

## STATUS OF NEW SOUTH WALES COURT OF APPEAL DECISIONS IN THE HIGH COURT OF AUSTRALIA

Report on the status of decisions of the NSW Court of Appeal before the High Court: handed down, reserved, granted special leave, refused special leave, applications filed and cases not proceeding in 2011. This report is current to 27 October 2011. It is based on the information in High Court of Australia Bulletins up to and including [2011] HCAB 8 and will be updated next month.

### 1. Cases Handed Down

Decisions of the High Court in cases on appeal from the NSW Court of Appeal

Case Name	Date of decision	HCA Citation	NSWCA Citation	Outcome
British American Tobacco Australia Services Ltd v Laurie (as Administratrix of the Estate of Donald Henry Laurie and on her own behalf) & Ors	9 Feb 2011	[2011] HCA 2	[2009] NSWCA 414	Appeal allowed
Marcolongo v Chen	9 March 2011	[2011] HCA 3	[2009] NSWCA 326	Appeal allowed
Insight Vacations Pty Ltd t/as Insight Vacations v Young	11 May 2011	[2011] HCA 16	[2010] NSWCA 137	Appeal dismissed with costs
Jemena Gas Networks (NSW) Limited v Mine Subsidence Board	1 June 2011	[2011] HCA 19	[2010] NSWCA 146	Appeal allowed
Dasreef Pty Ltd v Hawchar	22 June 2011	[2011] HCA 21	[2010] NSWCA 154	Appeal dismissed with costs
Green v The Queen; Quinn v The Queen	3 August 2011	[2011] HCATrans 197	[2010] NSWCCA 313	Appeal allowed (orders made; reasons to be delivered at a later date)
Cumerlong Holdings Pty Ltd v Dalcross Properties Pty Ltd & Ors	3 August 2011	[2011] HCA 27	[2010] NSWCA 214	Appeal allowed
Boland v Dillon; Cush v Dillon	10 August 2011	[2011] HCA 30	[2010] NSWCA 165	Appeal dismissed with costs
Lithgow City Council v Jackson	28 September 2011	[2011] HCA 36	[2010] NSWCA 136	Appeal allowed
Westport Insurance Corporation v Gordian Runoff Limited	5 October 2011	[2011] HCA 37	[2010] NSWCA 57	Appeal allowed
Shoalhaven City Council v Firedam Civil Engineering Pty Limited	5 October 2011	[2011] HCA 38	[2010] NSWCA 59	Appeal allowed
Tasty Chicks Pty Limited & Ors v Chief Commissioner of State Revenue	5 October 2011	[2011] HCA 41	[2010] NSWCA 326	Appeal allowed

## 2. Cases reserved

Cases on appeal from the NSW Court of Appeal heard and reserved pending judgment

Case Name	NSWCA Citation	HC File No	Date heard
Michael Wilson & Partners Limited v Nicholls & Ors	[2010] NSWCA 222	S67/2011	31 May and 1 June 2011
Strong v Woolworths Limited t/as Big W & Anor	[2010] NSWCA 282	S268/2010	5 August 2011
Amaca Pty Limited (Under NSW Administered Winding Up) v Amaba Pty Limited (Under NSW Administered Winding Up); Amaba Pty Limited (Under NSW Administered Winding Up) v Amaca Pty Limited (Under NSW Administered Winding Up)	[2010] NSWCA 344	S6/2011; S7/2011	4–5 October 2011
Waller v Hargraves Secured Investments Limited	[2010] NSWCA 300	S285/2010	6 October 2011

## 3. Special leave granted

Decisions of the NSW Court of Appeal granted special leave to appeal and waiting to be heard

Case Name	NSWCA Citation	HC File No	Date leave granted
Australian Securities and Investments Commission v Shafron; Australian Securities and Investments Commission v Terry; Australian Securities and Investments Commission v Hellicar; Australian Securities and Investments Commission v Brown; Australian Securities and Investments Commission v Gillfillan; Australian Securities and Investments Commission v Koffel; Australian Securities and Investments Commission v O'Brien; Australian Securities and Investments Commission v Willcox; Shafron v Australian Securities and Investments Commission	[2010] NSWCA 331	S29/2011; S30/2011; S31/2011; S32/2011; S33/2011; S34/2011; S35/2011; S36/2011; S37/2011	13 May 2011 – <b>heard on 25–27 Oct 2011</b> <b>[waiting on transcript]</b>
ALH Group Property Holdings Pty Limited v Chief Commissioner of State Revenue	[2011] NSWCA 32	S128/2011	12 August 2011
Harbour Radio Pty Limited v Trad	[2011] NSWCA 61	S141/2011	2 September 2011
Papaconstuntinos v Holmes a Court	[2011] NSWCA 59	S142/2011	2 September 2011
Australian Native Landscapes Pty Ltd v. Minogue & Anor	[2010] NSWCA 279	S277/2010	Referred to enlarged bench 2 September 2011

