on this point), observed that the term "frequently" was changed from the language of "habitually and persistently" that was used in predecessor provisions, so as to lower the threshold condition before the court may make a vexatious proceedings order.

34. The assessment of frequency is informed by "[b]oth the quality of the vexatiousness of a proceeding and the nature of the proceeding", for example, taking into account the

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[29] *Mbuzi v Griffith University* [2016] FCAFC 10 at [99]. Special leave to appeal was refused: [2016] HCASL 118.

[30] See *Garrett v Commissioner of Taxation* (2015) 147 ALR 3452 at [7] (Pagone J).

[31] *Attorney-General (Vic) v Horvath, Senior* [2001] VSC 269 at [28] (Ashley J).

[32] *Fuller v Toms* (2015) 234 FCR 535 at [33] (Besanko, Logan and McKerracher JJ), referring to *Garrett v Commissioner of Taxation* (2015) 147 ALR 342 at [8] (Pagone J).

[33] *Quach v New South Wales Health Care Complaints Commission* [2017] NSWCA 267 at [113]-[114], referring to *Potier v Attorney General in and for the State of New South Wales* (2015) 89 NSWLR 284 at [114]-[120] (Leeming JA, Basten JA and Meagher JA agreeing). See also *HWY Rent Pty Ltd v HWY Rentals (in liq) (No 2)* [2014] FCA 449 at [110]-[114] (Perry J).

occupation of the time and resources of parties and the Court.[34] These considerations "favour a 'relatively low threshold' before the Court will be satisfied that the test of frequency has been met".[35] In particular, the term "frequently" must be looked at in the context of the litigation being considered, such that the Court "may find that a person has instituted or conducted vexatious proceedings '*frequently*' even though the number of proceedings may be quite small, such as where the proceedings are an attempt to re-litigate an issue determined against the person".[36]

35. In exercising the discretion to make a vexatious proceedings order, "it is relevant to consider, in exercise of the discretion, what effect any order will have on the person's ability to conduct existing and future proceedings, particularly those that are not vexatious".[37]

36. Section 77RN(6) sets out the matters the Court may have regard to for the purposes of subsection (1). It provides:

> (6) For the purposes of subsection (1), the High Court may have regard to:
>
> (a) proceedings instituted (or attempted to be instituted) or conducted in any Australian court or tribunal; and
>
> (b) orders made by any Australian court or tribunal; and
>
> (c) the person's overall conduct in proceedings conducted in any Australian court or tribunal (including the person's compliance with orders made by that court or tribunal);
>
> including proceedings instituted (or attempted to be instituted) or conducted, and orders made, before the commencement of this section.

37. Section 77RN(2), sets out the orders the Court may make, being "vexatious proceedings orders" as defined in s 77RL(1):

> (2) The High Court may make any or all of the following orders:
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> (a) an order staying or dismissing all or part of any proceedings in the High Court already instituted by the person;
>
> (b) an order prohibiting the person from instituting proceedings, or proceedings of a particular type, in the High Court;

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[34] *Quach v New South Wales Health Care Complaints Commission* [2017] NSWCA 267 at [113].
[35] *Quach v New South Wales Health Care Complaints Commission* [2017] NSWCA 267 at [113].
[36] *HWY Rent Pty Ltd v HWY Rentals (in liq) (No 2)* [2014] FCA 449 at [112] (Perry J), referring to *Fuller v Toms* [2013] FCA 1422 at [77] (Barker J).
[37] *Potier v Attorney General in and for the State of New South Wales* (2015) 89 NSWLR 284 at [119]-[120]; *Quach v New South Wales Health Care Complaints Commission* [2017] NSWCA 267 at [113]-[114].

(c) any other order the High Court considers appropriate in relation to the person.

38. In *Vito Zepinic v Chateau Constructions (Aust) Limited; Nina Zepinic v Chateau Constructions (Aust) Limited*,[38] the New South Wales Court of Appeal articulated four steps that are required in considering whether to make a vexatious litigant order under the *Vexatious Proceedings Act 2008* (NSW) which is in materially the same terms as Part XAB of the *Judiciary Act*.

(a) The first step is to identify the "proceedings" the subject of the application, and said to be "vexatious".

(b) The second step is to determine which, if any, of those proceedings is "vexatious" (or, in the context of s 77RN(2) of the *Judiciary Act*, a "vexatious proceeding" as defined by s 77RL(1)).

