



HIGH COURT BULLETIN

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[2019] HCAB 8 (25 October 2019)

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

1: Summary of New Entries	1
2: Cases Handed Down	3
3: Cases Reserved	9
4: Original Jurisdiction	17
5: Section 40 Removal	19
6: Special Leave Granted.....	20
7: Cases Not Proceeding or Vacated.....	31
8: Special Leave Refused.....	32

1: SUMMARY OF NEW ENTRIES

2: Cases Handed Down

Case	Title
<i>Connective Services Pty Ltd v Sleat Pty Ltd</i>	Companies
<i>BVD17 v Minister for Immigration and Border Protection</i>	Immigration
<i>Commissioner of Taxation of the Commonwealth of Australia v Sharpcan Pty Ltd</i>	Income Tax
<i>Mann v Paterson Constructions Pty Ltd</i>	Restitution
<i>The Queen v A2; The Queen v Magennis; The Queen v Vaziri</i>	Statutes

3: Cases Reserved

Case	Title
<i>Australian Securities and Investments Commission v King & Anor</i>	Corporations Law
<i>Grech v The Queen; Kadir v The Queen</i>	Evidence

<i>CNY17 v Minister for Immigration and Border Protection & Anor</i>	Migration Law
<i>Comptroller-General of Customs v Pharm-A-Care Laboratories Pty Ltd</i>	Taxation
<i>Franz Boensch as trustee of the Boensch Trust v Pascoe</i>	Trusts

[4: Original Jurisdiction](#)

[5: Section 40 Removal](#)

[6: Special Leave Granted](#)

Case	Title
<i>CXXXVIII v Commonwealth of Australia & Ors</i>	Administrative Law
<i>Coughlan v The Queen</i>	Criminal Law
<i>Hsiao v Fazarri</i>	Family Law
<i>ABT17 v Minister for Immigration and Border Protection & Anor</i>	Migration Law
<i>Lewis v The Australian Capital Territory</i>	Tort Law
<i>Berry & Anor v CCL Secure Pty Ltd</i>	Trade Practices

[7: Cases Not Proceeding or Vacated](#)

[8: Special Leave Refused](#)

2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the October 2019 sittings.

Companies

Connective Services Pty Ltd & Anor v Slea Pty Ltd & Ors
M203/2018: [\[2019\] HCA 33](#)

Judgment delivered: 9 October 2019

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

Catchwords:

Companies – Shares – Implied prohibition against financial assistance by company to acquire shares in company – Meaning of "financial assistance" – Where s 260A(1) of *Corporations Act 2001* (Cth) provides that company may financially assist a person to acquire shares in the company only if giving the assistance does not materially prejudice the interests of the company or its shareholders, or the company's ability to pay its creditors – Where appellant companies' constitutions contained pre-emption clause which provided that, before a shareholder could transfer shares of a particular class, those shares must first be offered to existing shareholders of that class in proportion to the number of shares of that class already held by that shareholder – Where sole shareholder of one shareholder company entered into agreements for sale of shares – Where appellant companies claimed that agreements breached pre-emptive rights provisions – Where injunction sought under s 1324 of *Corporations Act* to restrain appellant companies from prosecuting proceedings in relation to pre-emptive rights on basis that proceedings contravened the prohibition against financial assistance in s 260A(1) – Whether funding by company of legal proceedings directed at compelling one shareholder to offer shares to other shareholders is financial assistance – Whether the companies should be enjoined from continuing legal proceedings at their expense to vindicate alleged breach of pre-emptive rights.

Words and phrases – "acquisition of shares", "creditors", "financial assistance", "implied prohibition against financial assistance", "injunction", "material prejudice", "power to enforce company constitution", "pre-emptive rights", "shareholders".

Corporations Act 2001 (Cth) – ss 260A(1), 1324(1).

Appealed from VSC (CA): [\[2018\] VSCA 180](#); (2018) 341 FLR 208; (2018) 359 ALR 159; (2018) 129 ACSR 540

Held: Appeal dismissed; appellants to pay costs of first and second respondents.

[Return to Top](#)

Immigration

BVD17 v Minister for Immigration and Border Protection & Anor
S46/2019: [\[2019\] HCA 34](#)

Judgment delivered: 9 October 2019

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

Catchwords:

Immigration – Refugees – Application for protection visa – Immigration Assessment Authority ("Authority") – Review by Authority under Pt 7AA of *Migration Act 1958* (Cth) – Where decision by delegate of Minister for Immigration and Border Protection to refuse protection visa referred to Authority for review – Where Secretary of Department of Immigration and Border Protection gave Authority documents and information – Where Secretary notified Authority that s 473GB applied to documents and information – Where s 473GB(3) conferred discretions on Authority, upon notification, to have regard to matter in document or to information and to disclose matter in document or information to referred applicant – Where documents and information not disclosed to referred applicant during review – Where fact of notification not disclosed to referred applicant during review – Whether procedural fairness required Authority to disclose fact of notification to referred applicant.

Administrative law – Judicial review – Jurisdictional error – Procedural fairness – Where Div 3 of Pt 7AA, s 473GA and s 473GB provided exhaustive statement of natural justice hearing rule in relation to reviews by Authority – Whether implied obligation of procedural fairness precluded.

Words and phrases – "disclosure", "document or information", "exhaustive statement", "fact of notification", "natural justice hearing rule", "notification", "exclusion of procedural fairness".

Migration Act 1958 (Cth) – Pt 7AA.

Appealed from FCA (FC): [\[2018\] FCAFC 114](#); (2018) 261 FCR 35

Held: Appeal dismissed with costs.

[Return to Top](#)

Income Tax

Commissioner of Taxation of the Commonwealth of Australia v Sharpcan Pty Ltd

M52/2019: [\[2019\] HCA 36](#)

Judgment delivered: 16 October 2019

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

Catchwords:

Income tax (Cth) – Allowable deductions – Where taxpayer had received percentage of income derived from 18 gaming machines operated by authorised gaming operator under *Gambling Regulation Act 2003* (Vic) at its hotel premises – Where *Gambling Regulation Act* amended to provide for gaming machine entitlements ("GMEs") to be allocated directly to gaming venue operators – Where taxpayer bid for and was allocated 18 GMEs permitting it to operate gaming machines at its premises for ten years – Where taxpayer paid purchase price by instalments – Whether purchase price was outgoing on revenue account deductible under s 8-1 of *Income Tax Assessment Act 1997* (Cth) ("1997 Act") – Whether purchase price was expenditure incurred to preserve (but not enhance) value of goodwill in relation to legal or equitable right with value to taxpayer solely attributable to effect on goodwill deductible under s 40-880 of 1997 Act.

