

ELIZABETH RAPER

List of Recent Cases

Recent statutory interpretation, Award interpretation, eligibility rules, work value and compliance with Awards:

Currently:

- *Fair Work Ombudsman v HSCC Pty Ltd ACN 166 005 072 & Anor* July 2019 – currently before the Federal Court, acting for the FWO in a large matter against a number of sushi restaurants.
- *Robit Karki v Rockpool Bar & Grill* – currently before the Federal Court acting for Rockpool.

Previously:

- *Finance Sector Union of Australia v Unimoni Pty Ltd* [2019] FCA 1128;
- *Claire O’Neill v Commissioner of the Australian Federal Police (on behalf of the Commonwealth of Australia)* [2019] FCA 1044– acting for the AFP in a declaratory relief case;
- *Secretary, Ministry of Health v Health Services Union NSW, Australian Paramedics Association – Application for Variation to Award* [2019] NSWIRComm 1035.

Recent equal remuneration and award variation cases:

Currently:

- *Independent Education Union of Australia v the Australian Childcare Alliance and others* – equal remuneration, award variation (work value) case – ongoing.

Previously:

- in the Equal Remuneration test case, for the Commonwealth which has been running since 2015: *Application by United Voice and the Australian Education Union* [2018] FWCFB 177; 274 IR 1; *Equal Remuneration Decision 2017* [2017] FWCFB 2690; *Equal Remuneration Decision 2015* [2015] FWCFB 8200.

Recent appeals:

Currently:

- before the Full Court of the Federal Court regarding the accessorial liability provisions under the *Fair Work Act 2009*: *Pioneer Contracting Services Pty Ltd & Anor v Fair Work Ombudsman*.
- before the NSW Court of Appeal in an administrative and contractual law matter for Sydney Trains arising from *Duraisamy v Sydney Trains* [2019] NSWSC 199.

Previously:

- before the Full Court of the Federal Court (Kerr, O’Callaghan and Thawley JJ), on 27 May 2019, for the respondent and cross-appellant, in a case regarding the interpretation of the adverse action provisions under the *Fair Work Act 2009*: *Western Union Business Solutions (Australia) Pty Ltd v Robinson*;
- before the NSW Court of Appeal in administrative law matters *Jamal v Commissioner of Police (NSW)* [2017] NSWCA 7; *Jamal v Commissioner of Police (NSW)* [2016] NSWCA 345; *Nasr v State of New South Wales* [2015] NSWCA 293;
- before the NSW Court of Appeal regarding statutory interpretation and false imprisonment: *State of New South Wales v Le* [2017] NSWCA 290; and

- before the Full Bench of the Fair Work Commission (Vice President Catanzariti, Deputy President Sams and Commissioner Gregory) in 2017, regarding issue estoppel arising from a deed of settlement and whether the applicant's claim was outside the Commission's jurisdiction: *Asbok Kumar Duraisamy v Sydney Trains* [2017] FWCFB 5842;
- before the Appeal Panel of the NSW Civil and Administrative Appeals Tribunal in *Habib v State of New South Wales (NSW Police Force)* [2014] NSWCATAP 70.

Recent adverse action matters:

- *Guthrie v ABC* – acted for Ms Guthrie (resolved)
- *Western Union Business Solutions (Australia) Pty Ltd v Robinson* (appeal, decision pending)
- *Laviano v Fair Work Ombudsman* [2017] FCCA 197
- *Mikanlic v Ecolab Pty Ltd* [2017] FCCA 146
- *Lai v Symantec (Australia) Pty Ltd* [2013] FCCA 625
- *Turnbull v Symantec (Australia) Pty Ltd* [2013] FCCA 1771

Recent public inquiries:

- Counsel-Assisting in the *North Sydney Inquiry* : <https://www.olg.nsw.gov.au/northsydneypublicinquiry>

Recent industrial prosecutions:

