

SHANE PRINCE SC

List of Recent Cases

1. *Aversa v Transport for New South Wales (No 2)* [2023] NSWSC 892 (3 August 2023) – Significant decision requiring reluctant State party to mediate and consideration of NSW model litigant code.
2. *Dean v Pope* [2023] HCATrans 88 (16 June 2023) – Special leave argument re construction of s 50 of the Civil Liability Act.
3. *Murdock v Virgin Australia Airlines Pty Ltd (No 2)* [2023] FCA 569 (5 June 2023) – Significant decision establishing that time limits for dismissal dispute adverse action proceedings don't apply to anterior acts of adverse action.
4. *Transcon Holding Pty Ltd v Aged Care Quality and Safety Commissioner* [2023] FCAFC 60 (24 April 2023) – Detailed analysis of the Aged Care regulatory regime.
5. *Stratton v State of New South Wales; Pandolfi v Minister for Health and Medical Research* [2023] NSWSC 396 (20 April 2023) – Black Lives Matter protests and freedom of political communication appeared against Solicitor General. Criminal charges ultimately withdrawn by Police.
6. *AEI Insurance Group Pty Ltd v Martin (No. 2)* [2023] FCA 277 (28 March 2023) - Restraints of Trade insurance sector.
7. *Hausmeister v Willoughby Council (No 2)* [2023] NSWIRComm 1022 (17 March 2023) - Unfair Dismissal Appeal, arguable case found for COVID related unfair dismissal- appeal allowed and time for unfair dismissal extended.
8. *DJG17 v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] FCA 119 (22 February 2023) – Refugee – Genuine consideration issue.
9. *Larter v Paramedicine Council of NSW* [2023] NSWCATOD 12 (8 February 2023)
10. *Larter v Paramedicine Council of NSW (No 2)* [2023] NSWCATOD 13 (8 February 2023) – Conditions imposed by Council on registration of Paramedic by reason of public comments on COVID vaccination quashed- suspension of Paramedic quashed.

11. *Dean v Pope* [2022] NSWCA 260 (14 December 2022) – Five Member Full Court- Multiple strands of judicial consideration of s 50 and *Bolam* principle for liability for professionals in tort.
12. *Larter v Hazzard* [2022] NSWCA 238 (22 November 2022) – Leave to appeal – involves important consideration of the time constraints on COVID Public Health Orders.
13. *CDD18 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2022] FCA 1283 (28 October 2022) – Refugees.
14. *D&D Traffic Management Pty Ltd v The Australian Workers' Union* [2022] FCAFC 113, (2022) 178 ALD 164 (8 July 2022) – Judicial Review of Fair Work Commission decision. Analysis of definition of “shiftwork” and casual employees.
15. *Aversa v Transport for New South Wales* [2022] NSWSC 277 (16 March 2022) - Public interest immunity over cabinet documents connected with Westconnex project.
16. *Frankcom v Commissioner of Corrective Services* [2022] NSWSC 225 (7 March 2022) – Construction of s 276 of the Crimes (Administration of Sentences) Act 1999 (NSW) – construction of “risk to public health” – whether duty to accord procedural fairness. Ultimately new mother and baby released from Prison.
17. *Rauland Australia Pty Ltd v Johnson (No 3)* [2022] FCA 138 (21 February 2022) – Intellectual Property and restraints of trade in medical technology industry.
18. *Can v State of New South Wales* [2021] NSWSC 1480 (17 November 2021) – Challenge to Public Health Orders. Consideration of privilege against self-incrimination.
19. *Wood v Secretary of the Department of Transport on behalf of the Government of New South Wales (No 2)* [2021] NSWSC 1461 (12 November 2021) – Verdict for the Plaintiff (for whom I acted) with indemnity cost see below- Extraordinary judicial statement referring reasons for decision to the Minister for Transport and Commissioner for Police for consideration of the defendant’s conduct.
20. *Larter v Hazzard (No 2)* [2021] NSWSC 1451 (10 November 2021) – Public Health Act- Human Rights- Administrative Law – validity of COVID Public Health Orders.
21. *Larter v Hazzard* [2021] NSWSC 1411 (1 November 2021)