Words and phrases – "asset of enduring value", "barrier to entry", "blackhole expenditure", "capital account", "capital asset", "CGT asset", "CGT cost base", "CGT event", "gaming machine entitlements", "goodwill", "motive", "objective purpose", "once-and-for-all outgoing", "practical and business point of view", "purchase price funded out of revenue", "revenue account", "statutory rights", "structural solution".

Gambling Regulation Act 2003 (Vic) – Ch 3, Pt 4A.

Income Tax Assessment Act 1997 (Cth) – ss 8-1, 40-880.

Appealed from FCA (FC): [\[2018\] FCAFC 163](#); (2018) 262 FCR 151; (2018) 362 ALR 123

Held: Appeal allowed.

[Return to Top](#)

Restitution

Mann & Anor v Paterson Constructions Pty Ltd

M197/2018: [\[2019\] HCA 32](#)

Judgment delivered: 9 October 2019

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

Catchwords:

Restitution – Unjust enrichment – Work and labour done – Where land owners and builder entered into contract to which Domestic Building Contracts Act 1995 (Vic) applied – Where contract provided for progress payments at completion of stages – Where owners requested, and builder carried out, variations to plans and specifications in contract without giving written notice as required by s 38 of Act – Where owners repudiated contract after builder raised invoice claiming for variations – Where contract terminated by builder's acceptance of owners' repudiation – Whether s 38 of Act applied to limit amount recoverable by builder for variations – Whether builder entitled to recover in restitution as alternative to claim in damages for breach of contract – Whether contract price operated as ceiling on amount recoverable by way of restitution.

Words and phrases – "accrued rights", "alternative restitutionary remedy", "common counts", "completed stage", "contract price ceiling", "contractual incentives", "domestic building contract", "failure of basis", "failure of consideration", "limit on recovery", "measure of restitution", "notice", "primary and secondary obligations", "principle of legality", "protective provisions", "qualifying or vitiating factor", "quantum meruit", "quasi-contractual obligation", "repudiation", "restitution", "subjective devaluation", "unjust enrichment", "variations", "work and labour done".

Domestic Building Contracts Act 1995 (Vic) – ss 1, 3, 4, 16, 27, 38, 39, 53, 132.

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

Held: Appeal allowed with costs.

[Return to Top](#)

Statutes

The Queen v A2; The Queen v Magennis; The Queen v Vaziri
[S43/2019; S44/2019; S45/2019](#): [2019] HCA 35

Judgment delivered 16 October 2019

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

Catchwords:

Statutes – Construction – Where s 45(1)(a) of *Crimes Act 1900* (NSW) provides that a person who "excises, infibulates or otherwise mutilates the whole or any part of the labia majora or labia minora or clitoris of another person" is liable to imprisonment – Where two respondents charged with having "mutilated the clitoris" of each of complainants – Where other respondent charged with assisting those respondents following commission of those offences – Where defence case that procedure performed on complainants merely ritualistic – Where trial judge directed jury that word "mutilate" in context of female genital mutilation means "to injure to any extent" – Where trial judge directed jury that "clitoris" includes "clitoral hood or prepuce" – Whether "otherwise mutilates" should be given ordinary meaning or take account of context of female genital mutilation – Whether "clitoris" includes clitoral hood or prepuce – Whether trial judge misdirected jury as to meaning of "mutilate" and "clitoris".

Appeals – Where s 6(2) of *Criminal Appeal Act 1912* (NSW) provides that if appeal against conviction allowed, subject to special provisions of Act, Court of Criminal Appeal "shall ... quash the conviction and direct a judgment and verdict of acquittal to be entered" – Where s 8(1) provides that on appeal against conviction, Court of Criminal Appeal may order new trial if it considers that miscarriage of justice has occurred and it can be more adequately remedied by order for new trial than any other order – Where Court of Criminal Appeal allowed appeals against convictions based on construction of s 45(1)(a) of *Crimes Act* and on other grounds including that verdicts unreasonable or unsupported by evidence – Whether open to Court to quash conviction and decline to make further order – Whether sufficient evidence to warrant order for new trial – Whether matter should be remitted to Court of Criminal Appeal for redetermination of ground alleging that verdicts unreasonable or unsupported by evidence.

Words and phrases – "child abuse", "clitoris", "context", "de minimis injury", "female genital mutilation", "injury", "khatna", "mischief", "misdirected the jury", "mutilation", "offence provisions", "otherwise mutilates", "purposive construction", "ritualised circumcision", "sufficient evidence", "tissue damage", "umbrella term".

Crimes Act 1900 (NSW) – s 45.

Crimes (Female Genital Mutilation) Amendment Act 1994 (NSW).

Criminal Appeal Act 1912 (NSW) – ss 6(2), 8(1).

Appealed from NSWSC (CCA): [\[2018\] NSWCCA 174](#)

Held: Appeals allowed; matters remitted to New South Wales Court of Criminal Appeal.

[Return to Top](#)

3: CASES RESERVED

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

Constitutional Law

BMW Australia Ltd v Brewster & Anor

S152/2019: [\[2019\] HCATrans 153](#); [\[2019\] HCATrans 158](#)

Date heard: 13, 14 August 2019

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

Catchwords:

Constitutional law – Separation of powers – Acquisition of property on just terms – “Common fund order” in class action proceeding – Where Brewster is representative plaintiff in class action against BMW Australia Ltd – Whether Court of Appeal erred in concluding s 183 of *Civil Procedure Act 2005* (NSW) (“CPA”) empowered Supreme Court of New South Wales to make common fund order – Whether Court of Appeal erred in failing to conclude that insofar as s 183 of CPA empowered making of common fund order it was not picked up by s 79 of *Judiciary Act 1903* (Cth) because that would infringe Chapter III and/or s 51(xxxi) of *Constitution*.

Appealed from NSWSC (CA): [\[2019\] NSWCA 35](#); (2019) 366 ALR 171

[Return to Top](#)

Vella & Ors v Commissioner of Police (NSW) & Anor

S30/2019: [\[2019\] HCATrans 148](#); [\[2019\] HCATrans 149](#)

Date heard: 6, 7 August 2019

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

Catchwords:

Constitutional law – Judicial power – Incompatibility – Where proceeding commenced by first defendant in Supreme Court of New South Wales under *Crimes (Serious Crime Prevention Orders) Act 2016* (NSW) seeking orders against plaintiffs prohibiting contact with members and former members of any Outlaw Motor Cycle Gang and limiting travel and possession of encrypted communications devices – Where proceeding asserts involvement of

plaintiffs in serious crime-related activity for which plaintiffs have not been convicted in addition to conduct for which plaintiffs convicted – Whether s 5(1) of Act is invalid (in whole or in part) because it is inconsistent with and prohibited by Chapter III of Constitution.