(c) The third step is, relevantly, to determine whether the person has "frequently" instituted or conducted vexatious proceedings in Australia.

(d) The fourth step is to determine the manner in which the discretion is to be exercised, "bearing in mind the wide scope of the power".

39. Section 77RN(3) confirms that this Court may make such an order on its own motion or on the application of various named individuals.

40. Section 77RN(4) provides that a vexatious proceedings order must not be made without hearing the person in relation to whom the order might be made, or giving that person an opportunity to be heard. It is the statutory embodiment of the right to a fair hearing as an aspect of procedural fairness,[39] and provides:

> The High Court must not make a vexatious proceedings order in relation to a person without hearing the person or giving the person an opportunity of being heard.

41. Finally, s 77RN(5) confirms that an order made pursuant to s 77RN(2)(a) or (b) is final order.

42. By s 77RP of the Act, a person the subject of a vexatious litigant order must not bring a proceeding prohibited by the order without leave. Section 77RP(1) relevantly provides:

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[38] *Vito Zepinic v Chateau Constructions (Aust) Limited; Nina Zepinic v Chateau Constructions (Aust)* Limited [2018] NSWCA 317 at [13]-[15] (Simpson AJA, with whom McColl and McFarlan JJA agreed).

[39] Explanatory Memorandum to the Access to Justice (Federal Jurisdiction) Amendment Bill 2011, p 56 [376].

(1) If the High Court makes a vexatious proceedings order prohibiting a person from instituting proceedings, or proceedings of a particular type, in the High Court:

(a) the person must not institute proceedings, or proceedings of that type, in the High Court without the leave of the High Court under section 77RS; ...

A proceeding instituted in contravention of subsection (1) is stayed by s 77RP(2).

43. Section 77RL(1) relevantly defines proceedings and proceedings of a particular type as follows:

proceeding:

(a) in relation to a court—means a proceeding in the court, whether between parties or not, and includes an incidental proceeding in the course of, or in connection with, a proceeding, and also includes an appeal; and

(b) in relation to a tribunal—means a proceeding in the tribunal, whether between parties or not, and includes an incidental proceeding in the course of, or in connection with, a proceeding.

proceedings of a particular type includes:

(a) proceedings in relation to a particular matter; and

(b) proceedings against a particular person.

44. Section 77RQ provides that a person the subject of a vexatious litigant order may apply to the Court for leave to institute a proceeding that is otherwise prohibited by the order. Section 77RR provides when this Court may and must dismiss an application for leave pursuant to s 77RQ. Relevantly, such an application must be dismissed if it is considered to be a "vexatious proceeding": s 77RR(2). The Court may dismiss an application for leave without an oral hearing: s 77RR(3).

45. Finally, s 77RS sets out the process required before leave to issue a proceeding may be granted, and confirms that leave may only be granted if the Court "is satisfied the proceedings is not a vexatious proceeding": s 77RS(4).

Issue 1: Did this Court hear or give the Applicant an opportunity to be heard within the meaning of s 77RN(4)?

46. As set out in paragraph 12(a) above, this issue is raised by the Applicant in the following grounds:

i) Grounds 2.1 and 2.3 of the 3 April grounds;

ii) Ground 2.3 of the 11 June grounds; and

iii) Ground 3 of the 10 July grounds.

47. This issue raises the question whether the applicant was given an opportunity to be heard on the vexatious proceedings order. It encompasses the Applicant's complaints in relation to the refusal of his request for additional time to prepare (written) submissions and an adjournment of the hearing. None of the grounds has any merit. The Applicant was given a reasonable opportunity to be heard in opposition to the making of a vexatious proceedings order under s 77RN of the *Judiciary Act*.

48. The exercise of discretion by Keane and Edelman JJ to refuse the request for an adjournment or to allow time to prepare further submissions was not affected by any reviewable error.[40] The Applicant submits that the decision not to grant him further time was "unreasonable or unjust" given the volume of material and that for other matters the *High Court Rules* provide for 21 days to prepare a 10 page outline. The matters the Applicant was required to consider were all matters he had drafted and instituted. The special leave applications had been instituted on 11 January 2019 and 31 January 2019, which was at least 33 days prior to the hearing of the applications on 6 March 2019. The letter dated 13 February 2019 which put the Applicant on notice of the possibility of a vexatious proceedings order was sent 3 weeks prior to the hearing. Further, as Keane and Edelman JJ observed, "[the Applicant's] proceedings are well known to him, and the decisions in respect of his proceedings had been provided to, and were otherwise easily accessible by, him."[41] The time provided was sufficient in the circumstances.

