



Supreme Court of NSW Court of Appeal

Decisions Reserved as at 13 May 2022

	Number	Case Name	Heard	Issues	Judgment Below
1	2020/00310603; 2020/00310609; 2020/00310590; 2020/00311015; 2020/00311016; 2020/00311017	Clancy v Plaintiff D; Clancy v Plaintiff A; Clancy v Plaintiff C; Bird v Plaintiff C; Bird v Plaintiff D; Bird v Plaintiff A	19/07/2021	TORTS (other) – first appellant owned 99% of shares in second appellant, which was a childcare centre – third respondent who worked at childcare centre was arrested and charged with two offences after a child made disclosures about him – “B” and “D” made disclosures about third respondent with police investigations resulting in criminal charges laid against him in relation to “B”, but none were laid in relation to “D” – “A” and “C” are “B” and “D”’s mothers respectively and also pursued claims for breach of contract due to childcare’s failure to provide quality childcare and to ensure that children were safe and adequately cared for – primary judge found in favour of “A”, “B”, “C” and “D” – whether primary judge erred in concluding that disclosures made by the four children and the admissions of third respondent were admissible as tendency evidence – whether primary judge erred in finding that “Child 1”	<i>Plaintiff A and B v Bird; Plaintiff C v Bird; Plaintiff D v Bird</i> [2020] NSWSC 1379

				<p>was unavailable to give evidence – whether primary judge erred in finding that third respondent’s admissions were admissible against appellants – whether primary judge erred as to certain factual findings – whether primary judge erred in finding that appellants were negligent – whether primary judge erred in finding that appellants created and enhanced the risk of abuse which materialised – whether primary judge erred as to findings on vicarious liability – whether primary judge erred as to findings on a breach of duty of care – whether primary judge erred as to findings on breach of contract – whether primary judge erred as to the award of damages</p>	
2	2020/234084	Muriniti v Kalil	25/08/2021	<p>COSTS – underlying proceedings concerned claims in defamation, in which the defendant was at all times represented by the appellants – first respondent alleged that the appellants exhibited serious incompetence in their legal representation, and provided inadequate defences with respect to the claim of defamation – primary judge made personal costs orders against appellants – whether primary judge erred in not applying the correct test with respect to a finding of liability relating to serious incompetence pursuant to s 99 of the Civil Procedure Act 2005 (NSW) – whether primary judge erred by failing to provide adequate reasons – whether primary judge erred in not finding that the respondents were motivated by an improper collateral purpose in making the personal costs application – whether primary judge erred as</p>	<p><i>Kalil v Eppinga</i> [2020] NSWDC 407</p>

				to certain factual findings – whether primary judge erred by taking into account irrelevant considerations – whether primary judge erred by failing to take into account relevant considerations – whether primary judge erred by denying the appellants procedural fairness – whether primary judge erred by failing to consider submissions made on behalf of the appellants – whether primary judge’s conduct and reasons gave rise to a reasonable apprehension of bias	
3	2021/194026; 2021/197122	State of New South Wales v Kaiser	21/09/2021	CRIME – appellant sought orders that the respondent be made the subject of an extended supervision order pursuant to the Crimes (High Risk Offenders) Act 2006 (NSW) – issue as to whether, for the purpose of the application of s 5B(b) of the Act, the appellant had shown that the respondent was a “supervised offender” – primary judge held that the respondent was not a supervised offender – whether primary judge erred in finding that the respondent was not a “supervised offender”	<i>State of New South Wales v Kaiser</i> [2021] NSWSC 646
4	2021/167145	Canterbury-Bankstown Council v Payce Communities Pty Ltd	7/12/2021	BUILDING AND CONSTRUCTION – building variations for construction of library – acceptance of expert evidence – whether variations properly incurred - failure to consistently require that a variation to be in writing notwithstanding a finding that they should be so – failure to apply consistently a methodology to assessing damages - failing to include GST in calculation of amount owing – whether evidence to support 10% margin on costs by builder – whether award to respondent was more than entitled under the	<i>Payce Communities Pty Ltd v Canterbury-Bankstown Council</i> [2021] NSWSC 331; <i>Payce Communities Pty Ltd v Canterbury-Bankstown Council (No 4)</i> [2021] NSWSC 558

