



Supreme Court of NSW Court of Appeal

Decisions Reserved as at 17 September 2021

	Number	Case Name	Heard	Issues	Judgment Below
1	2020/256675	McIntosh v Morris	24/02/2021	COSTS – costs after settlement of proceedings – oral application for indemnity costs – whether offer of compromise accepted - procedural fairness - admission of evidentiary documents without permitting applicants to make objections – failure to consider the applicants' affidavits - bias	Lower court decision not available on Caselaw

2	2021/5136	Twigg v Twigg	19/03/2021	<p>EQUITY – first appellant director of corporate trustee used money borrowed on security over the corporate trustee’s assets to acquire a number of properties for himself and caused trust funds to be distributed to himself – claims brought for breach of fiduciary duties or knowing receipt of trust property – primary judge found in favour of respondents – whether primary judge erred in certain factual findings – whether primary judge made findings not based on or contrary to the evidence – whether primary judge erred in finding that respondents had established the existence of a dishonest intent on the part of first appellant – whether primary judge erred in failing to find that the claims of the respondents were statute barred by operation of s 21 of the Limitations of Actions Act 1958 (Vic) – whether primary judge erred in failing to find that the doctrine of laches barred the grant of proprietary relief in favour of respondents – whether primary judge erred in his application of tracing principles</p>	<p>Twigg v Twigg (No 4); Lambert v Twigg Investments Pty Ltd (No 3) [2020] NSWSC 1159; Twigg v Twigg (No 5); Lambert v Twigg Investments Pty Ltd (No 4) [2020] NSWSC 1782; Twigg v Twigg (No 6); Lambert v Twigg Investments Pty Ltd (No 5) [2020] NSWSC 1856</p>
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3	2020/236511	Johnson v Firth	09/04/2021	TORTS (negligence) – applicant claimed damages for loss suffered in consequence of respondents’ alleged negligence – primary judge found in favour of respondents – whether primary judge erred in certain factual findings – whether primary judge erred in finding that the respondents did not breach the duty of care owed to the appellant – whether primary judge erred in his assessment of the likely damages by holding that the appellant suffered no loss – whether primary judge erred in failing to provide adequate reasons	Lower court decision not available on Caselaw
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4	2020/340595	Dhupar v Lee	26/05/2021	<p>PROFESSIONAL NEGLIGENCE (medical) – appellant obstetrician and gynaecologist performed elective tubal ligation procedure on respondent so as to prevent future pregnancies – respondent unexpectedly conceived child within twelve months of procedure – respondent brought claim for professional negligence in relation to failed surgery – primary judge found in favour of respondent – whether primary judge erred by reversing the onus of proof as to breach of duty and causation – whether primary judge erred as to certain factual findings – whether primary judge erred by making certain findings not available on the evidence – whether primary judge erred in finding that appellant breached her duty of care – whether primary judge erred as to causation – whether primary judge erred in interpretation of s 71 of the Civil Liability Act 2002 (NSW) – whether primary judge erred in assessment of non-economic loss</p>	Lee (a pseudonym) v Dhupar [2020] NSWDC 717
5	2020/251220	Miraki v Griffith	01/06/2021	<p>CONTRACT – in 2016, appellant entered into contract with second respondent’s company for purchase of certain luxury goods, including Versace home furnishings – appellant asserted that she never received the goods, and that first respondent (who was a minor and the son of the second respondent) failed in his promise to fully refund these goods – primary judge</p>	Miraki v Griffith [2020] NSWDC 417