#### 4. Special leave refused

Decisions of the NSW Court of Appeal refused special leave to appeal in 2011

Case Name	NSWCA Citation	HC File No	Date heard	Outcome
Serobian v Commonwealth Bank of Australia	[2010] NSWCA 181	S210/2010	9 Feb 2011	Application dismissed
Oates and Anor v Pegela Pty Limited and Anor	[2010] NSWCA 186	S235/2010	11 Feb 2011	Special leave refused with costs
Attorney General of New South Wales v Laurie and Ors	[2010] NSWCA 199	S218/2010	11 Feb 2011	Special leave refused with costs
Wakim v Coleman	[2010] NSWCA 221	S225/2010	9 Mar 2011	Special leave refused with costs
Downey v Acting District Court Judge Boulton and Ors	[2010] NSWCA 240	S243/2010	11 Mar 2011	Special leave refused
Northey v Juul & Ors	[2010] NSWCA 211	S215/2010	11 Mar 2011	Special leave refused with costs
Markisic v Cth of Australia	[2010] NSWCA 273	S262/2010	5 Apr 2011	Application dismissed
McLean v Star City Pty Ltd		S282/2010	5 Apr 2011	Application dismissed
Johnson v Smith	[2010] NSWCA 306	S296/2010	5 Apr 2011	Application dismissed
Singh v Ginelle Pty Ltd	[2010] NSWCA 310	S21/2011	6 Apr 2011	Application dismissed
Singh v Ginelle P/L	[2010] NSWCA 310	S22/2011	6 Apr 2011	Application dismissed
Wende & Ors v Horwath (NSW) Pty Limited	[2010] NSWCA 62	S127/2010	6 Apr 2011	Application dismissed
Hoffenberg v District Court of New South Wales	[2010] NSWCA 142	S245/2010	6 Apr 2011	Application dismissed
John Holland Pty Ltd v Industrial Court of New South Wales & Anor	[2010] NSWCA 338	S315/2010	8 Apr 2011	Special leave refused with costs
Griffith v Australian Broadcasting Corporation and Anor	[2010] NSWCA 257	S255/2010	8 Apr 2011	Special leave refused with costs
Abadeen Group Pty Limited & Anor v Bluestone Property Services Pty Limited & Ors	[2009] NSWCA 386	S5/2010	8 Apr 2011	Special leave refused with costs
Brown & Ors v Hodgkinson & Ors	[2009] NSWCA 386	S6/2010	8 Apr 2011	Special leave refused with costs
Saleh & Anor v Romanous & Anor	[2010] NSWCA 274	S264/2010	8 Apr 2011	Special leave refused with costs
Morley v Australian Securities and Investments Commission	[2010] NSWCA 331	S41/2011	13 May 2011	Application dismissed
Zhang v Zemin & Ors	[2010] NSWCA 255	S253/2010	13 May 2011	Special leave refused
Rhodes v Lake Macquarie City Council	[2010] NSWCA 235	S259/2010	7 June 2011	Application dismissed with costs
Pachkovski & Ors v Australian Executor Trustees Limited	[2011] NSWCA 23	S78/2011	8 June 2011	Application dismissed
Chand v Azurra Pty Ltd (in liq)	[2011] NSWCA 58	S133/2011	8 June 2011	Application dismissed
Samootin v Shea	[2010] NSWCA 371	S38/2011	9 June 2011	Application dismissed

<b>Case Name</b>	<b>NSWCA Citation</b>	<b>HC File No</b>	<b>Date heard</b>	<b>Outcome</b>
Vescio v Guardianship Tribunal NSW	[2010] NSWCA 227	S230/2010	9 June 2011	Application dismissed
Pahi v Streets Icecream Trading as Unilever Australia & Anor; Pahi v Swire Cold Storage Pty Limited & Anor	[2010] NSWCA 149	S167/2010; S308/2010	10 June 2011	Special leave refused with costs
Ferguson v Singler	[2010] NSWCA 325	S318/2010	10 June 2011	Special leave refused with costs
Sydney South West Area Health Service v Macquarie International Health Clinic Pty Ltd	[2010] NSWCA 348	S14/2011	10 June 2011	Special leave refused with costs
Bechara v Legal Services Commissioner	[2010] NSWCA 369	S25/2011	10 June 2011	Special leave refused with costs
Deputy Commissioner of Taxation v Soong	[2011] NSWCA 26	S122/2011	12 August 2011	Special leave refused with costs
Ross v IceTV Pty Ltd	[2010] NSWCA 272	S263/2010	12 August 2011	Special leave refused with costs
Firmstone v Estate Property Holdings Pty Ltd	[2010] NSWCA 315	S130/2011	12 August 2011	Special leave refused with costs
Sharples v Minister for Local Government	[2010] NSWCA 36	S311/2010	12 August 2011	Special leave refused with costs
Wilson v The State of New South Wales	[2010] NSWCA 333	S40/2011	12 August 2011	Special leave refused with costs
AVS Group of Companies Pty Ltd v Commissioner of Police	[2011] NSWCA 21	S82/2011	2 September 2011	Special leave refused with costs
Kinsella v Cooper	[2011] NSWCA 45	S135/2011	2 September 2011	Special leave refused with costs
Byrne v Macquarie Group Services Australia Pty Ltd	[2011] NSWCA 68	S164/2011	6 October 2011	Application dismissed with costs
Weller v Phipps	[2010] NSWCA 323	S319/2010	7 October 2011	Special leave refused with costs
Lukacevic v Coates Hire Operations Pty Limited	[2011] NSWCA 112	S195/2011	7 October 2011	Special leave refused with costs
Udowenko v St George Bank Limited		S234/2011	26 October 2011	Application dismissed
Maynes v Casey	[2011] NSWCA 156	S247/2011	26 October 2011	Application dismissed
White v Thompson	[2011] NSWCA 161	S251/2011	26 October 2011	Application dismissed
Collier v Director of Public Prosecutions	[2011] NSWCA 202	S265/2011	26 October 2011	Application dismissed
Hamade v State of New South Wales	[2011] NSWCA 237	S300/2011	26 October 2011	Application dismissed
Televantos T/A Mastercraft Home Additions and Improvements v FCR Formwork Pty Ltd & Anor		S125/2011	26 October 2011	Application dismissed with costs
Galea v Varga	[2011] NSWCA 76	S162/2011	26 October 2011	Application dismissed with costs
Fitzgibbon v Council of the NSW Bar Association	[2011] NSWCA 165	S246/2011	26 October 2011	Application dismissed with costs