				contract	
5	2021/163352	Reid v Commonwealth Bank of Australia	22/02/2022	PROCEDURE – summary dismissal – deed of release - resolution of dispute by sale of applicant’s property by respondent – property vandalised prior to settlement with purchaser - respondent allowed \$370,000 as adjustment – whether respondent negligently allowed property to be damaged – whether deed ought to be set aside – whether primary Judge failed to consider pleading – whether denial of procedural fairness in not allowing applicant to seek to amend pleading	<i>Reid v Commonwealth Bank of Australia</i> [2021] NSWDC 225
6	2022/17218	Irlam v Byrnes	24/02/2022	TORTS (negligence) – appellant brought proceedings in negligence and battery against the respondent over a motor vehicle incident – primary judge found in favour of respondent – whether primary judge erred by admitting or having regard to certain evidence – whether primary judge erred as to certain factual findings – whether primary judge erred as to the assessment of contributory negligence	Lower court decision not available on Caselaw

7	2019/110615	Nyunt v First Property Holdings Pte Ltd	4/03/2022	<p>ADMINISTRATIVE LAW (other) – refusal to set aside registration of judgments under <i>Foreign Judgments Act 1991</i> (Cth) – whether respondent had submitted to jurisdiction of Singapore Courts – whether Joint Venture Agreement properly construed included a submission to the jurisdiction of Singapore Courts – whether Singapore Courts had jurisdiction when the facts particularised were already the subject of litigation in Myanmar – whether applicant had adequate notice of proceedings in order to defend – whether enforcement of judgment contrary to public policy</p>	<p><i>First Property Holdings Pte Ltd v Nyunt</i> [2019] NSWSC 249</p>
8	2021/235929	Sun v Chapman	11/03/2022	<p>SUCCESSION – the appellant sought a family provision order in the proceedings below, on the basis that she was the alleged de facto partner of the deceased – an issue arose as to whether the appellant and the deceased were in a de facto relationship at the time of his death – primary judge found in favour of the respondent – whether primary judge erred in failing to find that the appellant and the deceased were in a de facto relationship at the time of his death – whether primary judge erred in failing to find that there were factors which warranted the making of the application by the appellant, in circumstances where the primary judge found that the appellant and deceased were living in a close personal relationship at the time of his death</p>	<p><i>Sun v Chapman</i> [2021] NSWSC 955</p>

9	2021/165193	Zong v Wang	14/03/2022	<p>TRADE PRACTICES – in 2018, discussions took place between first appellant and respondent concerning a proposed boating business venture – respondent alleged that first appellant made six representations to him which were misleading or deceptive within the meaning of s 18 of the ACL – primary judge found in favour of respondent – whether primary judge erred in determining that the first appellant’s representations were made in “trade or commerce” – whether primary judge erred by incorrectly making findings in relation to certain representations which had not been pleaded by the respondent – whether primary judge erred in his findings as to reliance and causation – whether primary judge erred as to the assessment of damages</p>	<i>Wang v Zong</i> [2021] NSWDC 181
10	2021/173153	Williams v Fraser	17/03/2022	<p>MEDICAL NEGLIGENCE – undiagnosed congenital pars defect – radiologist failed to report of existence of defect – where appellant subsequent work alleged to have cause deterioration of her condition – whether no damage following breach of duty – whether primary Judge failed to address that condition would have stabilised with appropriate exercise – whether loss of chance</p>	<i>Williams v Fraser</i> [2021] NSWSC 416