				found in favour of appellant with respect to second respondent, but against appellant with respect to first respondent – whether primary judge erred in certain factual findings not based on the evidence – whether primary judge erred by failing to give adequate reasons for certain factual findings – whether primary judge erred in not permitting appellant to run a case which was pleaded	
6	2020/341834	L & A Fazzini Pty Ltd v Amaca Pty Ltd	04/06/2021	TORTS (other) – appellant and respondent were co-defendants to a claim brought by a former injured employee who was diagnosed with mesothelioma after exposure to asbestos at the worksites of both the appellant and respondent – appellant and respondent settled with the injured employee without admission of liability, and consented to paying \$300,000 and \$200,000 respectively – appellant brought claims against respondent in proceedings below, seeking restitution for the money it paid to the employee or indemnity pursuant to s 5 of the Law Reform (Miscellaneous Provisions) Act 1946 (NSW) – primary judge held in favour of respondent – whether primary judge erred by characterising the consent judgment as the appellant accepting liability to the injured employee – whether primary judge erred by concluding that the only method that the appellant could seek recovery of monies from the respondent was through bringing	L & A Fazzini Pty Ltd v Amaca Pty Ltd [2020] NSWDDT 12; L & A Fazzini Pty Ltd v Amaca Pty Ltd [2021] NSWDDT 1

				contribution proceedings pursuant to s 5(1)(c) of the Law Reform (Miscellaneous Provisions) Act – whether primary judge erred in failing to apply the principles in Power Technologies Pty Ltd v Energy Australia [2010] NSWCA 107	
7	2020/264543	Avant Insurance Ltd v Burnie	11/06/2021	PROCEDURE – amendment of statement of claim for medical negligence – effect of amendment was to join insurer pursuant to s5 Civil Liability (Third Party Claims Against Insurers) Act 2017 (NSW) – whether applicant entitled to disclaim liability under policy – whether any evidence that doctor ought to have been aware of facts and circumstances of potential claim – whether real possibility that doctor ought to know that the policy would respond to the potential claim – whether real possibility that doctor would be unable to satisfy the judgment	Burnie v Dr Blackstock [2020] NSWDC 452
8	2019/407870	Lambourne v Baker	24/06/2021	EQUITY – first and second appellants were professional punters and together with the first respondent developed a show (“the Punters Show”) and incorporated the third appellant to produce and broadcast the Punters Show on the internet – fourth respondent was subsidiary of third respondent and operated a website	In the matter of Punters Show Pty Limited [2019] NSWSC 1777

				<p>similar to the Punters Show – with the encouragement of the first respondent, a commercial relationship developed between the Punters Show and the respondents – eventually, appellants and respondents agreed to part ways – accounting dispute arose at termination – first appellant commenced proceedings seeking payment of \$30,000 for promotional work allegedly done by him – appellants also claimed equitable compensation under Barnes v Addy – primary judge found in favour of respondents – whether delay in delivery of primary judgment demonstrates a failure to grapple adequately with the issues – whether primary judgment contains errors of undisputed fact</p>	
9	2020/240356	Ramsey v Denton	24/06/2021	<p>TORTS (negligence) – appellant suffered injuries and disabilities as a result of motor vehicle accident in Central Coast, in which appellant struck motor vehicle driven by respondent which turned across the path of appellant’s motor cycle – liability admitted – quantum of damages in issue – appellant had history of prior injuries, with an issue as to whether and to what degree the appellant’s injuries were from his previous injuries or the current accident – whether primary judge erred in failing to find that appellant’s psychiatric impairment caused by the accident rendered him not fit for work in any capacity into the</p>	Ramsey v Denton [2020] NSWDC 426

				future – whether primary judge erred in his findings as to economic loss – whether primary judge erred in certain factual findings – whether primary judge erred in failing to accept certain evidence	
10	2020/355112 ; 2020/355127 ; 2020/355132 ; 2021/84671; 2021/84672; 2021/84675	Allianz Australia Insurance Ltd v Viksne; Allianz Australia Insurance Ltd v Comerford	28/06/2021	TORTS (other) – appellant was insurer of employer company, Austral Bronze, which was deregistered in 1997 – former employee of Austral Bronze was diagnosed with mesothelioma due to exposure to asbestos whilst working for the company – legal representatives of the Estate of former employee sought orders under s 601AH of the Corporations Act 2001 (Cth) to reinstate registration of Austral Bronze, for the purpose of pursuing a claim for general damages against the company – primary judge reinstated company and made ancillary orders to validate proceedings in the Dust Diseases Tribunal nunc pro tunc – whether primary judge erred in holding that the power under s 601AH(3) of the Corporations Act extended to making orders retrospectively to validate legal proceedings purportedly commenced against a deregistered company – whether primary judge erred in reinstating the company – whether primary judge erred in validating the Tribunal	In the matter of Austral Bronze Pty Limited; In the matter of John Darlington Pty Limited; In the matter of John Darlington Pty Limited (No 2) [2020] NSWSC 1633