49. The Applicant was provided with sufficient information as to the nature and subject matter of the hearing on 6 March 2019, and was given sufficient time in which to prepare. The Applicant was notified of the subject matter of the proceedings by letter dated 13 February 2019,[42] and was further advised by email on 1 March 2019[43] that:

> You will also have the opportunity to make submissions on whether the Court should make vexatious proceedings orders in respect of these and related proceedings.

The Applicant was given the opportunity to file written submissions in relation to whether a vexatious litigant order should be made.[44] The Applicant had a further opportunity to make oral submissions at the hearing on 6 March 2019.[45]

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[40] See generally *House v King* (1936) 55 CLR 499 at 505.
[41] Reasons lines 423-425.
[42] Letter from Deputy Registrar Gesini dated 13 February 2019: CAB 397.
[43] Email from Senior Registrar Rogers to the Applicant dated 1 March 2019: CAB 410.
[44] Letter from Deputy Registrar Gesini dated 13 February 2019: CAB 397.
[45] CAB 37.

50. In any event, regardless of whether or not the Applicant had a reasonable opportunity to be heard in relation to the vexatious proceedings order made by Keane and Edelman JJ, it cannot be denied that he now has a full opportunity to be heard and to make submissions as to the basis on which the vexatious proceedings order was made. Thus, even if the Applicant were able to demonstrate that he did not have an opportunity to be heard below, it would not be appropriate to set aside the vexatious proceedings order and remit the matter for rehearing by one or more Justices of this Court. Instead, it would be necessary and appropriate for this Court to reach its own conclusion as to whether or not a vexatious proceedings order in the terms of Order 4 should be made.

51. The Attorney-General submits that nothing has been shown that affects the correctness and appropriateness of the vexatious proceedings order made by Keane and Edelman JJ, and that accordingly the order should be affirmed. In particular, the effect of the order is only to prevent the Applicant from commencing a proceeding in the High Court relating to the stalking conviction or the VRO breach, without first seeking and obtaining leave pursuant to s 77RS of the *Judiciary Act*. Each of the stalking conviction and the VRO breach have been the subject of exhaustive appellate consideration by the Supreme Court of Western Australia and the Court of Appeal, and multiple attempts to obtain special leave to appeal to this Court have been refused. The vexatious proceedings order is appropriately tailored to restrict further re-litigation in this Court of the matters in respect of which the appellate process has been exhausted.

Issue 2: Was it open to this Court to be satisfied of the requirements in s 77RN(1)?

52. As set out in paragraph 12(b) above, this issue is raised by the Applicant in the following grounds:

    (a) Grounds 2.2 and 2.4 of the 3 April grounds;

    (b) Ground 2.2 of the 11 June grounds; and

    (c) Ground 2 of the 10 July grounds.

53. Although the Applicant's grounds focus on whether the discrete applications for special leave in proceedings P3/2019 and P11/2019 were "vexatious", the Applicant seeks that "all orders and directions made in the proceeding[s] P3 and P11 of 2019 be set aside": paragraph 109 of the second submission. He must, therefore, address each of the matters relied on by Keane and Edelman JJ.

54. The power in s 77RN(2) of the Act is discretionary. As the Applicant correctly identifies (at paragraph 27 of his second submission), he must therefore show an error within the meaning of *House v The King*,[46] not a "substantial miscarriage".

55. In addressing only the applications for special leave in P3/2019 and P11/2019, the Applicant does not engage with the real issue: whether he is properly regarded as a person who has frequently instituted or conducted vexatious proceedings.

56. In making the vexatious proceedings order, Keane and Edelman JJ followed the four steps identified in *Vito Zepinic*, as set out in paragraph 38 above.

57. Keane and Edelman JJ identified the proceedings the subject of the application: Reasons at lines 113 – 209 and 233 – 330.