11	2021/195267	Morris v Leaney	18/03/2022	<p>TORTS (negligence) – the appellants were the registered proprietors of property located in Kings Creek, NSW – in 2014, the appellants decided that they would develop their property to accommodate their growing family and their desire to have a “forever home” – the appellants brought proceedings against the respondent architect, in respect of an alleged breach of duty of care and misleading or deceptive conduct, as they alleged that he led them to believe that they could build their dream home within their financial limits – primary judge found in favour of respondent – whether primary judge erred in finding that the appellants suffered no loss – whether primary judge erred as to certain factual findings</p>	<i>Morris v Leaney</i> [2021] NSWDC 224
12	2021/87464	Joldzic v Patrick	21/03/2022	<p>MOTOR ACCIDENTS – appellant was struck by the respondent’s vehicle in a motor accident in 2012, to which the respondent admitted that she breached her duty of care to the appellant – however, from about February 2016, the appellant suffered from an atypical psychotic disorder – issue arose as to whether by reason of her involvement in the motor vehicle accident in 2012, the appellant suffered personal injury in the form of mental harm and, if she did, whether any mental harm caused by that accident led to her current predicament – primary judge awarded the appellant damages in the sum of just under \$44k – whether primary judge erred in the quantum of damages assessed – whether primary judge erred in finding that the appellant’s incapacity would have come about independently of the motor vehicle accident –</p>	<i>Joldzic (bht Joldzic) v Patrick</i> [2021] NSWDC 55

				whether primary judge erred in failing to find that the appellant's incapacity for employment in the future was caused by the psychological impact of the accident	
13	2021/299083	Centuria Property Funds Ltd v Thorn Australia Pty Ltd	24/03/2022	CONTRACT – the respondent sought declaratory relief to the effect that it had not entered into a binding lease or agreement for lease, as lessee, with the appellants, as lessors, in respect of certain commercial premises in Eveleigh – underlying issue as to whether the respondent had delivered certain deeds so as to become bound by them – primary judge found in favour of respondent – whether primary judge erred as to certain factual findings – whether primary judge erred as to the construction of the relevant agreement	<i>Thorn Australia Pty Ltd v Centuria Property Funds Ltd</i> [2021] NSWSC 1217

14	2021/181818	Chisak v Presot	25/03/2022	<p>SUCCESSION – issue as to whether the deceased lacked testamentary capacity when making her will – primary judge found in favour of the respondents – whether primary judge erred as to certain factual findings – whether primary judge erred in finding that the deceased had capacity – whether primary judge erred in relying on certain evidence – whether primary judge erred by failing to take into account certain evidence – whether primary judge failed to give adequate reasons in preferring the evidence of one expert over that of another expert – whether primary judge erred in not considering whether suspicious circumstances existed – whether primary judge erred in finding that the appellant was not an eligible person pursuant to s 57(1)(e) of the <i>Succession Act 2006</i> (NSW) – whether primary judge erred by failing to make adequate provision for the proper maintenance, education or advancement in life of the appellant</p>	<i>Chisak v Presot</i> [2021] NSWSC 597
15	2021/282503	Amaca Pty Ltd v Cleary	29/03/2022	<p>TORTS (negligence) – the deceased was employed by the appellant between 1962 and 1964 at its Camellia factory and plant – whilst the appellant conceded that the deceased developed asbestos related pleural plaques, it disputed the claims for compensation for lung cancer and asbestosis injuries – primary judge found in favour of the respondent – whether the primary judge erred by failing to accept certain expert evidence – whether the primary judge erred as to certain factual findings</p>	<i>Roseanne Cleary as the Legal Personal Representative of the Estate of the late Fortunato (aka Frank) Gatt v Amaca Pty Ltd</i> [2021] NSWDDT 5