				proceedings	
11	2020/354592	Allianz Australia Insurance Ltd v Rawson Homes Pty Ltd	29/06/2021	CONTRACT – in 2017, a severe hailstorm in Sydney caused damage to parts of a residential development constructed by respondent – respondent sought orders from the appellant insurer to fully indemnify it for losses sustained under an insurance policy issued to respondent in 2016 – primary judge found in favour of respondent – whether primary judge erred in the construction of the insurance policy	Rawson Homes Pty Ltd v Allianz Australia Insurance Limited [2020] NSWSC 1654
12	2021/101998 ; 2021/101201 0	Trentelman v Owners of Strata Plan 76700	07/07/2021	CONTRACT – dispute over a parcel of land containing a swimming pool which formed part of an apartment development in Bogangar, NSW – the swimming pool was on a privately owned lot owned by the appellant, who prevented other lot owners from having access to the pool – at an AGM in 2014, the appellant and her husband allegedly promised to “give the pool” to the other apartment building lot	Trentelman v The Owners – Strata Plan 76700 (No 2); The Owners – Strata Plan 76700 v Trentelman (No 2) [2021] NSWSC 377

				owners in order to secure passage of a resolution put forth by her – first respondent alleged that this promise at the AGM gave rise to an enforceable contractual entitlement or an equitable entitlement – primary judge found in favour of first respondent – whether primary judge erred by making orders contrary to the evidence and contrary to his own factual findings – whether primary judge erred as to certain factual findings – whether primary judge erred in his findings as to proprietary estoppel	
13	2021/3826	Veira v Cook	09/07/2021	ADMINISTRATIVE LAW (other) – dismissal of appeal from Local Court to Supreme Court under Crimes (Appeal and Review) Act 2001 – applicant convicted of entering inclosed lands and disrupting a business – defence of necessity to rescue hens from cruelty – whether “proportionality element” a matter for Court to conclude rather than an accused’s honest and reasonable belief – whether element requires no alternate course of action to avoid the harm in question – whether purpose element available to a person who accused is bound to protect – whether defence available in respect of harm to an animal	Lopes v Cook [2020] NSWSC 1776

14	2021/117125 ; 2021/166404	Australian Federation of Islamic Councils v United Muslims New South Wales Incorporated	13/07/2021	ASSOCIATIONS – dispute between appellant and first respondent began when persons associated with first respondent raised concern as to propriety of the conduct of the President of the first appellant – issue as to whether the appellant’s constitution permitted the removal or displacement of an existing “State Council” by member societies electing a new State Council – primary judge found in favour of respondents – whether primary judge erred as to his construction of the appellant’s constitution – whether primary judge erred as to certain factual findings	United Muslims New South Wales Incorporated v Australian Federation of Islamic Councils [2021] NSWSC 421
15	2020/003106 03; 2020/003106 09; 2020/003105 90; 2020/003110 15; 2020/003110 16; 2020/003110 17	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	Plaintiff A and B v Bird; Plaintiff C v Bird; Plaintiff D v Bird [2020] NSWSC 1379