58. Their Honours then identified those proceedings that were vexatious, noting in particular that:[47]

    (a) in none of the proceedings in relation to the stalking conviction instituted since 12 October 2016 "has any ground been advanced by Mr Conomy that would justify reconsideration":[48] that is, they were without reasonable ground (subparagraph (c) of the definition of *vexatious proceeding*);

    (b) in none of the proceedings in relation to the VRO breach commenced since 19 April 2017 "has any ground been advanced by Mr Conomy that would justify the special leave application being reinstated":[49] that is, they were without reasonable ground (subparagraph (c) of the definition of *vexatious proceeding*);

    (c) in relation to proceeding P67/2017, Gordon J found that the application was "incompetent and an abuse of process"[50] (subparagraph (a) of the definition of *vexatious proceeding*);

    (d) in relation to proceeding P48/2018, Keane J observed that Mr Conomy was advancing an attempt to re-agitate issues resolved by the dismissal of the special

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[46] *House v The King* (1936) 55 CLR 499; see also *Mathews v Cooper* [2017] QCA 322 at [9] (Gotterson and Morrison JJA and Bond J).

[47] Reference may also be made to the reasons given in each of the identified proceedings. For example, in dismissing the application for leave to appeal in proceeding P20/2018 (FMB 194 at [3]), Kiefel CJ and Gageler J noted that the application would "enjoy no prospect of success" (subparagraph (c) of the definition of *vexatious proceeding*). In refusing an application for reinstatement of the special leave application in proceeding P20/2016, Gordon J observed that the special leave application "advances no arguable ground of appeal against the decision of the Court of Appeal" and that an appeal to the High Court "would enjoy no prospect of success". Nevertheless, the Applicant subsequently continued to file further applications for reinstatement of the special leave application

[48] Reasons lines 354-355.

[49] Reasons lines 381-382.

[50] Reasons lines 144-153.

leave application (P19/2016), and was engaged in "an exercise in futility":[51] that is, the application was without reasonable ground (subparagraph (c) of the definition of *vexatious proceeding*);

(e) in relation to proceeding P33/2018, Edelman J noted that the application was identical in substance to P34/2018, of which his Honour said "the whole of the applications sought to be agitated in the proposed summons were frivolous and vexatious":[52] (subparagraph (a) of the definition of *vexatious proceeding*);

(f) in relation to proceeding P24/2017, Keane J held that the application was "bound to fail":[53] (subparagraph (c) of the definition of *vexatious proceeding*);

(g) in relation to proceeding P54/2017, Bell J noted that the filing of the documents (if allowed) "would constitute an abuse of the process of the Court":[54] (subparagraph (a) of the definition of *vexatious proceeding*);

(h) in relation to proceeding P34/2018, Edelman J noted that the whole of the applications sought to be agitated in the proposed summons were frivolous and vexatious":[55] "(subparagraph (a) of the definition of *vexatious proceeding*); and

(i) in relation to the most recent applications for special leave (proceedings P3/2019 and P11/2019), Keane and Edelman JJ found that those applications were "themselves the latest examples of vexatious proceedings".

59. Keane and Edelman JJ then considered whether the vexatious proceedings identified above were filed "frequently", and found that:

> The history of proceedings by Mr Conomy establishes that he is a person who has frequently instituted and conducted vexatious proceedings in this Court.

60. Accordingly, the discretionary power under s 77RN was enlivened. In considering the exercise of that discretionary power,[56] Keane and Edelman JJ determined that:[57]

> It is apparent Mr Conomy's unreasonable obsession is such that, absent an order under s 77RN(2), his behaviour will continue. There can, therefore, be no doubt that this is an appropriate case in which to exercise the powers conferred by s 77RN(2) and (3) of the *Judiciary Act*.

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[51] Reasons lines 163-164.
[52] Reasons lines 171-173 and 295-298.
[53] Reasons lines 270-272.
[54] Reasons lines 278-283.
[55] Reasons lines 295-298.
[56] Reasons at lines 393-396.
[57] Reasons at lines 406-413.

Issue 3: Did the Court err in dismissing the applications for special leave?

61. As set out in paragraph 12(c) above, this issue is raised by the Applicant in the following grounds:

    i) Ground 2.1 of the 11 June grounds; and

    ii) Ground 1 of the 10 July grounds.

62. Each of the applications for special leave was correctly refused. Neither of them raised any point that would warrant the grant of special leave, having regard to the considerations set out in s 35A of the *Judiciary Act*. As submitted above, the dismissal or refusal of the special leave applications did not rest on a finding that they were "vexatious proceedings" for the purposes of Part XAB of the *Judiciary Act* (notwithstanding that the Court subsequently went on so to find), and the basis for the orders dismissing or refusing special leave was not an exercise of the power conferred by s 77RN(2)(a) of the *Judiciary Act*. Quite apart from that power, the applications were clearly not such as would warrant a grant of special leave to appeal.