16	2021/204042	Dwyer v Volkswagen Group Pty Ltd	30/03/2022	<p>TRADE PRACTICES – the appellant brought representative proceedings on behalf of some 83,000 persons who purchased Volkswagen vehicles in which a Takata driver side airbag was installed between 2007 and 2018 – the appellant claimed that his vehicle was not of acceptable quality because, by reason of the installation of the Takata airbag, the vehicle was not free from defects and was not safe – primary judge found in favour of the respondent – whether primary judge erred in failing to find that the appellant’s vehicle was not of acceptable quality at the time of the supply to the appellant, within the meaning of s 54 of the Australian Consumer Law – whether primary judge erred as to certain factual findings – whether primary judge erred by importing a negligence or fault standard into a strict liability regime – whether primary judge erred by rejecting certain expert evidence – whether primary judge ought to have held that the appellant was entitled to damages under s 272 of the ACL</p>	<p><i>Dwyer v Volkswagen Group Australia Pty Ltd t/as Volkswagen Australia</i> [2021] NSWSC 715</p>
17	2021/293686	Trustees for the Roman Catholic Church for the Diocese of Lismore v GLJ	31/03/2022	<p>PROCEDURE – dismissal of permanent stay – where applicant has no records nor access to senior persons who could provide instructions – where conduct alleged was not the grooming of males but a single sexual assault against a female – whether applicant unable to meaningfully engage with the claim for vicarious liability – application of <i>The Council of Trinity Grammar School v Anderson</i> [2019] NSWCA 292.</p>	<p><i>GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore</i> [2021] NSWSC 1204</p>

18	2021/257944	MP Water Pty Ltd v Veolia Water Australia Pty Ltd	4/04/2022	CONTRACT- declaration - construction of "step-in" right in a long term services agreement – notice given in exercise of that right - whether applicant entitled to give notice – whether gave power to applicant to direct the respondent as to its operations rather than operate the facility	<i>MP Water Pty Ltd v Veolia Water Australia Pty Ltd (No 3)</i> [2021] NSWSC 1023
19	2021/210509	Shepherd v State of NSW	5/04/2022	TORTS (other) – assault – shoulder charge by police officer - whether the primary judge failed to give proper weight to certain evidence – whether the primary judge erred by failing to give adequate reasons – whether the primary judge erred by making certain factual findings in the absence of evidence	Lower court decision not available on Caselaw
20	2021/269258	Dogramaci v DPP	5/04/2022	ADMINISTRATIVE LAW (judicial review) – whether appellant was denied the opportunity to cross-examine a particular witness – whether appellant was denied justice – whether primary judge displayed bias towards appellant	Lower court decision not available on Caselaw

21	2021/321969	Secretary, Dept of Communities and Justice v KH	6/04/2022	ADMINISTRATIVE (other) – judicial review sought of orders made in <i>Children and Young Person (Care and Protection) Act 1998</i> (NSW) – whether misconstrued requirement in s83(5) that there be a “realistic possibility of restoration within a reasonable period” – whether failed to apply s9(1) in consideration the safety, welcome and well-being of child being paramount – whether taking into account alleged denial of procedural fairness in Children’s Court	<i>KH v Secretary, Department of Communities and Justice</i> [2021] NSWDC 498
22	2021/240231	Massoud v Nationwide News Pty Limited	12/04/2022	DEFAMATION – appellant was suspended and dismissed from his employment as a journalist for a statement that he made to an 18-year-old cadet – the appellant brought proceedings against the respondent media organisations for misquoting what he said in otherwise factually correct reports – primary judge found in favour of the respondents – whether primary judge erred in his findings as to imputations and contextual imputations – whether primary judge erred in upholding the defence of justification – whether primary judge erred as to the assessment of damages	<i>Massoud v Radio 2GB Sydney Pty Ltd; Massoud v Fox Sports Australia Ltd; Massoud v Commonwealth Broadcasting Corporation Pty Ltd; Massoud v Nine Digital Pty Ltd; Massoud v Nationwide News Pty Ltd</i> [2021] NSWDC 336