- *Fair Work Ombudsman v Priority Matters Pty Ltd (No 4)*) [2019] FCCA 56
- *Fair Work Ombudsman v Northcoast Security Services Group Pty Ltd & Anor* [2019] FCCA 1198
- *Fair Work Ombudsman v Robit Nominees Pty Ltd & Anor* [2018] FCCA 183
- *Fair Work Ombudsman v NSH North Pty Ltd trading as New Shanghai Charlestown* [2017] FCA 1301
- *Fair Work Ombudsman v Siner Enterprises Pty Ltd & Anor* [2017] FCCA 2583
- *Fair Work Ombudsman v Amritsaria Four Pty Ltd & Anor* [2016] FCCA 968
- *Fair Work Ombudsman v Jetstar Airways Ltd* [2014] FCA 33
- *Fair Work Ombudsman v Metro Northern Enterprises Pty Ltd* [2013] FCCA 216
- *Fair Work Ombudsman v ACN 146 435 118 Pty Ltd & Anor (No.2)* [2013] FCCA 1270

Recent police disciplinary matters:

- *David Luke Cottrell v NSW Police* [2017] NSWIRComm 1030
- *Commissioner of Police v Morris* [2017] NSWIRComm 1010
- *Morris v Commissioner of Police* [2016] NSWIRComm 1034
- *Baker v Commissioner of Police* [2015] NSWIRComm 14

Recent discrimination matters:

- *El-Kassir v Commissioner of Police, NSW Police Force* [2018] NSWCATAD 232
- *Patrick v The Martinez HWL Practice trust t/as HWL Ebsworth Lawyers* [2017] NSWCATAD 277
- *McEvoy v Acorn Stairlifts Pty Ltd* [2017] NSWCATAD 273
- *Dezfouli v Justice Health and Forensic Mental Health Network* [2015] NSWCATAD 11
- in the ground-breaking discrimination decision, where the Full Federal Court considered comprehensively the assessment of damages in discrimination cases - *Richardson v Oracle Corporation Australia Pty Limited (No 2)* [2013] FCA 359; see also *Richardson v Oracle Corporation Australia Pty Limited* [2013] FCA 102; successful defence of an application for leave to appeal in the Federal Court: *Harmer v Oracle Corporation Australia Pty Limited* [2013] FCAFC 63; 299 ALR 236; *Richardson v Oracle Corporation Australia Pty Ltd* [2014] FCAFC 82.

Recent industrial matters:

- *Salama v Sydney Trains; Mr Laurence New; Ms Amba Francisco; Mr Charlie Keech; Ms Kirsty Sweeting* [2018] FWC 1845
- *Ronald MacDonald v Jetstar Airways Pty Ltd* [2019] NSWIRComm 1010
- *Amy Louise Thompson v Commissioner of Police* [2018] NSWIRComm 1056
- *Ashok Kumar Duraisamy v Sydney Trains* [2017] FWCFB 5842 (leave to appeal hearing)

Recent inquests:

- *Inquest into the death of KS* - <http://www.coroners.justice.nsw.gov.au/Pages/findings.aspx#2018findingsandrecommendations>
- Acting for the Northern Sydney Local Health District in the *Inquest into the death of Abdulaziz Omerhaj* - <http://www.coroners.justice.nsw.gov.au/Pages/findings.aspx#2018findingsandrecommendations>
- Acting for a Local Health District in the *Inquest into the Death of Terry Riordan*.

Recent health and administrative law matters:

- *Health Care Complaints Commission v Dr DWF* [2019] NSWCATOD 78
- *Abmad v Health Care Complaints Commission* [2019] NSWCATOD 35
- *Health Care Complaints Commission v Sundarajah (No 2)* [2018] NSWCATOD 86
- *Tanious v Australian Medical Council Limited and Australian Health Practitioner Regulation Agency (No 2)* [2015] NSWSC 456
- *Reimers v Medical Council of NSW* [2015] NSWCATOD 38

Recent intentional tort matters

- *Le v State of New South Wales* [2017] NSWDC 38