				<p>the four children and the admissions of third respondent were admissible as tendency evidence – whether primary judge erred in finding that “Child 1” 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>	
16	2019/103863 ; 2019/170998	Michael Wilson & Partners Ltd v Emmott	20/07/2021	<p>PROCEDURE – appellant served originating process on respondent outside Australia – respondent sought an order that service be set aside on the basis that process was served in circumstances not permitted by Uniform Civil Procedure Rules 2005 (NSW) or, alternatively, that proceedings be stayed on forum non conveniens grounds – primary judge ordered a permanent stay – whether primary judge erred in declining to assume jurisdiction – whether primary judge erred in finding contribution</p>	Michael Wilson & Partners Ltd v Emmott [2019] NSWSC 218

				claim had insufficient prospects of success – whether primary judge erred in finding claim for breach of directors’ duties and partnership claims did not fall within UCPR, Sch 6 – whether primary judge erred in finding UCPR, r 11.5(5) was not satisfied – whether primary judge erred in finding claims had no real and substantial connection with Australia – whether primary judge erred in finding Australia was not an appropriate forum for the trial	
17	2021/9403	El-Cheikh v Miraki	27/07/2021	CONTRACT – the first appellant and the husband of the first respondent decided to purchase a commercial office unit located in Castle Hill in 2016 – the property was purchased in the name of the first respondent for \$1.7m – a loan agreement was entered into between the first appellant and the first respondent, which contemplated the first appellant advancing \$900,000 to the first respondent to be applied to the purchase of the property – primary judge held that the amount of \$450,000 advanced by the first appellant was not made pursuant to the loan agreement – whether primary judge erred as to certain factual findings – whether primary judge erred by failing to have regard to certain evidence	El-Cheikh v Miraki [2020] NSWSC 1781

18	2021/97439	Bowers v The Law Society of New South Wales	29/07/2021	ADMINISTRATIVE LAW (other) – applicant sought to appeal constructive dismissal of application to vary practicing certificate – whether first respondent failure to consider application a constructive dismissal – whether primary Judge erred in directing separate question – whether erred in removing College of Law as a party – setting aside of notice to produce – whether respondent had failed to comply with Privacy Act 1988 (Cth)	PQ (a pseudonym) v The Law Society of New South Wales [2021] NSWSC 258; PQ v Law Society of New South Wales (No 2); PQ (a pseudonym) v The Law Society of New South Wales (No 3) [2021] NSWSC 420; PQ (a pseudonym) v The Law Society of New South Wales (No 4) [2021] NSWSC 459; PQ (a pseudonym) v The Law Society of New South Wales (No 5) [2021] NSWSC 463; Bowers v The Law Society of New South Wales (No 7) [2021] NSWSC 611
19	2021/96251	IWC Industries Pty Ltd v Sergienko	04/08/2021	EQUITY – dispute between the appellants and respondents concerning claims to an equitable interest in property located in Killarney Heights – primary judge found in favour of respondents – whether primary judge erred in finding that the first respondent’s interest in the property took priority over the second appellant’s interest in the property – whether primary judge erred in finding that the second appellant did not give valuable consideration for its interest in the property – whether primary judge erred as to certain factual findings	Sergei Sergienko v AXL Financial Pty Limited [2021] NSWSC 297

20	2021/170502	Huang v Nazaran	06/08/2021	ADMINISTRATIVE LAW (judicial review) – jurisdiction – dismissal of application for noise abatement order in Local Court under s268 of Protection of the Environment Operations Act 1997 (NSW) – applicants sought to appeal to District Court under s70 of Local Court Act – whether primary erred in finding no jurisdiction to hear appeal – whether s290 of Protection of the Environment Operations Act 1997 restricted appeals to the Land and Environment Court only	Lower court decision not available on Caselaw
21	2020/294167	Boros v Pages Property Investments Pty Ltd	11/08/2021	CORPORATIONS – appellant was CEO of respondent from 2003 to 2008, and was sole director and secretary from 2008 to 2016 – respondent pleaded that appellant breached his statutory and general law duties as director – primary judge found in favour of respondent – whether primary judge erred in certain factual findings – whether primary judge misapplied s 180 of the Corporations Act 2001 (Cth) – whether primary judge made findings not based on the evidence	Pages Property Investments Pty Ltd v Attila Boros & Ors [2020] NSWSC 1270
22	2020/365141	Dickinson v Chapman	13/08/2021	TORTS (negligence) – respondent suffered an injury on an industrial worksite in 2014 and commenced proceedings for damages under the Civil Liability Act 2002 (NSW) against the	Chapman v Dickinson (No 2) [2020] NSWDC 847