63. The proposed grounds of appeal in P3/2019[58] raise points that were available to be made when the Applicant filed his first application for special leave (in P19/2016). Each of the proposed grounds alleges an error in the reasoning of the Court of Appeal relating to the refusal of the Magistrate to allow the Applicant to ask particular questions of the complainant on grounds of relevance.

64. The Applicant acknowledges that in relation to both proposed Ground 1[59] and proposed Ground 2,[60] the issue was in substance raised and rejected in the Supreme Court and/or in the Court of Appeal. The Court of Appeal found that the Applicant had been given a fair opportunity to challenge the complainant's evidence, and that the Magistrate was entitled to intervene to prevent irrelevant questions.[61] The question sought to be put by the Applicant (which concerned whether the complainant had ever had problems with people stalking her in the past) was patently irrelevant to any issue arising in the proceedings (*i.e.* whether the Applicant's proven conduct could reasonably be expected to intimidate, and did in fact intimidate, the complainant).

65. Further, putting to one side whether there are circumstances on the basis of which this Court should entertain a second application for special leave, neither of the alleged

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[58] CAB 43.
[59] CAB 47-48 at [15] and [17].
[60] CAB 50 at [25].
[61] [2016] WASCA 30 at [115]-[119] (CAB 85-86). See also [2016] WASC 179 at [61]-[63] (CAB 104-105).

errors would be capable of establishing a substantial miscarriage of justice that would warrant setting aside the conviction. There was no error in refusing special leave in P3/2019.

66. The proposed ground in P11/2019[62] was also available to be argued in the first application for special leave. This ground alleges that the Court of Appeal erred in finding the Magistrate's findings supported the conviction, apparently on the basis that the Magistrate found that the subjective test (whether the complainant was in fact intimidated) was established only in relation to the Applicant's conduct in February 2013 and that the objective test (whether the conduct could reasonably be expected to intimidate a person) was established only by reference to the Appellant's conduct in August 2013.

67. The Court of Appeal considered and rejected the substance of that argument.[63] In any event, the premise of the proposed ground is not established, in that neither the evidence nor the Magistrate's finding that the complainant was intimidated was limited to the Appellant's conduct in February 2013. The Magistrate found that the complainant "was and is intimidated as legally defined in section 338B",[64] in the context of the evidence relating to all of the communications from the Applicant, including those in August 2013.[65] There was no error in refusing special leave in P11/2019.

68. Further, Keane and Edelman JJ were correct in concluding that the proposed grounds in P3/2019 and P11/2019 sought to agitate arguments that either were, or reasonably could and should have been, advanced in the Court of Appeal or in the first special leave application (P19/2016). It is disingenuous to suggest that the grounds could not have been raised in the Court of Appeal because they allege errors by the Court of Appeal.[66] In substance, the proposed grounds are directed to alleged errors by the Magistrate framed differently from the proposed grounds in the first special leave application. Any failure to raise such matters in the first special leave application cannot be justified by reference to constraints imposed by page limits under the *High Court Rules*.

69. Keane and Edelman JJ did not determine the special leave applications without deciding whether or not to grant leave to amend those applications. It is clear that the

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62 CAB 193.
63 [2016] WASCA 30 at [86]-[88] (CAB 79-80).
64 CAB 133 at A.
65 See *e.g.* CAB 129-132.
66 See Applicant's Submissions dated 11 June 2019, paragraphs [29]-[30]; Applicant's Amended Submissions dated 10 July 2019, paragraph [76].

summonses filed on 22 February 2019,[67] by which the Applicant sought to amend the applications for special leave, were considered and determined. The proposed amendments did not substantively alter the grounds or questions raised by the applications for special leave, as appears to be accepted by the Applicant.[68] It was open to Keane and Edelman JJ to conclude that the amendments did not alter the fundamental basis on which the special leave applications were refused, namely that the grounds either were raised, or could and should have been raised, in previous proceedings. In such circumstances, granting the summonses would not have remedied the faults with the underlying application, nor would those amendments have provided a basis for a grant of special leave. The summonses were, as Keane and Edelman JJ observed, "part of the overall exercise in futility".