23	2022/20519	Clark v Attorney General of NSW	14/04/2022	<p>ADMINISTRATIVE LAW (judicial review) – crime – appeal and review – application pursuant to s 78 of the <i>Crimes (Appeal and Review) Act 2001</i> (NSW) – on 26 June 2009, Applicant was convicted of one count of doing an act with one count of doing an act with intent to pervert the course of justice contrary to s 319 of the <i>Crimes Act 1900</i> (NSW) and one count of aggravated sexual intercourse with a child between 14 and 16 years of age contrary to s 66C(4) of the <i>Crimes Act 1900</i> (NSW) – Applicant’s appeal against conviction dismissed in 2011 – in October 2017, Applicant made application under s 78 of the <i>Crimes (Appeal and Review) Act 2001</i> (NSW) for a review of his convictions – that application was dismissed – application for judicial review of that decision was subsequently also dismissed – Applicant brought a fresh application for review of his convictions pursuant to s 78 – Applicant contended that his convictions ought to be referred for inquiry by a judicial officer on various bases – that Crown withheld evidence and misdirected jury – that jury verdicts were inconsistent and/or unreasonable – that convictions on counts relating to single event offended rule against double jeopardy – judge dismissed application for review – whether judge fell into jurisdictional error – by proceeding on misapprehensions of fact and law – by failing to address arguments put by Applicant</p>	<p><i>Application by Peter Frederick Clark pursuant to s 78 of the Crimes (Appeal and Review) Act 2001 (NSW) [2021]</i> NSWSC 1364</p>
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24	2021/286249	Bryant v Quinn	19/04/2022	<p>CONTRACT – the respondent uncle sued his appellant niece for the repayment of monies in excess of \$100,000 – the appellant claimed that the monies were a gift, and were not provided to her by way of loan – primary judge found in favour of respondent – whether primary judge erred as to certain factual findings – whether primary judge erred by making findings on the basis of a conditional gift, which had not been pleaded by the respondent – whether primary judge erred by denying the appellant procedural fairness</p>	<i>Quinn v Bryant</i> [2021] NSWDC 570
25	2021/189912	Nitopi v Nitopi	21/04/2022	<p>SUCCESSION – the appellant and respondent were respectively daughter and son of the deceased – the respondent alleged that the appellant took unconscientious advantage of the deceased, who was suffering a special disadvantage of which the appellant ought to have known – primary judge found in favour of the respondent – whether primary judge erred as to certain factual findings – whether primary judge erred in concluding that since the appellant had notice of the deceased’s special disadvantage, there was an equitable presumption that she unconscientiously took advantage of the opportunities presented by that disadvantage – whether primary judge erred in finding that constructive notice or notice less than actual notice of the special disadvantage was sufficient – whether primary judge erred by making findings not available on the evidence</p>	<i>Estate of Nitopi (No 2)</i> [2021] NSWSC 748

26	2020/257794	Nashco Pty Ltd v Yang	21/04/2022	<p>CONTRACT – the appellant is a fabricator of metal building materials and, between July 2018 and October 2019, supplied these goods to Grand Metal Pty Ltd pursuant to a contractual arrangement – in the proceedings below, Grand Metal claimed damages from the appellant arising out of the appellant’s failure to allow it to purchase goods on credit up to \$1,400,000, which Grand Metal claimed was a breach of an implied term of the contract – by cross-claim, the appellant sought to recover from Grand Metal and also from the respondent guarantors the balance that it contended was owing to it by Grand Metal, totalling some \$940,000 – primary judge held that the appellant’s claims against the respondent guarantors be dismissed – whether primary judge erred in not giving full effect to the guarantees – whether primary judge erred in his interpretation of the deed of assignment – whether primary judge erred in failing to give reasons</p>	<p><i>Grand Metal Pty Ltd v Nashco Pty Ltd</i> [2021] NSWSC 1005</p>
27	2021/152128	Eddy v Goulburn Mulwaree Council	26/04/2022	<p>TORTS (negligence) – appellant sustained injuries when he fell on a ramp outside a shopping centre in Goulburn, which he alleged that the respondent Council had a duty to take care, control and management of – whether primary judge erred in applying s 45 of the <i>Civil Liability Act 2002</i> (NSW) – whether primary judge erred as to certain factual findings – whether primary judge erred in finding that the respondent did not have actual or constructive knowledge of the particular risk</p>	<p><i>Ricky Eddy v Goulburn Mulwaree Council and Golden Star Import & Export Pty Ltd</i> [2021] NSWDC 150</p>