Special Case referred to Full Court on 3 June 2019

[Return to Top](#)

Westpac Banking Corporation & Anor v Lenthall & Ors

S154/2019: [\[2019\] HCATrans 153](#); [\[2019\] HCATrans 158](#)

Date heard: 13, 14 August 2019

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

Catchwords:

Constitutional law – Separation of powers – Principle of legality – Acquisition on just terms – Where representative proceeding under Part IVA of *Federal Court of Australia Act 1976* (Cth) (“the Act”) – Where primary judge determined making of common fund order appropriate to do justice in proceedings – Whether Full Court erred in holding that properly construed s 33ZF of the Act empowers court to make common fund order – Whether Full Court erred in holding that s 33ZF permitted creation of right in litigation funder to share of any settlement or judgment in favour of a group member – Whether Full Court erred in holding principle of legality does not apply because common fund order “supports and fructifies” rather than diminishes rights of group members – Whether Full Court erred in holding s 33ZF conferred judicial power or power incidental to exercise of judicial power on court – Whether Full Court erred in holding neither s 33ZF nor common fund order resulted in acquisition of property for purposes of s 51(xxxi) of *Constitution* (Cth) – Whether Full Court erred in holding, if s 33ZF is law with respect to acquisition of property, it is not invalid because appellants failed to demonstrate group members would not receive pecuniary equivalent of property acquired.

Appealed from FCA (FC): [\[2019\] FCAFC 34](#); (2019) 265 FCR 21; (2019) 366 ALR 136

[Return to Top](#)

Corporations Law

Australian Securities and Investments Commission v King & Anor
B29/2019: [\[2019\] HCATrans 195](#)

Date heard: 9 October 2019

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

Catchwords:

Corporations law – Officers of corporation – Where Australian Securities and Investments Commission (“ASIC”) commenced civil penalty case against MFS Investment Management Ltd (“MFSIM”) and various directors, officers and employees of MFS Group of companies – Where proceedings against MFSIM resolved by consent but trial proceeded against individuals – Whether Court of Appeal erred by concluding that it was necessary for ASIC to prove that first respondent acted in an “office” of MFSIM in order for him to be an “officer” of MFSIM for purposes of ss 601FD and 9(b)(ii) of *Corporations Act 2001* (Cth).

Appealed from QSC (CA): [\[2018\] QCA 352](#); (2018) 134 ACSR 105

[Return to Top](#)

Criminal Law

De Silva v The Queen
B24/2019: [\[2019\] HCATrans 176](#)

Date heard: 4 September 2019

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

Catchwords:

Criminal law – Misdirection or non-direction – Where appellant acquitted of one count of rape and convicted of another count of rape – Where appellant neither gave nor called evidence at trial – Where appellant’s account of events contained in recording of police interview was tendered by prosecution – Where, in summing up, trial judge addressed evidence of appellant’s interview with police – Whether trial judge’s failure to tell jury that, even if they did not positively believe appellant’s account, they could not find against him if his answers gave rise to reasonable doubt, amounted to a miscarriage of justice – Whether Court of Appeal erred in finding that a *Liberato* direction not required if defendant not give evidence.

Appealed from QSC (CA): [\[2018\] QCA 274](#)

[Return to Top](#)

Fennell v The Queen

[B20/2019](#): [\[2019\] HCATrans 186](#)

Date heard: 11 September 2019 – appeal allowed, acquittal entered, reasons to be published at a later date

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

Catchwords:

Criminal law – Where appellant convicted by jury of murder – Where appellant contended that there was reasonable hypothesis consistent with innocence open on evidence – Whether Court of Appeal erred in failing to find that verdict was unreasonable or could not be supported having regard to evidence, in part because it made significant errors of fact.

Appealed from QSC (CA): [\[2017\] QCA 154](#)

[Return to Top](#)

HT v The Queen & Anor

[S123/2019](#): [\[2019\] HCATrans 179](#)

Date heard: 10 September 2019

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

Catchwords:

Criminal law – Procedural fairness – Public interest immunity – Where appellant pleaded guilty to five counts of obtaining money by deception and six counts of dishonestly obtaining a financial advantage by deception – Where Crown appeal resulted in longer sentence of imprisonment – Where appellant as respondent to Crown appeal denied access to evidence admitted in sentencing proceedings which may have provided basis for reduction in sentence – Whether appellant was denied procedural fairness at hearing of Crown appeal against sentence by being refused access to evidence regarding her assistance to authorities on basis of public interest immunity – Whether Court of Criminal Appeal erred in exercising its discretion in s 5D of *Criminal Appeal Act 1912* (NSW) to vary sentence imposed on appellant.

Appealed from NSWSC (CCA): *R v HT* (unreported, New South Wales Court of Criminal Appeal, 17 July 2017)

[Return to Top](#)

Lordianto & Anor v Commissioner of the Australian Federal Police; Kalimuthu & Anor v Commissioner of the Australian Federal Police
S110/2019; P17/2019: [\[2019\] HCATrans 150](#); [\[2019\] HCATrans 151](#)

Date heard: 7, 8 August 2019

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

Catchwords:

Criminal law – Proceeds of crime – Where large number of deposits were made into bank accounts in amounts of less than \$10,000 – Whether each Court of Appeal misconstrued “third party” in s 330(4)(a) of *Proceeds of Crime Act 2002* (Cth) to exclude person who acquires property at time it becomes proceeds or an instrument of an offence – Whether each Court of Appeal wrongly interpreted term “sufficient consideration” in ss 330(4)(a) and 338 as requiring connection between third party acquirer of property and person from whom property passed – Whether each Court of Appeal erred in interpreting and applying “circumstances that would not arouse a reasonable suspicion, that the property was proceeds of an offence or an instrument of an offence” in s 330(4)(a).

S110/2019 appealed from NSWSC (CA): [\[2018\] NSWCA 199](#); (2018) 337 FLR 17

P17/2019 appealed from WASC (CA): [\[2018\] WASCA 192](#); (2018) 340 FLR 1

[Return to Top](#)

Evidence

Grech v The Queen; Kadir v The Queen
S163/2019; S160/2019: [\[2019\] HCATrans 199](#)

Date heard: 15 October 2019

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

Catchwords:

Evidence – Discretionary exclusion – Where evidence obtained improperly or illegally – *Evidence Act 1995* (NSW) – Whether New South Wales Court of Criminal Appeal (“CCA”) erred in finding appealable error in trial judge’s decision on basis that trial judge did

not assess each item of evidence individually – Whether CCA erred in finding error in trial judge’s finding that s 138 factors governing exclusion of recordings “directly applicable” to other evidence obtained as consequence of illegally obtained recordings – Whether CCA erred in its application of s 138 by failing to apply correctly onus of proof and taking into account considerations contrary to evidence and failing to take into account material consideration.