				<p>first appellant (an employee involved in the incident) and the second appellant (as business owner) – the respondent often visited the worksite and did tasks of his own choosing and usually received money for these tasks – the appellants contended that the respondent was a “worker” or “deemed worker” under the Workplace Injury Management and Workers Compensation Act 1998 (NSW), and that the Civil Liability Act thus did not apply – primary judge held that there was no contract of service or contract for services between the parties and found in favour of the respondent – whether primary judge erred as to certain factual findings – whether primary judge erred in failing to find that the respondent was a worker or deemed worker – whether primary judge erred in determining the respondent’s claim under the Civil Liability Act – whether primary judge erred in failing to identify and articulate the duty of care owed by the appellants – whether primary judge erred in his assessment of contributory negligence – whether primary judge erred as to the assessment of damages</p>	
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23	2021/12694	Royal Caribbean Cruises Ltd v Rawlings	17/08/2021	TORTS (other) – wrongful detention on cruise ship – respondent accused of sexual assault against a passenger – whether detention necessary for preservation of order and discipline of vessel – whether reasonable to continue detention after Police in Noumea declined to investigate – whether necessary to stop respondent from contacting other potential witnesses on board – whether legal test to detain includes a subjective element	Lower court decision not available on Caselaw
24	2021/146866	Sam v Mortimer	17/08/2021	CONTRACT – underlying proceedings concerned a document signed by the appellant purchaser and respondent vendor in 2019 over lunch at the Casino at Broadbeach, for a purported sale of 50% of a property comprising some 86 acres of land in Murwillumbah, NSW – issue as to whether the document was a legally binding agreement – respondent sought declarations that if the agreement was binding, that it be set aside for unconscionability on the part of the appellant – primary judge found in favour of respondent – whether primary judge erred as to certain factual findings – whether primary judge erred as to his findings that the appellant acted unconscionably – whether primary judge denied the appellant procedural fairness – whether the hearing being conducted virtually was unduly prejudicial to the appellant – whether primary judge	Mortimer v Ah Sam [2020] NSWSC 1763

				displayed bias toward the appellant	
25	2021/15614	Huynh v Attorney General of New South Wales	19/08/2021	<p>CONSTITUTION — appellant was tried in the District Court and convicted of one count of a conspiracy to import a commercial quantity of a border-controlled drug precursor with the intention of the substance being used to manufacture a controlled drug – applicant was sentenced to 12 years imprisonment – appellant applied for an inquiry into his conviction pursuant to s 78 of the Crimes (Appeal and Review) Act 2001 – primary judge dismissed the application – whether primary judge erred in his jurisdiction by performing an administrative task which was not within his judicial capacity – whether primary judge erred in law by not applying relevant principles – whether Commonwealth Attorney General was proper respondent in respect of an inquiry for a Commonwealth offence – whether Garling J was a Commonwealth officer for the purposes of the application</p>	Application of Huy Huynh under Part 7 of the Crimes (Appeal and Review) Act 2001 for an Inquiry [2020] NSWSC 1356