28	2021/268236	O'Connor v O'Connor	27/04/2022	<p>EQUITY – the appellants claimed that in 2005, they entered into an oral agreement with the respondent, who held 75% of the shares in an earth-moving services company (the Company), that the respondent would transfer to them an 8.33% shareholding in the company for \$150,000 – each appellant claimed that they paid the money, but were never issued with any shares in the company or entered onto its share register – in July 2015, the parties settled their disputes by entering into a Settlement Deed, which provided for the Company to pay the appellants certain sums of money, and under which they released the respondent and the Company from all claims – in late 2014, Calibre Group Limited approached the Company, and expressed an interest in acquiring 100% of the shares in the Company – the appellants claimed that the respondent owed them a fiduciary duty to disclose the existence of the Calibre offer, and that they were entitled to equitable compensation – primary judge found in favour of the respondent – whether primary judge erred as to certain factual findings – whether primary judge erred by failing to find that the respondent breached a fiduciary duty owed to the appellants</p>	<p><i>O'Connor v O'Connor</i> [2021] NSWSC 1056</p>
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29	2021/195258	Hobhouse v Macarthur- Onslow	28/04/2022	<p>LAND LAW – appellant and first respondent are siblings who were parties to a deed of settlement and release made in February 2021 – the deed conferred a number of options to purchase different properties on each of the appellant and first respondent – the present dispute involved a 60 day option given to the first respondent to purchase an apartment in Darling Point, which was to expire on 23 April 2021 – the first respondent purported to exercise it by a notice given on 22 April 2021, however the purchase price had not yet been determined in accordance with the deed – issue as to whether, on the proper construction of the deed, the call option could be exercised before the purchase price had been determined in accordance with the deed – primary judge found in favour of first respondent – whether primary judge erred by failing to find that the determination of the purchase price of the property was a condition precedent to the exercise of the option – whether primary judge erred as to the construction of the deed – whether primary judge erred as to certain factual findings</p>	<p><i>Hobhouse v Mount Gilead Pty Ltd</i> [2021] NSWSC 684</p>
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30	2021/328205; 2021/328225	McMurchy v Employsure Pty Ltd; Kumaran v Employsure Pty Ltd	29/04/2022	CONTRACT – restraint of trade – whether first applicant bound by restraint in contract – whether restraint unreasonable – whether breach of fiduciary obligation by accepting employment with second applicant whilst still employed by respondent – whether first applicant induced an employee of respondent to leave – whether second applicant knowingly assisted the first applicant in the breaches	<i>Employsure Ltd v McMurchy</i> [2021] NSWSC 1179
31	2021/247771	Ali v Insurance Australia Ltd	2/05/2022	INSURANCE – separate question – claim under policy made more than six years after refusal of claim – whether action statute barred - construction of respondent’s promise to indemnify under policy – whether time ran from refusal of claim or from incident - whether <i>Globe Church Inc v Allianz Australia Insurance Ltd</i> [2019] NSWCA 27 ought to be confined or distinguished	<i>Ali v Insurance Australia Ltd</i> [2021] NSWDC 369
32	2021/288657	Health Care Complaints Commission v Robinson	3/05/2022	DISCIPLINARY PROCEEDINGS – medical practitioner – Respondent is a medical practitioner – Appellant applied to the Occupational Division of the New South Wales Civil and Administrative Tribunal for disciplinary findings and orders under the Health Practitioner Regulation National Law 2009 (NSW) – in relation to consultation with a patient referred to as Patient A – Appellant alleged that Respondent was guilty of unsatisfactory professional conduct by conducting a physical examination of Patient	<i>Health Care Complaints Commission v Robinson</i> [2021] NSWCATOD 142