Appealed from NSWSC (CCA): [\[2017\] NSWCCA 288](#)

[Return to Top](#)

Migration Law

CNY17 v Minister for Immigration and Border Protection & Anor
M72/2019: [\[2019\] HCATrans 202](#)

Date heard: 16 October 2019

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

Catchwords:

Migration law – Fast track review process – Apprehended bias – Where Secretary of Department of Immigration and Border Protection provided documents to Immigration Assessment Authority (“IAA”) – Where documents contained information about criminal conviction, charges, and appellant’s conduct while in immigration detention – Whether in considering apprehended bias Full Court erred in finding that materials not prejudicial – Whether Full Court erred in failing to find decision of IAA vitiated by apprehended bias – Whether Full Court erred in failing to find IAA obliged to afford opportunity to appellant to comment on materials before it in circumstances where their existence not known to appellant – Whether Full Court erred in finding it was open to delegate to lawfully form view documents relevant to task of IAA – Whether Full Court erred in failing to find review conducted by IAA led to a decision made in excess of jurisdiction.

Appealed from FCA (FC): [\[2018\] FCAFC 159](#); (2018) 264 FCR 87

[Return to Top](#)

Taxation

Comptroller-General of Customs v Pharm-A-Care Laboratories Pty Ltd

S161/2019: [\[2019\] HCATrans 203](#)

Date heard: 17 October 2019

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

Catchwords:

Taxation – Customs and Excise – Tariff classification – Classifying vitamin preparations and garcinia preparations – Medicaments – Whether Full Court erred in holding Administrative Appeals Tribunal (“Tribunal”) had not erred in construing Note 1(a) to Chapter 30 of Sch 3 of *Customs Tariff Act 1995* (Cth) (“Act”) – Whether Full Court erred in holding that Tribunal had not erred in construing heading 2106 of Act.

Appealed from FCA (FC): [\[2018\] FCAFC 237](#); (2018) 262 FCR 449

[Return to Top](#)

Tort Law

State of New South Wales v Robinson

S119/2019: [\[2019\] HCATrans 175](#)

Date heard: 3 September 2019

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

Catchwords:

Tort law – False imprisonment and wrongful arrest – Where respondent suspected of breach of apprehended violence order by police officer – Where respondent was arrested under s 99 of *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) – Where no decision to charge made at time of arrest – Whether Court of Appeal erred in concluding that for an arrest to be lawful under s 99 there is implied requirement that arresting officer intend to charge arrested person with offence.

Appealed from NSWSC (CA): [\[2018\] NSWCA 231](#)

[Return to Top](#)

Trusts

Franz Boensch as trustee of the Boensch Trust v Pascoe

S216/2019: [\[2019\] HCATrans 198](#)

Date heard: 11 October 2019

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

Catchwords:

Trusts – Bankruptcy – Where respondent trustee in bankruptcy found to hold caveatable interest in real property held by bankrupt on trust by operation of s 58(1) of *Bankruptcy Act 1966* (Cth) – Whether Full Court erred in concluding any caveatable interest vested in respondent – Where claim under s 74P of *Real Property Act 1900* (NSW) for compensation in relation to lodging and maintenance of caveat over piece of real property against trustee in bankruptcy – Whether permissible for trustee in bankruptcy to claim in his caveat under s 74P(1) of *Real Property Act* inconsistent interests in Rydalmere property – Whether existence of caveatable interest rendered it unnecessary for Court to embark upon enquiry of whether trustee in bankruptcy lodged caveat, or failed or refused to remove it, “without reasonable cause”.

Appealed from FCA (FC): [\[2018\] FCAFC 234](#); (2018) 264 FCR 25; (2018) 365 ALR 24; (2018) 133 ACSR 268; (2018) 16 ABC(NS) 365

[Return to Top](#)

4: ORIGINAL JURISDICTION

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

Constitutional Law

Smethurst & Anor v Commissioner of Police & Anor

[S196/2019](#): *Special Case*

Catchwords:

Constitutional law – Implied freedom of political communication – Where members of Australian Federal Police executed search warrant issued under s 3E of *Crimes Act 1914* (Cth) at residential premises of journalist – Where warrant specified contravention of s 79(3) of Act by journalist – Where order made under s 3LA of Act directed to journalist requiring information and assistance to be provided – Where plaintiffs seek to have warrant and s 3LA order quashed – Whether s 79(3), as it stood on 29 April 2018, invalid on ground that it infringed implied freedom of political communication in *Constitution* (Cth) – Whether warrant invalid because misstates substance of s 79(3), does not state offence with sufficient precision, and/or s 79(3) was invalid – Whether s 3LA order invalid.

Special Case referred to Full Court on 6 September 2019

[Return to Top](#)

Migration Law

Love v Commonwealth of Australia; Thoms v Commonwealth of Australia

[B43/2018](#); **[B64/2018](#)**: [\[2019\] HCATrans 90](#)

Date part heard: 8 May 2019

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

Catchwords:

Migration law – Where Love born in Papua New Guinea to Australian father – Where Love identifies as descendant of Kamilaroi tribe – Where Love has five Australian children – Where Love was sentenced for an offence of assault occasioning bodily harm against s 339 of *Criminal Code 1899* (Qld) and sentenced to imprisonment

of 12 months – Where Love’s Class BF Transitional (permanent) Visa cancelled under s 501(3A) of *Migration Act 1958* (Cth) – Where Love detained under s 189 of *Migration Act 1958* (Cth) on suspicion of being an “unlawful non-citizen” – Where cancellation of Love’s visa revoked under s 501CA(4) of *Migration Act* and Love released from immigration detention – Where Thoms born in New Zealand to Australian mother – Where Thoms identifies as member of Gungari People – Where Thoms has one Australian child – Where Thoms sentenced to imprisonment of 18 months for assault occasioning bodily harm contrary to ss 339(1) and 47(9) of *Criminal Code* – Where Thoms’ Subclass 444 Special Category (temporary) Visa cancelled under s 501(3A) of *Migration Act* – Where Thoms was and remains detained purportedly under s 189 of *Migration Act* on suspicion of being an “unlawful non-citizen” – Whether each of Love and/or Thoms an “alien” within meaning of s 51(xix) of *Constitution* (Cth).