22. *Masoumali, Omid (2016/1752)* [2021] QldCorC 69 (1 November 2021) - Coronial Inquest into death of refugee who died from injuries following self-immolation. Significant media interest into conditions of offshore refugee conditions on Nauru and significant medical evidence through cross examination about inadequacy of hospital conditions.
23. *Australian Nursing and Midwifery Federation v Achieve Australia Limited* [2021] FWC 6188 (22 October 2021) – Successful challenge to jurisdiction of Fair Work Commission and applicability of Copied State Award.
24. *Wood v Secretary of the Department of Transport on behalf of the Government of New South Wales* [2021] NSWSC 1248 (1 October 2021) – Wrongful Dismissal- Administrative Law in Public Employment- construction of ss 68N and 68O Transport Administration Act – Whether s 68O operates to preclude judicial review or remedies for breach of contract. Significant media interest employee terminated by Transport for NSW for assisting police in murder investigation.
25. *Elmasri v Transport for NSW (No 2)* [2021] NSWSC 1208 (24 September 2021) – Leading decision concerning the requirement in s 10A of the Land Acquisition (Just Terms Compensation) Act 1991 - decision of Beech Jones CJ in CL explaining requirements for genuine attempt to acquire land by negotiation with owner.
26. *Aversa v Roads & Maritime Services* [2021] NSWSC 1047 (10 September 2021) – Examination of claims Roads & Maritime Services lacked power to subdivide Plaintiffs land into substrata for acquisition for Westconnex toll road and allegations of false declarations by RMS to Registrar of Land Titles in application for Sub-division.
27. *Livers v Legal Services Commissioner (No 2)* [2021] NSWCA 164 (6 August 2021) – Costs for NCAT proceedings where NCAT decision overturned on appeal.
28. *Rauland Australia Pty Ltd v Law (No 3)* [2021] FCA 898 (3 August 2021) – Intellectual Property- Restraints of Trade- Medical technology industry.
29. *SZQKE v Minister for Immigration and Border Protection* [2021] FCA 833 (26 July 2021) – Refugee – Administrative law- Constitutional writs.
30. *State of New South Wales v Fayad (Variation of Conditions)* [2021] NSWSC 600 (28 May 2021) – High Risk Terrorism Offender Legislation- Significant and unusual variation of conditions of a High Risk Terrorism Offender Extended Supervision Order and meaning of extremism and finding that it is not only appropriate but also important not to include in the conditions reference to “extremism” which is unrelated

to violence or other conduct which could constitute a serious terrorism offence...at [124].

31. *BDF15 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FCA 489 (11 May 2021) – Refugee matter – Administrative Law
32. *Lim v Flinders University of South Australia (No 2)* [2021] FCCA 614 (31 March 2021) – Adverse Action- Intellectual Property and claims for Academic Freedom. Successfully defended University and eminent Medical School academics.
33. *State of New South Wales v Fayad (Final)* [2021] NSWSC 294 (26 March 2021) – High Risk Terrorism Offender proceedings. Significant challenge to State’s evidence and acceptance that ESO conditions required revisitation.
34. *Livers v Legal Services Commissioner* [2020] NSWCA 317 (10 December 2020) – Court of Appeal upheld appeal from NCAT Occupational Division and dismissed charges of unprofessional conduct against Mr. Livers.
35. *Slater & Gordon Ltd v Sellars* [2020] NSWSC 1793 (8 December 2020) – Acted for Slater & Gordon to have pleadings struck out in employment proceedings which included allegations of workplace injury without compliance with requirements of Workplace Injury Management and Workers Compensation Act 1998.
36. *Teekay Shipping (Australia) Pty Ltd v Auld* [2020] FCAFC 206 (27 November 2020) – Judicial Review of Fair Work Commission. Industrial Law. Held: model consultation term applied to exclusion of insufficient and defective terms dealing with consultation in the enterprise agreement and modern award.
37. *State of New South Wales v Fayad (Preliminary)* [2020] NSWSC 1681 (25 November 2020) – Terrorism High Risk Offender preliminary proceedings.
38. *Mangano v Bullen* [2020] NSWCA 283 (12 November 2020) – LAND LAW – whether title to property acquired by fraud – deregistration of company under the 1981 Companies (New South Wales) Code – whether property of deregistered company vested in ASIC – effect of deeming provisions in s 459(6) of the Companies Code.
39. *Rauland Australia Pty Ltd v Law (No 2)* [2020] FCA 1400 (25 September 2020)
40. *Applicant S270/2019 v Minister for Immigration and Border Protection* [2020] HCA 32 (9 September 2020) – Refugees- whether obligation to consider Australia’s *refoulment* when considering visa cancellation under s 501 of the Migration Act.

41. *Mack v Council of the New South Wales Bar Association* [2020] NSWCATOD 95 (25 August 2020) – Application for re-issue of practicing certificate for barrister.
42. *Martin Bajelis v Reserve Bank of Australia* [2020] FWC 3740, (2020) 299 IR 1 (16 July 2020) – Acted for the Reserve Bank in resisting unfair dismissal application by employee who had been dismissed for alleged racist comments on What’s App platform.
43. *Armidale Regional Council v O'Connor* [2020] NSWLEC 77 (23 June 2020) – Local Government- successfully defended Councillors from proceedings brought against them by Council and CEO of Council alleging threatened breach of procedural fairness in employment matters.
44. *SZQYM v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2020] FCA 779, (2020) ALD 579 (12 June 2020) – Allsop CJ, Judicial Review. North Korean refugee applicants – jurisdictional error established by reason of irrationality in consideration of expert evidence.
45. *Armidale Regional Council v O'Connor (No 3)* [2020] NSWLEC 56 (12 May 2020)
46. *SZUJT v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2020] FCA 612 (8 May 2020) – Constitutional writs- denial of procedural fairness established but not material.
47. *Coshott v Commonwealth Bank of Australia* [2020] NSWSC 503 (6 May 2020) – Costs- whether Chorley exception applied to costs of in house counsel.
48. *C7A/2017 v Minister for Immigration and Border Protection (No 2)* [2020] FCAFC 70 (21 April 2020) – Refugees – suppression orders.
49. *C7A/2017 v Minister for Immigration and Border Protection* [2020] FCAFC 63, (2020) 276 FCR 147 (9 April 2020) – Refugees- mother and two young children claimed to be stateless Rohingya refugees.
50. *BIX18 & Ors v Minister for Immigration & Anor* [2020] FCCA 505 (2 April 2020) – Jurisdictional error- decision vitiated in its entirety.
51. *Teekay Shipping (Australia) Pty Ltd v Auld* [2020] FCAFC 19 (11 February 2020) – Constitutional writ of mandamus issued to Fair Work Commission requiring it to render a decision in accordance with the Act.