				<p>A's breasts and abdomen without medical indication – Respondent conceded that adequate clinical records of the consultation had not been kept – Appellant alleged that the particulars of the complaints against Respondent amounted to professional misconduct – Tribunal held that whilst Respondent was guilty of unsatisfactory professional conduct in relation to the consultation with Patient A, he was not guilty of professional misconduct – whether Tribunal failed to give adequate reasons for conclusion that Respondent was not guilty of professional misconduct – whether Tribunal failed to conduct an assessment of the degree to which the Respondent's conduct fell short of the expected professional standard – whether Tribunal failed to consider effect of Respondent's conduct on reputation of and confidence in the medical profession – whether Tribunal erroneously took account of clinical basis for breast examination – whether Tribunal failed to consider inherent sexuality of Respondent's conduct</p>	
33	2021/364497	Commonwealth of Australia v Kupang Resources Limited	3/05/2022	<p>PROCEDURE – setting aside a notice to produce for production of confidential taxpayer information of non-parties to proceedings – effect of subdivision 355-B in Part 5-1 of Ch 5 of Sch 1 of Taxation Administration Act 1953 (Cth) – whether Act applies to notice to produce – whether Court can order disclosure merely because it assesses that it would enable a fair trial – whether there is a distinction between production to party or to the Court</p>	<p><i>Kupang Resources Pty Ltd v Commonwealth of Australia</i> [2021] NSWSC 1580</p>

34	2021/364260	BSA Advanced Property Solutions (Fire) Pty Ltd v Ventia Australia Pty Ltd	4/05/2022	<p>BUILDING AND CONSTRUCTION – First Respondent is a company providing maintenance and facilities-management services – First Respondent entered into head contract with NSW Land and Housing Corporation to provide services in respect of approx. 68,000 social housing properties – in May 2016, First Respondent subsequently entered into subcontract with Appellant for provision of fire safety services and equipment – First Respondent would issue “work orders” to Appellant in respect of specific works to be performed under the subcontract – in February 2021, First Respondent terminated subcontract – Appellant served payment claim on First Respondent, pursuant to s 13 of the Building and Construction Industry Security of Payment Act 1999 (NSW), in the sum of \$2.98 million – particulars of payment claim itemised according to “work orders” – First Respondent objected to payment claim on basis that it was brought in respect of multiple contracts – First Respondent contended that each work order constituted a separate contract – over objection of First Respondent, adjudicator issued determination in favour of Appellant in the sum of \$2.69 million – First Respondent commenced proceedings seeking to quash adjudicator’s determination on basis of its objection – Appellant argued that payment claim prima facie related solely to the subcontract – primary judge found in favour of First Respondent and quashed adjudicator’s determination – whether primary judge erred</p>	<p><i>Ventia Australia Pty Ltd v BSA Advanced Property Solutions (Fire) Pty Ltd</i> [2021] NSWSC 1534</p>
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				<p>in concluding that a payment claim “in respect of” multiple contracts is invalid – whether primary judge erred in finding that this was a jurisdictional issue to be determined by a court – whether primary judge failed properly to consider Appellant’s argument that payment claim “prima facie” related to a single contract – whether primary judge erred in concluding that each “work order” constituted a separate contract – whether primary judge erred in failing to conclude that payment claim concerned a single “arrangement” between the parties – whether primary judge erred in application of subcontract to s 34 of the Building and Construction Industry Security of Payment Act</p>	
35	2022/106590; 2021/74201	Morsingh v Health Care Complaints Commission	9/05/2022	<p>DISCIPLINARY – cancellation of registration under s149C(1)(B) of Health Practitioner Regulation National Law (NSW) – alleged touching of patient’s breasts during examination - whether seriousness of conduct warranted cancellation – whether right to practice with restrictions ought to have to ordered</p>	Lower court decision not available on Caselaw

36	2021/326602	Khadarou v Antarakis	10/05/2022	SUCCESSION – the appellant applied for a family provision order under s 59 of the Succession Act 2006 (NSW) in respect of the deceased's estate, on the basis that he and the deceased were living in a close personal relationship at the time of the death of the deceased – primary judge dismissed the application – whether primary judge erred as to certain factual findings	<i>Khadarou v Antarakis</i> [2021] NSWSC 743
37	2021/204029	Ming v DPP	12/05/2022	JUDICIAL REVIEW (other) – judicial review of criminal appeal from Local Court to District Court – whether jurisdiction error in failing to provide reasons for finding that applicant acted dishonestly – whether charge should have failed when conduct relied upon as deception did not accompany the transmissions of funds – failure to identify basic facts contended for by the Crown – failure to take into account relevant evidence – whether failed to address that request was actually honest	<i>Ming v R</i> [2021] NSWDC 223