Special Cases referred to Full Court on 5 March 2019

[Return to Top](#)

5: SECTION 40 REMOVAL

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

Constitutional Law

KMC v Director of Public Prosecutions (SA)

[A20/2019](#): *Removed into the High Court under s 40 of the Judiciary Act 1903 (Cth) on 30 August 2019*

Catchwords:

Constitutional law – Ch III of *Constitution* (Cth) – Invalidity – Where appellant convicted of one count of persistent sexual exploitation of child contrary to s 50 of *Criminal Law Consolidation Act 1935* (SA) (“CLCA”) – Where CLCA repealed on 24 October 2017 and *Statutes Amendment (Attorney-General’s Portfolio) (No 2) Act 2017* (SA) (“Amendment Act”) commenced – Whether s 9(1) of Amendment Act invalid because it impermissibly directs manner or outcome of exercise of appellate jurisdiction, impermissibly impairs institutional integrity of appellate court and/or sentencing court, and/or amounts to or involves an exercise of part of judicial power by Parliament of South Australia in manner contrary to scheme of Ch III of *Constitution*.

Removed from Full Court of the Supreme Court of South Australia (Court of Criminal Appeal)

[Return to Top](#)

6: SPECIAL LEAVE GRANTED

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

Administrative Law

CXXXVIII v Commonwealth of Australia & Ors

A11/20019: [\[2019\] HCATrans 206](#)

Date heard: 18 October 2019 – *Special leave granted.*

Catchwords:

Administrative law – Criminal investigation – Where summonses and notices to produce issued pursuant to determinations made by Board of Australian Criminal Intelligence Commission under *Australian Crime Commission Act 2002* (Cth) (“Act”) – Whether first and second determinations validly made within scope of power in s 7C of Act – Whether second summons to appear before Examiner and second notice to produce validly issued pursuant to determinations – Whether second notice to attend and produce valid and not in excess of power in s 21A of Act – Whether Board of Commission can validly make determination which creates as a “special investigation” an “investigation” yet to be identified or undertaken.

Appealed from FCA (FC): [\[2019\] FCAFC 54](#); (2019) 366 ALR 436; (2019) 164 ALD 33

[Return to Top](#)

Hocking v Director-General of the National Archives of Australia

S262/2019: [\[2019\] HCATrans 160](#)

Date heard: 16 August 2019 – *Special leave granted.*

Catchwords:

Administrative law – Where access sought under *Archives Act 1983* (Cth) to records, being correspondence (original or copies) received and sent by former Governor-General or Official Secretary to and from Queen – Whether correspondence is “Commonwealth record” within meaning of Act, or is excluded as personal or private – Whether records created or received in corresponding with Monarch in performance of office of Governor-General are property of Commonwealth or personal property of Governor-General.

Appealed from FCA (FC): [\[2019\] FCAFC 12](#); (2019) 264 FCR 1; (2019) 366 ALR 247

[Return to Top](#)

Consumer Protection

Moore v Scenic Tours Pty Ltd

S285/2019: [\[2019\] HCATrans 189](#)

Date heard: 13 September 2019 – *Special leave granted on limited grounds.*

Catchwords:

Consumer protection – Disappointment and distress damages – Where representative proceedings brought on behalf of passengers who paid for and travelled on European river cruises supplied by respondent – Where number of cruises seriously disrupted by high water levels on rivers – Where seeking compensation for loss of value and damages for disappointment and distress – Whether s 275 of Australian Consumer Law (“ACL”) operates to apply s 16 of *Civil Liability Act 2002* (NSW) as Commonwealth law to direct court exercising federal jurisdiction in how to fix damages under s 267(4) of ACL for breach of statutory guarantees in ss 60 and 61 of ACL – Whether s 16 limited to cases where tort claim governed by NSW law or death or injury suffered in NSW – Whether claim under s 267(4) for damages for disappointment and distress constituted claim governed by s 16 – Whether Court of Appeal erred in finding that claim for damages under s 267(4) of ACL unrelated to bodily injury or psychiatric illness constituted claim for “personal injury” and “personal injury damages” and claim for “pain and suffering” or “loss of amenities of life” so as to be governed by s 16 of *Civil Liability Act*.

Appealed from NSWSC (CA): [\[2018\] NSWCA 238](#); (2018) 339 FLR 244; (2018) 361 ALR 456

[Return to Top](#)

Criminal Law

Coughlan v The Queen

B43/2019: [\[2019\] HCATrans 205](#)

Date heard: 18 October 2019 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Unsafe and unsatisfactory verdict – Arson and attempted fraud – Circumstantial evidence – Where house exploded as applicant was walking from back yard – Whether Court of Appeal misapplied *M v The Queen* (1994) 181 CLR 487 by merely identifying pathway to jury's guilty verdict rather than weighing matters militating against guilty verdict to determine whether jury should have had reasonable doubt as to applicant's guilt.

Appealed from QSC (CA): [\[2019\] QCA 65](#)

[Return to Top](#)

Pickett v The State of Western Australia; Mead v The State of Western Australia; Mead v The State of Western Australia; Anthony v The State of Western Australia; TSM (A Child) v The State of Western Australia

[P45/2019; P46/2019; P47/2019; P48/2019; P49/2019](#): [\[2019\] HCATrans 181](#)

Date determined: 11 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Derivative criminal liability – Where victim killed by stab wound to chest inflicted in course of attack by group of eight males – Where eight males ranged in age from 11 years to 29 years – Where State unable to prove beyond reasonable doubt which of them inflicted fatal stab wound – Where State did not prove that 11 year old had capacity under s 29 of *Criminal Code* (WA) – Whether appellants could be guilty by operation of ss 7(b), 7(c), or 8 of *Criminal Code* (WA) of offence founded upon act of 11 year old alleged co-offender when act of that child did not constitute offence because prosecution had not proved that child was criminally responsible for act.

Appealed from WASC (CCA): [\[2019\] WASCA 79](#)

[Return to Top](#)

Singh v The Queen; Nguyen v The Queen

[D16/2019; D15/2019](#): [\[2019\] HCATrans 159](#)

Date heard: 16 August 2019 – *Special leave granted.*

Catchwords:

Criminal law – Prosecutor’s duties regarding “mixed statement” records of interview containing both inculpatory and exculpatory material – Where Crown chose not to adduce applicant’s record of interview of 8 June 2017 – Whether Crown’s decision not to adduce record of interview deprived applicant of reasonable chance of acquittal – Whether prosecution ordinarily required by duty of fairness to tender “mixed statement” record of interview at trial of accused when it is admissible – Whether prosecution permitted to decline to tender “mixed statement” records of interview for purely tactical reasons.