26	2021/167601	Rahman v Health Care Complaints Commission	23/08/2021	DISCIPLINARY PROCEEDINGS – appellant medical practitioner was found guilty of professional misconduct and unsatisfactory professional conduct in relation to complaints of inappropriately prescribing drugs of addiction without authority and prescribing drugs in excessive quantities for no apparent therapeutic reason – appellant’s registration as a medical practitioner was cancelled – whether Tribunal made error of law by failing to have regard to s 139E of the Health Practitioners Regulation National Law 2009 – whether Tribunal failed to give any or adequate reasons for its findings – whether Tribunal denied the appellant procedural fairness – whether Tribunal took into account irrelevant considerations	Health Care Complaints Commission v Rahman [2021] NSWCATOD 25; Health Care Complaints Commission v Rahman (No 2) [2021] NSWCATOD 65
27	2020/234084	Muriniti v Kalil	25/08/2021	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	Kalil v Eppinga [2020] NSWDC 407

				<p>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 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</p>	
28	2020/369381	Zhu v Wang	26/08/2021	<p>CONTRACT – the second respondent supplied furniture and bedding under the “De Rucci” name to retail stores in eastern Australia – the second respondent signed a Management Agreement with the second appellant in October 2016 – first appellant purported to terminate the Management Agreement in 2019, and alleged that the respondents breached a series of oral and written agreements which caused the appellants loss and allowed for termination of the Agreement – primary judge found in favour of the respondents – whether primary judge caused unfair prejudice to the appellants by failing to</p>	<p>De Rucci International Pty Ltd v Zhu [2020] NSWSC 1720</p>

				<p>provide additional time to file submissions – whether primary judge erred in certain factual findings – whether primary judge failed to take into account relevant evidence – whether primary judge erred as to the assessment of damages</p>	
29	2021/28293; 2021/103515	Sydney Cosmetic Specialist Clinic Pty Ltd v Hu	30/08/2021	<p>PROCEDURE – underlying proceedings concerned allegedly defamatory claims against appellants, arising out of remarks made in the course of a lengthy series of posts by a WeChat group broadcast to 495 users – primary judge struck out certain paragraphs of the appellants’ statement of claim, without leave to re-plead and otherwise dismissed the proceedings – whether primary judge erred in striking out certain paragraphs from the statement of claim – whether primary judge erred in dismissing the proceedings</p> <p>COSTS - whether costs order should stand if applicant successful in appeal</p>	The Sydney Cosmetic Specialist Clinic Pty Ltd (ACN 151 319 032) v Hu [2020] NSWDC 786

30	2021/45396	Nadilo v Eagleton	02/09/2021	LAND AND ENVIRONMENT – costs – class 4 proceedings to restrain operation of mechanical plant on neighbouring property – removal and replacement of plant independent of proceedings - proceedings discontinued by consent save as to costs – each party to pay own costs - failure to take into account relevant considerations – whether costs orders was unreasonable or plainly unjust	Nadilo v Eagleton [2021] NSWLEC 9
31	2021/142329	Spencer v Coshott	07/09/2021	ADMINISTRATIVE LAW (judicial review) – whether primary judge misconstrued the law in relation to the appellant’s entitlement to recover costs – whether primary judge failed to give adequate reasons – whether primary judge denied the appellant procedural fairness	Lower court decision not available on Caselaw

32	2020/339522 ; 2020/351426	Franca v Lorenzato; Burwood Council v Lorenzato	09/09/2021	TORTS (negligence) – first respondent purchased property located in Burwood, NSW from the appellant vend or in March 2011 – first respondent brought claim against appellant for negligent misstatement relating to answers that appellant gave to requisitions that were raised prior to completion, which failed to disclose the existence of a 400mm diameter pipe owned by Burwood Council that had been laid beneath the property in the early 1900s – primary judge found in favour of first respondent – whether primary judge erred in finding that appellant’s answers to the requisitions were misleading or erroneous – whether primary judge erred in certain factual findings – whether primary judge erred as to the assessment of damages	Lorenzato v Burwood Council [2020] NSWSC 1659
33	2021/53334	Sleiman v Gadalla Pty Ltd	09/09/2021	ADMINISTRATIVE LAW (judicial review) – in 2014, appellant suffered a workplace injury – in 2017, an approved medical specialist issued a medical assessment certificate, concluding that the appellant’s degree of permanent impairment was 2% – on appeal, the Appeal Panel issued a replacement certificate assessing his degree of permanent impairment at 14% - appellant later alleged that he suffered a deterioration in his condition, and sought to appeal from the replacement certificate issued by the Appeal Panel – in 2019, a delegate to the Registrar declined to	Sleiman v Gadalla Pty Ltd [2021] NSWSC 86