70. The summons filed on 27 February 2019[69] sought an extension of time in which to lodge written submissions in relation to the vexatious proceedings order, together with requests for further information and documents. In so far as the Applicant sought additional time to file written submissions, Keane and Edelman JJ refused to grant an adjournment for that purpose. This decision, and the consequent dismissal of the summons, was not affected by any reviewable error. In any event, as submitted above, the Applicant's submissions filed in these proceedings do not establish any reason why this Court should not affirm both the vexatious proceedings order and the refusal of the special leave applications.

Part VI ESTIMATE OF ORAL ARGUMENT

71. The Attorney-General estimates that he will require 1 hour to present his oral argument on the application.

Dated: 2 August 2018

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67 CAB 360, 379.
68 See Applicant's Submissions dated 11 June 2019, paragraph [20]; Applicant's Amended Submissions dated 10 July 2019, paragraph [48].
69 CAB 401.

***Re Conomy* P22/2019**

Chronology of proceedings filed and steps taken by the Applicant. Matters and materials that are not included or referred to in either the CAB or FMB are highlighted in yellow.

Date	Event	[2019] HCATrans 49	CAB / FMB
14 Aug 13	Applicant charged with offence under s 61(1) of the *Restraining Orders Act 1997* (WA) ("VRO breach").	L: 213-217	
15 Aug 13	Applicant charged with offence under s 338E(2) of the *Criminal Code 1913* (WA) ("stalking offence").	L: 86-90	CAB 107
7 Aug 14	Applicant convicted in the Magistrates' Court of stalking offence and fined $3,000.	L: 91-92	CAB 114
16 Jan 15	Applicant convicted in the Magistrates' Court of VRO breach and fined $1,200.	L: 217-218	FMB 64 L: 18-20
29 May 15	WA Supreme Court refuses leave to appeal stalking conviction: **[2015] WASC 179**.	L: 94-98	CAB 90
29 May 15	WA Supreme Court refuses leave to appeal VRO breach conviction: **[2015] WASC 178**.	L: 220-224	FMB 64 L: 20-24
18 Feb 16	WA Court of Appeal refuses leave to appeal stalking conviction: **[2016] WASCA 30**.	L: 100-104	CAB 60
18 Feb 16	WA Court of Appeal refuses leave to appeal VRO breach conviction: **[2016] WASCA 31**.	L: 225-229	FMB 64 L: 26-33
17 Mar 16	**P20 of 2016**: VRO breach Applicant lodges application for special leave to appeal from *Conomy v Maden* [2016] WASCA 31.	L: 231-235	FMB 64 L: 35-40
29 Apr 16	**P19 of 2016:** stalking Applicant files application for special leave to appeal from *Conomy v Maden* [2016] WASCA 30 (application dated 8 March 2016).	L: 106-107	CAB 413

Date	Event	[2019] HCATrans 49	CAB / FMB
16 May 16	**P19 of 2016:** stalking Gordon J directs the Registrar to refuse to issue or file the Summons dated 11 May 2016 in P19 of 2016 re filing appeal books from the court below etc.	L: 116-121	FMB 23
24 May 16	**P23 of 2016:** stalking Applicant files ex parte application for leave to issue a proceeding.	L: 129-136	FMB 21
3 Jun 16	**P23 of 2016:** stalking Nettle J refuses leave to file summons for directions (entitled "leave to issue a proceeding") in P19 of 2016.	L: 129-136	FMB 34
3 Jun 16	**P24 of 2016**: VRO breach Nettle J refuses leave to file summons for directions in P20 of 2016: **[2016] HCATrans 129**.	L: 260-265	
	P19 of 2016 (VRO breach) deemed to have been abandoned.	L: 106-107	
7 Jun 16	**P20 of 2016**: VRO breach Application deemed to have been abandoned.	L: 231-235	FMB 64-65 L: 42-46
12 Jul 16	**P19 of 2016**: stalking Applicant files application to reinstate P19 of 2016: **[2016] HCATrans 176**.		
29 Jul 16	**P19 of 2016**: stalking Gordon J grants reinstatement of SLA filed on 29 April 2016: **[2016] HCATrans 176**.	L: 108-110	
12 Oct 16	**P19 of 2016**: stalking Bell and Gageler JJ refuse special leave: **[2016] HCASL 242**.		CAB 432 FMB 20