D16/2019 appealed from NTSC (CCA): [\[2019\] NTCCA 8](#)

D15/2019 appealed from NTSC (FC): [\[2019\] NTSC 37](#)

[Return to Top](#)

Strbak v The Queen

B55/2019: [\[2019\] HCATrans 180](#)

Date determined: 11 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Sentencing – Right to silence – Where appellant pleaded guilty to manslaughter of four year old son but contested factual basis of conviction – Where sentencing judge applied *R v Miller* [2004] 1 Qd R 548 which held that sentencing judge may more readily accept or draw inferences from prosecution evidence which is uncontradicted – Where contended before Queensland Court of Appeal that *Miller* is wrong and should be revisited because it impermissibly infringes on right to silence – Whether refusing to reconsider *Miller* was constructive failure by Queensland Court of Appeal to exercise its jurisdiction.

Appealed from QSC (CA): [\[2019\] QCA 42](#)

[Return to Top](#)

Swan v The Queen

S291/2019: [\[2019\] HCATrans 193](#)

Date heard: 13 September 2019 – *Special leave granted.*

Catchwords:

Criminal law – Causation – Where accused and another tried and convicted for murder – Where victim died almost eight months after assault – Where assault caused victim serious injuries amounting to

grievous bodily harm – Where victim died due to complications from fractured hip not sustained during assault – Whether Crown case theory on cause of death not supported by evidence and should not have been left to jury – Whether miscarriage of justice resulted from crown prosecutor’s closing address about causation.

Appealed from NSWSC (CCA): [\[2018\] NSWCCA 260](#)

[Return to Top](#)

The Queen v Guode

M75/2019: [\[2019\] HCATrans 100](#)

Date heard: 17 May 2019 – *Special leave granted on limited grounds.*

Catchwords:

Criminal law – Sentencing — Manifest excess – Infanticide, murder and attempted murder — Where mother caused death of three children and attempted to kill fourth — Where mother pled guilty — Where mother had had traumatic life and suffered a major depressive disorder as consequence of giving birth to her youngest child — Whether mother suffering from post-traumatic stress disorder – Whether Court of Appeal erred in taking into account as relevant consideration in making its determination as to manifest excess fact that prosecution had accepted plea to infanticide in respect of Charge 1 on the indictment.

Appealed from VSC (CA): [\[2018\] VSCA 205](#)

[Return to Top](#)

Evidence

Commonwealth of Australia v Helicopter Resources Pty Ltd & Ors

S217/2019: [\[2019\] HCATrans 197](#)

Date part heard: 10 October 2019

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

Catchwords:

Evidence – Admissions made with authority – Where coronial inquest commenced and summary criminal proceedings brought against company and Commonwealth of Australia – Where subpoena issued to company’s employee to give evidence at hearing in inquest, with proposed topics relating to matters

required to be proved in criminal prosecution – Whether s 87(1)(b) of *Evidence Act 2011* (ACT) has effect that, by reason of any answers given by employee, company is itself being compelled to provide that information – Whether s 87(1)(b) dictates that employee answers will be admitted into evidence in prosecution if adduced by prosecutor or co-accused – Whether s 87(1)(b) has effect that exercise of compulsory power with respect to employee will compromise protections afforded to accused company by accusatorial process – Whether accusatorial principle require accused company to be protected by precluding employees from being subject to such compulsory power or preventing prosecution or co-accused from learning how accused company may defend charge – Whether compulsory attendance of employee for questioning is inconsistent with accusatorial process.

Appealed from FCA (FC): [\[2019\] FCAFC 25](#); (2019) 264 FCR 174; (2019) 365 ALR 233

[Return to Top](#)

Family Law

Hsiao v Fazarri

M50/2019: [\[2019\] HCATrans 196](#)

Date determined: 10 October 2019 – *Special leave granted.*

Catchwords:

Family law – Property proceedings – Order under s 79 of *Family Law Act 1975* (Cth) – Where agreement between parties intended to apply to property settlement proceedings but does not fall within Pt VIIIA or Div 4 of Pt VIIIAB of Act – Whether circumstances in which additional 40% legal interest in property obtained and Deed of Gift were distractions in disposition of Full Court appeal – Whether admission of further evidence would have produced different result in Full Court and would not be against interests of justice – Whether trial judge failed to take Deed of Gift into account in making property settlement order – Whether finding of contributions failed to take into account legal interest in property prior to marriage.

Appealed from FamCA (FC): [\[2019\] FamCAFC 37](#)

[Return to Top](#)

Migration Law

ABT17 v Minister for Immigration and Border Protection & Anor
M65/2019: [\[2019\] HCATrans 207](#)

Date heard: 18 October 2019 – *Special leave granted on limited grounds.*

Catchwords:

Migration law – Protection visa – Where delegate accepted as plausible that applicant had been sexually tortured – Where such claim not accepted by Immigration Assessment Authority (“IAA”) – Whether IAA decision tainted by jurisdictional error due to failure to exercise discretion under s 473DC of *Migration Act 1958* (Cth) to invite applicant to give new information in form of interview – Whether failure of IAA to exercise its s 473DC discretion was material to decision and constituted jurisdictional error.

Appealed from FCA (FC): [\[2019\] FCA 613](#)

[Return to Top](#)

Native Title

State of Western Australia v Manado & Ors; State of Western Australia v Augustine & Ors; Commonwealth of Australia v Augustine & Ors; Commonwealth of Australia v Manado & Ors
P34/2019; P35/2019; P36/2019; P37/2019: [\[2019\] HCATrans 132](#)

Date heard: 21 June 2019 – *Special leave granted on condition.*

Catchwords:

Native title – Native title interest – Determinations of native title – Whether Full Federal Court erred in holding that existing public access to and enjoyment of waterways, beds and banks or foreshores of waterways, coastal waters or beaches located upon Crown land below high water mark, confirmed by s 14 of *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) in accordance with s 212(2) of *Native Title Act 1993* (Cth), was not a right or privilege in connection with land or waters within definition of "interest" in s 253 of *Native Title Act* – Whether, to be included in determination of native title, is it necessary for public access and enjoyment to be an "interest", as defined in s 253 of *Native Title Act* – Whether existing public access to and enjoyment of waterways, beds and banks or foreshores of waterways, coastal waters or beaches located on unallocated Crown land should be

stated in a determination of native title made in accordance with s 225 of *Native Title Act*.

Appealed from FCA (FC): [\[2018\] FCAFC 238](#); (2018) 265 FCR 68; (2018) 364 ALR 337

[Return to Top](#)

Statutory Interpretation

Binsaris v Northern Territory of Australia; Webster v Northern Territory of Australia; O'Shea v Northern Territory of Australia; Austral v Northern Territory of Australia

[D11/2019; D12/2019; D13/2019; D14/2019](#): [\[2019\] HCATrans 163](#)

Date heard: 16 August 2019 – *Special leave granted*.