## 5. Special leave applications pending hearing

Applications for special leave to appeal from decisions of the NSW Court of Appeal filed and pending hearing

Case Name	NSWCA Citation	HC File No
Illawarra Local Aboriginal Land Council v Minister Administering the Crown Lands Act	[2009] NSWCA 289	S268/2009
Edwards v Australian Securities & Investment Commission	[2009] NSWCA 424	S16/2010
International Finance Trust Company Limited & Anor v New South Wales Crime Commission & Ors	[2010] NSWCA 46	S91/2010
International Finance Trust Company Limited & Anor v New South Wales Crime Commission & Ors	[2010] NSWCA 46	S92/2010
World Best Holdings Limited v Sarker	[2010] NSWCA 24	S115/2010
Wany & Anor v State of New South Wales	[2010] NSWCA 209	S201/2010
Laresu Pty Limited v Clark & Ors	[2010] NSWCA 180	S208/2010
NTI Limited v Michelin Australia Pty Ltd	[2010] NSWCA 223	S224/2010
Macatangay v State of New South Wales	[2010] NSWCA	S232/2010
Commissioner of Police v Goodwin	[2010] NSWCA 239	S234/2010
Baguley v Kempsey Shire Council	[2010] NSWCA 284	S276/2010
Nominal Defendant v Asim	[2010] NSWCA 366	S42/2011
Daily Examiner Pty Ltd v Mundine	[2011] NSWCA 126	S201/2011
Western Export Services Inc v Jireh International Pty Ltd	[2011] NSWCA 137	S227/2011
Jovanovski v Billbergia Pty Limited	[2011] NSWCA 135	S231/2011
International Litigation Partners Pte Ltd v Chameleon Mining NL (Receivers and Manager Appointed)	[2011] NSWCA 186	S232/2011
Farag v Thai Airways International Public Company Limited	[2011] NSWCA 172	S244/2011
Farag v Thai Airways International Public Company Limited	[2011] NSWCA 172	S243/2011
Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Jill Maria Thelander	[2011] NSWCA 136	S258/2011
Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v Mark George Thelander	[2011] NSWCA 136	S257/2011
Certain Lloyd's Underwriters Subscribing to Contract No IH00AAQS v John Cross	[2011] NSWCA 136	S256/2011
State of New South Wales v Williamson	[2011] NSWCA 183	S259/2011
Wagga Truck Towing Pty Limited v O'Toole	[2011] NSWCA 191	S266/2011
Harris v Bellemore	[2011] NSWCA 196	S268/2011
Sydney Markets Ltd v Wilson	[2011] NSWCA 201	S272/2011
Mills v Bale & Anor	[2011] NSWCA 226	S303/2011
Beck v Weinstock	[2011] NSWCA 228	S311/2011
Tarrant v Statewide Secured Investments	[2011] NSWCA 248	S301/2011
Evans v Queanbeyan City Council	[2011] NSWCA 230	S298/2011
Sweeney v Thornton	[2011] NSWCA 244	S321/2011
Rose v Meriton Apartments Pty Limited	[2011] NSWCA 243	S325/2011

<b>Case Name</b>	<b>NSWCA Citation</b>	<b>HC File No</b>
Cameron v Qantas Airways Ltd	[2011] NSWCA 258	S327/2011
Snedden v Nationwide News Pty Ltd	[2011] NSWCA 262	S330/2011
Ayoub v AMP Bank Limited	[2011] NSWCA 263	S334/2011
Jinhong Design & Constructions Pty Ltd v Zhu	[2011] NSWCA 277	S335/2011
Wang v State of New South Wales	[2011] NSWCA 321	S350/2011

## **6. Cases not proceeding**

No applications for special leave to appeal were deemed abandoned, discontinued or otherwise not proceeding this month.