Date	Event	[2019] HCATrans 49	CAB / FMB
7 Apr 17	**P20 of 2016**: VRO breach Applicant files summons seeking an order reinstating the application for special leave.	L: 231-235	FMB 65 L: 48-50
19 Apr 17	**P20 of 2016**: VRO breach Gordon J dismisses summons filed on 7 April 2017seeking reinstatement: **[2017] HCATrans 87**.	L: 231-235	FMB 65 L: 50-57
26 Apr 17	**P20 of 2016**: VRO breach Applicant seeks to reinstate P20 of 2016 and appeal against the orders of Gordon J refusing reinstatement.	L: 231-235	FMB 65-66 L: 59-107
17 May 17	**P20 of 2016**: VRO breach Nettle J refuses application to reinstate and to redetermine application already rejected by Gordon J. Registrar directed (globally) not to issue or file any further document in this proceeding without the leave of a Justice. **[2017] HCATrans 117**	L: 231-235 L: 237-244	FMB 63-67
1 Jun 17	**P24 of 2017**: VRO breach Applicant presents a further summons and supporting affidavit seeking to reinstate the application for special leave: **[2017] HCATrans 154**.		
15 Aug 17	**P24 of 2017**: VRO breach Keane J held the application filed on 1 June 2017 was bound to fail and refused the application for leave: **[2017] HCATrans 154**.	L: 267-272	

Date	Event	[2019] HCATrans 49	CAB / FMB
9 Nov 17	**P54 of 2017**: VRO breach An application for leave to issue or file a summons and affidavit seeking to reinstate the application for special leave is refused. Bell J noted the filing was an abuse of process: **[2017] HCATrans 225.**	L: 274-282	
7 Nov 17	**P19 of 2016**: stalking Applicant files a summons seeking to set aside the orders of Bell and Gagelar JJ made on 12 October 2016.	L: 116-121	FMB 68
22 Nov 17	**P19 of 2016**: stalking Edelman J directs the Registrar not to issue or file the Applicant's summons dated 7 November 2017, seeking to set aside the orders of Bell and Gagelar JJ made on 12 October 2016.	L: 116-121	FMB 68
13 Dec 17	**P67 of 2017**: stalking Applicant files ex parte application seeking leave to file documents in P19 of 2016.	L: 138-152	FMB 43
14 Mar 18	**P67 of 2017**: stalking Gordon J refuses leave to issue the summons dated 13 December 2017, noting it is an "abuse of process" in so far as it sought to redetermine Nettle J's order in P23 of 2016 or the refusal for special leave in P9 of 2016: **[2018] HCATrans 045.**	L: 129-136	FMB 95 FMB 185
23 Mar 18	**P63 of 2017**: VRO breach Kiefel CJ and Gageler J refuse application for leave: **[2018] HCASL 74.**	L: 306-310	
12 Apr 18	**P20 of 2018**: stalking Applicant files for leave to appeal the decision of Gordon J made on 14 March 2018.	L: 181-186	FMB 99

Date	Event	[2019] HCATrans 49	CAB / FMB
20 Apr 18	**P20 of 2018**: stalking Applicant files Summons seeking orders that the application was filed in time.	L: 181-186	FMB 180
27 Apr 18	**P23 of 2016**: stalking Applicant attempts to file summons.		FMB 199 FMB 258
27 Apr 18	**P24 of 2018**: VRO breach Applicant seeks leave to file summons.		FMB 250
9 May 18	**P23 of 2018**: stalking Nettle J directs the registrar to refuse to file or issue the document without leave.	L: 116-121	FMB 258
9 May 18	**P24 of 2018:** VRO breach Nettle J directs the registrar to refuse to file or issue the document without leave.	L: 249-253	FMB 250
30 May 18	**P21 of 2018**: VRO breach Following a hearing on 21 May 2018 (**[2018] HCATrans 103**), Nettle J dismisses application dated 19 April 2018 and further application dated 24 May 2018.	L: 285-289	
8 Jun 18	**P33 of 2018**: stalking Applicant files ex parte application for leave to file summons seeking a certified copy of the reasons of Nettle J in P23 of 2016.	L: 166-172	FMB 196 FMB 254
8 Jun 18	**P34 of 2018**: VRO breach Applicant files ex parte application for leave to file summons seeking a certified copy of the reasons of Nettle J in P24 of 2016.	L: 291-298	FMB 250
3 Aug 18	**P20 of 2018**: stalking Applicant files summons seeking reasons for the Bell and Gagelar JJ decision of 12 October 2016.	L: 181-186	FMB 191