Catchwords:

Statutory interpretation – Power of superintendent of youth detention centre – Use of CS gas (form of tear gas) in youth detention centre – Where prison officers called upon to assist at youth detention centre – Where CS gas was deployed – Whether exemption in s 12(2) of *Weapons Control Act* (NT) applied to deployment of CS gas by prison officer at youth detention centre – Whether superintendent's general power under s 152(1) of *Youth Justice Act* (NT) limited by s 153(3).

Appealed from NTSC (CA): [\[2019\] NTCA 1](#); (2019) 343 FLR 41

[Return to Top](#)

Private International Law

Mackellar Mining Equipment Pty Ltd and Dramatic Investments Pty Ltd t/as Partnership 818 & Anor v Thornton & Ors

[B56/2019](#): [\[2019\] HCATrans 188](#)

Date heard: 13 September 2019 – *Special leave granted on limited grounds*.

Catchwords:

Private international law – Restraint of foreign proceedings – Where plane crash in Queensland killed two pilots and 13 passengers – Where respondents, relatives of deceased, commenced proceedings against appellants in Missouri in May 2008 – Where appellants

brought application in March 2017 in Queensland Supreme Court for permanent anti-suit injunction in respect of Missouri proceedings – Whether complete relief was available in Queensland proceedings and nothing additional could be gained in Missouri proceedings – Whether continuation of Missouri proceeding, after all foreign parties removed, was vexatious or oppressive or otherwise unconscionable within *CSR Ltd v Cigna Insurance Australia Ltd* (1997) 189 CLR 345.

Appealed from QSC (CA): [\[2019\] QCA 77](#); (2019) 367 ALR 171

[Return to Top](#)

Taxation

BHP Billiton Limited (now named BHP Group Limited) v Commissioner of Taxation

B28/2019: [\[2019\] HCATrans 93](#)

Date determined: 15 May 2019 – *Special leave granted.*

Catchwords:

Taxation – Where appellant is part of dual-listed company arrangement with non-resident company – Where third company (BMAG) indirectly owned by appellant and non-resident company – Where BMAG derived income from sale of commodities purchased from non-resident company’s Australian subsidiaries – Whether non-resident company’s Australian subsidiaries were “associates” of BMAG within meaning of s 318 of *Income Tax Assessment Act 1936* (Cth) – Whether BMAG, appellant and/or non-resident company were “sufficiently influenced” by appellant and/or non-resident company within meaning of s 318(6) – Whether Full Court erred in concluding that a person or entity acts “in accordance with” directions, instructions or wishes of another entity for purposes of s 318(6)(b) if person or entity merely acts “in harmonious correspondence, agreement or conformity with” those directions, instructions or wishes – Whether Full Court should have found that, in order to act “in accordance with” directions, instructions or wishes of another entity for purposes of s 318(6)(b) a person or entity must treat that other entity’s directions, instructions or wishes as themselves being a sufficient reason so to act – Whether Full Court erred in finding that at a minimum appellant and BHP Billiton Plc each acted “in accordance with” the “directions, instructions or wishes” of the other for purposes of s 318(6)(b) – Whether Full Court should have concluded that such actions were not done “in accordance with” the “directions, instructions or wishes” of the other for purposes of s 318(6)(b).

Appealed from FCA (FC): [\[2019\] FCAFC 4](#); (2019) 263 FCR 334; (2019) 366 ALR 206; (2019) 134 ACSR 550

[Return to Top](#)

Commissioner of State Revenue v Rojoda Pty Ltd

P26/2019: [\[2019\] HCATrans 103](#)

Date heard: 17 May 2019 – *Special leave granted.*

Catchwords:

Taxation – Stamp duty assessment – Partnership – Winding up of partnership – Nature of partners’ proprietary rights in partnership assets – Whether Court of Appeal erred in holding that after dissolution of partnership but prior to completion of its winding up where surplus of assets each former partner has specific and fixed beneficial or equitable interest in assets comprising a surplus – Whether cl 3 of two deeds each constituted declarations of trust for the purposes of s 11(1)(c) of *Duties Act 2008* (WA).

Appealed from WASC (CA): [\[2018\] WASCA 224](#); (2018) 368 ALR 734

[Return to Top](#)

Tort Law

Lewis v The Australian Capital Territory

C9/2019: [\[2019\] HCATrans 200](#)

Date determined: 16 October 2019 – *Special leave granted.*

Catchwords:

Torts – False imprisonment – Compensatory damages – Vindictory damages – Principle of inevitability – Where offender sentenced to 12 months’ imprisonment to be served by periodic detention – Where Sentence Administration Board (“Board”) cancelled periodic detention without giving offender opportunity to decide whether to attend before Board – Where offender arrested and imprisoned for 82 days – Where Board’s decision a nullity and imprisonment held to be unlawful – Where offender awarded nominal damages of \$1 – Whether offender would have been lawfully imprisoned if had not been unlawfully imprisoned and therefore not entitled to substantial compensatory damages – Whether entitled to vindictory damages.

Appealed from ACTSC (CA): [\[2019\] ACTCA 16](#)

[Return to Top](#)

Trade Practices

Berry & Anor v CCL Secure Pty Ltd
S189/2019: [\[2019\] HCATrans 204](#)

Date heard: 18 October 2019 – *Special leave granted.*

Catchwords:

Trade practices – Misleading and deceptive conduct and fraud – Measuring damages – Where misleading, deceptive and fraudulent conduct used to obtain signature terminating Agency Agreement – Whether damages to be assessed pursuant to s 82 of *Trade Practices Act 1974* (Cth) – Whether person guilty of misleading and deceptive conduct and fraud cannot be heard to say that lawful means were available for inflicting same harm – Whether, for purposes of reducing damages, respondent failed to discharge onus of proving possibility or probability of lawful means being used to end Agency Agreement.