				<p>substantively consider the appellant's application, on the basis that he had no entitlement to appeal – the primary judge dismissed the appellant's appeal – whether primary judge erred in finding that the second respondent had not failed to exercise the jurisdiction committed under s 327(4) of the Workplace Injury Management and Workers Compensation Act – whether primary judge erred in misconstruing Pt 7 of Ch 7 of this Act – whether primary judge erred in determining that the appellant was not entitled to appeal the existing medical assessment</p>	
34	2021/111247	McNab v Director of Public Prosecutions	14/09/2021	<p>ADMINISTRATIVE LAW (judicial review) – whether primary judge denied the appellant procedural fairness due to bias – whether primary judge failed to take into account relevant evidence and submissions</p>	<p>Lower court decision not available on Caselaw</p>

35	2021/185289	Hana v Shad Legal Services Pty Ltd	15/09/2021	PROCEDURE – Anshun estoppel – unsuccessful in probate proceedings after appeal - striking out of statement of claim for professional negligence in preparation and execution of will – whether proceedings were premised on a finding inconsistent with the Appeal proceedings – whether proceedings a collateral challenge to findings in the Appeal proceedings – whether Appeal proceedings finding that applicant had not discharged onus because of suspicious circumstances was a conclusive finding – whether proceedings an abuse	Hana v Shad Legal Services Pty Ltd [2021] NSWSC 601
36	2021/128140	Murray Darling Basin Authority v Doyle's Farm Produce Pty Ltd	17/09/2021	PROCEDURE - representative proceedings for persons who conducted irrigated farming using water entitlements derived from the Water Management Act 2000 (NSW) - alleged breach of duty of care by releasing water from the Menindee Lakes and the Hume and Dartmouth Dams to effect "overbank transfers" - striking out of defence - first respondent a public authority under Water Act 2007 (Cth) - whether reasonable defence disclosed - whether first applicant and its delegates are a "public or other authority" within s41 of Civil Liability Act - extent of territorial nexus within New South Wales that is required - whether territorial nexus established - whether grounds of defence "manifestly groundless"	Doyle's Farm Produce Pty Ltd as trustee for Claredale Family Trust v Murray Darling Basin Authority [2021] NSWSC 369

37	2021/85193	Miles v Luneburger Franchising Pty Ltd	17/09/2021	<p>CONTRACT – respondent conducts a business as franchisor of a bakery franchise – a third party, MJ Chatswood Pty Ltd, was a franchisee of that franchise, and owed the respondent for the supply of goods by the respondent in connection with that franchise – in March 2018, MJ Chatswood entered into a contract with the appellant’s company, PJM Litigation & Debt Management Pty Ltd, for the collection of the debt owed by MJ Chatswood – PJM Litigation instructed another firm to commence proceedings in the District Court against MJ Chatswood for the recovery of the debt – the respondent’s solicitors alleged that the respondent had not authorised the proceedings in the District Court, and demanded an indemnity for any liability as to costs in respect of the proceedings – in February 2019, the appellant commenced these underlying proceedings against the respondent, alleging that the respondent terminated the debt collection contract, and that it engaged in unconscionable conduct or misleading or deceptive conduct – primary judge found in favour of the respondent – whether primary judge erred as to certain factual findings – whether primary judge erred by finding that there was no breach of the debt collection contract – whether primary judge erred in his construction and interpretation of</p>	Miles v Trustee for Luneburger Franchising Trust trading as Luneburger Franchising Pty Ltd [2021] NSWDC 30
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