Date	Event	[2019] HCATrans 49	CAB / FMB
15 Aug 18	**P20 of 2018**: stalking Kiefel CJ and Gageler J refuse leave to appeal: **[2018] HCASL 241**.	L: 181-186	FMB 194
30 Aug 18	**P19 of 2016**: stalking Applicant attempts to file summons.		FMB 224
12 Sep 18	**P33 of 2018** and **P34 of 2018**: stalking and VRO breach Edelman J refuses leave to file the applications: **[2018] HCATrans 182**.		FMB 213
12 Sep 18	**P33 of 2018**: stalking Reasons of Edelman J for refusing leave.	L: 188-193	FMB 215
12 Sep 18	**P34 of 2018**: VRO breach Reasons of Edelman J for refusing leave.	L: 291-298	FMB 249
17 Sep 18	**P19 of 2016**: stalking Bell J directs the registrar not to accept summons for filing.		FMB 224 FMB 297
21 Sep 18	**P48 of 2018**: stalking Applicant files ex parte application for leave to appeal decision of Bell J of 17 September 2018 directing the registrar not to issue or file a document, seeking to re-agitate the matters raised in P19 of 2016.	L: 154-164	FMB 220 FMB 292
5 Oct 18	**P52 of 2018**: stalking Application for leave to appeal from Edelman J's decision in P33 of 2018.	L: 188-193	FMB 232

Date	Event	[2019] HCATrans 49	CAB / FMB
17 Oct 18	**P48 of 2018**: VRO breach Keane J dismisses the application; there is no reason to grant leave to file the documents noting it was "an exercise in futility.": **[2018] HCATrans 212.**	L: 154-164	FMB 229 FMB 286
17 Oct 18	**P35 or 2018:** VRO breach Keane and Edelman JJ refuse leave to appeal (the application seeking leave to appeal the decision of Nettle J refusing leave to issue or file in P21 of 2018): **[2018] HCASL 306.**	L: 312-317	
17 Oct 18	**P41/2018**: VRO breach Bell and Gageler JJ refuse leave to appeal noting: Nettle J's reasons delivered on 17 May 2017 are plainly correct. Leave to appeal is for that reason to be refused. The summons filed on 20 July 2018 seeking various interlocutory orders, including an extension of time for filing an application for leave to appeal, is dismissed. **[2018] HCASL 316**	L: 326-330	
2 Nov 18	**P56 of 2018**: stalking Applicant files application for leave to appeal: setting aside the orders of Keane J in P48 of 2018 and permitting P19 of 2016 to be filed.	L: 195-200	FMB 274
14 Dec 18	**P52 of 2018** and **P53 of 2018**: stalking and VRO breach Bell and Gageler JJ refuse leave to appeal the decisions of Edelman J made on 12 September 2018: **[2018] HCASL 395**.	L: 188-193 L: 319-324	FMB 272
11 Jan 19	**P3 of 2019**: stalking Applicant files application for special leave re [2016] WASCA 30.		CAB 43

Date	Event	[2019] HCATrans 49	CAB / FMB
31 Jan 19	**P11 of 2019**: stalking Applicant files application for special leave re [2016] WASCA 30		CAB 193
6 Feb 19	**P56 of 2018**: stalking Nettle and Gordon JJ refusing leave to file the summons (and overturn Keane J's ruling in P48 of 2018): **[2019] HCASL 9.**	L: 195-200	FMB 302
13 Feb 19	HCA writes to the Applicant advising of the possibility of an order pursuant to s 77RN(3) and (4).		CAB 397
22 Feb 19	**P3 of 2019** and **P11 of 2019**: stalking Applicant files summonses seeking to amend his applications for special leave.	L: 344-350	CAB 360 CAB 379
27 Feb 19	**P3 of 2019** and **P11 of 2019**: stalking Applicant files summonses seeking extension of time to file submissions re potential vexatious litigant order.		CAB 401
6 Mar 19	**P3 of 2019** and **P11 of 2019**: stalking Hearing regarding all summonses and potential vexatious litigant order: **[2019] HCATrans 041.**	L: 201-209	CAB 37
20 Mar 19	**P3 of 2019** and **P11 of 2019**: stalking Keane and Edelman JJ refuse application for special leave and summonses.		CAB 1
20 Mar 19	**P3 of 2019** and **P11 of 2019** Keane and Edelman JJ make order pursuant to s 77RN(2): **[2019] HCATrans 049.**		CAB 16