Appealed from FCA (FC): [\[2019\] FCAFC 81](#)

Appealed from FCA (FC): [\[2019\] FCAFC 92](#)

[Return to Top](#)

7: CASES NOT PROCEEDING OR VACATED

[Return to Top](#)

8: SPECIAL LEAVE REFUSED

Publication of Reasons: 10 October 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Broadbent	Australian Medical Board (B48/2019)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 139	Application Dismissed [2019] HCASL 308
2.	CAO16	Minister for Home Affairs & Anor (M91/2019)	Federal Court of Australia [2019] FCA 920	Application Dismissed [2019] HCASL 309
3.	DHM17	Minister for Immigration and Border Protection & Anor (M97/2019)	Federal Court of Australia [2019] FCA 1071	Application Dismissed [2019] HCASL 310
4.	Dowling	Seven Network (Operations) Limited & Anor (S145/2019)	Application for removal	Applications Dismissed with costs [2019] HCASL 311
	Dowling	Capilano Honey Ltd & Anor (S162/2019)	Application for removal	
	Dowling	Jane Doe 1 & Ors (S197/2019)	Application for removal	
5.	EEZ18	Minister for Home Affairs & Anor (S228/2019)	Federal Court of Australia [2019] FCA 959	Application Dismissed [2019] HCASL 312
6.	Karim	Minister for Home Affairs & Anor (S241/2019)	Federal Court of Australia [2019] FCA 1064	Application Dismissed [2019] HCASL 313
7.	ALP15	Minister for Immigration and Border Protection & Anor (S244/2019)	Federal Court of Australia [2019] FCA 1123	Application Dismissed [2019] HCASL 314
8.	AQK17	Minister for Immigration and Border Protection & Anor (S249/2019)	Federal Court of Australia [2019] FCA 1176	Application Dismissed [2019] HCASL 315
9.	CYD17	Minister for Home Affairs & Anor (B41/2019)	Federal Court of Australia [2019] FCA 869	Application Dismissed with costs [2019] HCASL 316
10.	Copper Mines of Tasmania Pty Ltd	The Honourable Elise Archer Attorney-General for the State of Tasmania & Anor (H3/2019)	Supreme Court of Tasmania (Full Court) [2019] TASFC 4	Application Dismissed with costs [2019] HCASL 317

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
11.	ACL17	Minister for Home Affairs & Anor (S194/2019)	Federal Court of Australia [2019] FCA 753	Application Dismissed with costs [2019] HCASL 318

[Return to Top](#)

Publication of Reasons: 16 October 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Newett	Newett & Anor (B47/2019)	Full Court of the Family Court of Australia	Application Dismissed [2019] HCASL 319
2.	CRC16	Minister for Home Affairs & Anor (M88/2019)	Federal Court of Australia [2019] FCA 663	Application Dismissed [2019] HCASL 320
3.	DGC18	Minister for Home Affairs (S97/2019)	Federal Court of Australia [2019] FCA 268	Application Dismissed [2019] HCASL 321
4.	BRJ18	Minister for Home Affairs (S100/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed [2019] HCASL 322
5.	SZRBN & Ors	Minister for Immigration and Border Protection & Anor (S209/2019)	Federal Court of Australia [2019] FCA 995	Application Dismissed [2019] HCASL 323
6.	CDP16	Minister for Immigration and Border Protection & Anor (S240/2019)	Federal Court of Australia [2019] FCA 1054	Application Dismissed [2019] HCASL 324
7.	Cmunt & Anor	Snowy Monaro Regional Council (S245/2019)	Supreme Court of New South Wales (Court of Appeal) [2018] NSWCA 237	Application Dismissed [2019] HCASL 325
8.	Zepinic	Chateau Constructions (Aust) Ltd (S248/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 187	Application Dismissed [2019] HCASL 326
9.	Strahan	Strahan (A9/2019)	Full Court of the Family Court of Australia	Application Dismissed with costs [2019] HCASL 327
10.	Scandi International Pty Ltd & Ors	Larkfield Industrial Estates Pty Ltd (M81/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 109	Application Dismissed with costs [2019] HCASL 328
11.	ESQ17	Minister for Immigration and Border Protection & Anor (S207/2019)	Federal Court of Australia [2019] FCA 826	Application Dismissed with costs [2019] HCASL 329
12.	DJV17	Minister for Home Affairs & Anor (C8/2019)	Federal Court of Australia [2019] FCA 955	Application Dismissed with costs [2019] HCASL 330
13.	DOB18	Minister for Home Affairs (S150/2019)	Full Court of the Federal Court of Australia [2019] FCAFC 63	Application Dismissed with costs [2019] HCASL 331
14.	Shannon & Anor	Steinmetz (S180/2019)	Supreme Court of New South Wales (Court of Appeal) [2019] NSWCA 114	Application Dismissed with costs [2019] HCASL 332

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
15.	BOW17	Minister for Home Affairs (S136/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 333
16.	MZAKA	Minister for Home Affairs (S137/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 334
17.	SZRGA & Ors	Minister for Home Affairs (S138/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 335
18.	CVH16	Minister for Home Affairs (S139/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 336
19.	DVM16	Minister for Home Affairs (S140/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 337
20.	CVI18	Minister for Home Affairs (S158/2019)	Federal Court of Australia [2019] FCA 250	Application Dismissed with costs [2019] HCASL 338

[Return to Top](#)

Publication of Reasons: 17 October 2019

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Result</i>
1.	Howley	Ghan (A15/2019)	Supreme Court of South Australia [2019] SASC 4	Application Dismissed [2019] HCASL 339
2.	Gramotnev	Queensland University of Technology (B42/2019)	Supreme Court of Queensland (Court of Appeal) [2019] QCA 108	Application Dismissed [2019] HCASL 340
3.	Miller	Martin & Ors (M92/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 86	Applications Dismissed [2019] HCASL 341
	Miller	Martin & Ors (M93/2019)	Supreme Court of Victoria (Court of Appeal) [2019] VSCA 86	
4.	Annam	Minister for Immigration and Border Protection & Anor (M94/2019)	High Court of Australia [2019] HCATrans 135	Application Dismissed [2019] HCASL 342
5.	BLS17	Minister for Immigration and Border Protection & Anor (M102/2019)	Federal Court of Australia [2019] FCA 1079	Application Dismissed [2019] HCASL 343
6.	Jabbar	Gade & Anor (S61/2019)	Full Court of the Family Court of Australia	Applications Dismissed [2019] HCASL 344
	Jabbar	Gade & Anor (S62/2019)	Full Court of the Family Court of Australia	
7.	DGS17	Minister for Immigration and Border Protection & Anor (S227/2019)	Federal Court of Australia [2019] FCA 962	Application Dismissed [2019] HCASL 345
8.	Gohil	Minister for Home Affairs & Anor (S230/2019)	Federal Court of Australia [2019] FCA 977	Application Dismissed [2019] HCASL 346
9.	EBY17	Minister for Immigration and Border Protection & Anor (S233/2019)	Federal Court of Australia [2019] FCA 222	Application Dismissed [2019] HCASL 347
10.	EAJ18	Minister for Home Affairs & Anor (S236/2019)	Federal Court of Australia [2019] FCA 1057	Application Dismissed [2019] HCASL 348

[Return to Top](#)

18 October 2019: Melbourne

<i>No.</i>	<i>Applicant</i>	<i>Respondent</i>	<i>Court appealed from</i>	<i>Results</i>
1.	BYE17	Minister for Home Affairs & Anor (M67/2019)	Federal Court of Australia [2019] FCA 441	Application refused with costs [2019] HCATrans 208

[Return to Top](#)