52. *Transport Workers' Union of Australia v Toll Transport Pty Ltd t/a Toll Transport; Toll Personnel Pty Ltd t/a Toll People* [2020] FWC 9 (17 January 2020) – Interpretation of Award re Casual employee entitlements.
53. *Bungree Aboriginal Association Limited v NSW Registrar of Community Housing* [2019] NSWCATAD 268 (24 December 2019) – Administrative Law review of cancellation of registration of Aboriginal Community Housing Association. Nature of appeal. Ultimately decision to cancel registration was reversed.
54. *Linguist v Nursing and Midwifery Board of Australia* [2019] NSWCATOD 185 (4 December 2019) – Nurse disciplinary proceedings.
55. *Legal Services Commissioner v Livers* [2019] NSWCATOD 180 (27 November 2019) – Solicitor disciplinary proceedings.
56. *BP v State of New South Wales* [2019] NSWCA 223 (10 September 2019) – Terrorism High Risk Offender matter- appeal unnecessary as application for ESO by Crown withdrawn.
57. *Minister for Immigration and Border Protection v CTW17* [2019] FCAFC 156, (2019) 271 FCR 173 (5 September 2019) – Refugees.
58. *DVE18 v Minister for Home Affairs* [2019] FCA 1389 (30 August 2019) – Refugees.
59. *Minister for Home Affairs v Smith* [2019] FCAFC 137 (19 August 2019) – Full Court appeal by Minister unsuccessful. Jurisdictional error in Minister’s consideration of whether to cancel visa on character grounds where woman convicted of murdering husband.
60. *Nursing and Midwifery Board of Australia v Linguist* [2019] NSWSC 978 (2 August 2019) – Nurse disciplinary proceedings.
61. *Rauland Australia Pty Ltd v Johnson (No 2)* [2019] FCA 1175 (1 August 2019) – Intellectual property – Restraint of Trade- Medical technology industry.
62. *Rauland Australia Pty Ltd v Johnson (No 1)* [2019] FCA 1174 (1 August 2019) – Intellectual property – Restraint of Trade- Medical technology industry.
63. *Bungree Aboriginal Association Limited v NSW Registrar of Community Housing* [2019] NSWCATAD 61 (15 April 2019)

64. *Tomvald v Toll Transport Pty Ltd (No 2)* [2019] FCA 510 (12 April 2019) – Applicability of Concise Statement procedure.
65. *SZTVU v Minister for Home Affairs* [2019] FCAFC 30, (2019) 268 FCR 497 (22 February 2019)
66. *FPL17 v Minister for Home Affairs* [2018] FCA 1766 (14 November 2018)
67. *AYF16 v Minister for Immigration and Border Protection* [2018] FCAFC 129, (2018) 264 FCR 654 (14 August 2018)
68. *SZTVU v Minister for Home Affairs & Anor* [2018] FCCA 1962 (19 July 2018)
69. *Council of the New South Wales Bar Association v Lott* [2018] NSWCATOD 99 (28 June 2018) – Professional discipline barrister. Dismissed most serious charges of unprofessional conduct- reprimand only.
70. *FIRE AT SPRINGWOOD AND MT VICTORIA; Inquiry into the Fire at Springwood NSW 17 October 2013, And the Fire at Mt Victoria NSW 17 October 2013* [2018] NSWCorC 30 (23 May 2018) – Appeared for NSW Fire Brigades to assist coroner in relations to Springwood and Mt Victoria bush fires.
71. *Vautin v BY Winddown, Inc. (formerly Bertram Yachts) (No 4)* [2018] FCA 426, (2018) 362 ALR 702 (10 April 2018) – Consumer Law – defective hull for 74 foot motor yacht- obtained judgement for \$5,220,275.59 for distributor against manufacturer on cross claim.
72. *Ibrahimi & ors v Commonwealth of Australia (No 9)* [2017] NSWSC 1051 (13 September 2017) – Maritime Law- Negligence- Class action. Acted for the victims and families of Australia’s largest peacetime maritime disaster, the sinking of the SIEV 221 at Christmas Island.
73. *Millers Point Community Assoc. Incorporated v Property NSW* [2017] NSWLEC 92, (2017) 244 LGERA 407 (25 July 2017) – Successfully challenged decision of Heritage Minister to refuse to consider listing the Sirius Building at the Rocks as on the Heritage Register.