

Patricia Lawson
Case References

Supreme Court of New South Wales - Court of Appeal

Date	Case	URL	Catchwords
15/11/2004	<u>Amery & Ors v New South Wales (Director-General NSW Department of Education and Training) [2004] NSWCA 404 (15 November 2004)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2004/404.html?stem=0&synonyms=0&query=lowson	<p>DISCRIMINATION - Indirect discrimination on grounds of sex - Motive for indirect discrimination is irrelevant.</p> <p>DISCRIMINATION - Construction - Anti-Discrimination Act 1977, s.24(1)(b) - The words "on the ground of the aggrieved person's sex" in s.24(1) are mere surplusage in relation to s.24(1)(b) - The test of 'reasonableness' in s.24(1)(b) is less demanding than one of necessity, but more demanding than a test of convenience.</p> <p>DISCRIMINATION - Tribunals - Industrial questions - Anti-Discrimination Act 1977, s.54 - Amendments - Existence of an award or industrial agreement is no longer a defence.</p> <p>ERROR OF LAW - Onus - Relevant and irrelevant considerations - The question whether a consideration is relevant falls to be determined having regard to the matter in issue - Existence of specialist industrial tribunal - Role of court in relation to industrial disputes.</p> <p>INTEREST - Administrative Decisions Tribunal Act 1997 - Whether claimants entitled to interest by way of compensation for the loss of the use of money that ought to have been paid to them by way of salary but for the discriminatory conduct - A claim for damages under the Act may include a claim for</p>

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			<p>compensatory interest.</p> <p>COSTS - Administrative Decisions Tribunal Act 1997, s.114(2) - Determination of the application for costs under this section was a question of fact not law.</p>
28/04/2006	<p><u>John Holland Group Pty Ltd v Industrial Relations Court of NSW & Inspector Gary Mason (WorkCover Authority of NSW) [2006] NSWCA 93 (28 April 2006)</u></p>	<p>http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2006/93.html?stem=0&synonyms=0&query=lowson</p>	<p>JUDICIAL REVIEW - Application to intervene in criminal proceedings commenced in Industrial Court - Where claimant asserted that proceedings baseless - Where claimant asserted that proceedings begun out of time - Where claimant took no step before Industrial Court to challenge validity of proceedings - Supreme Court should not interfere pre-emptively</p>
07/05/2009	<p><u>Director-General, Dept of Ageing, Disability and Home Care v Lambert [2009] NSWCA 102 (7 May 2009)</u></p>	<p>http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2009/102.html?stem=0&synonyms=0&query=lowson</p>	<p>ADMINISTRATIVE LAW – Appeal to and from administrative tribunal – Government and Related Employees Tribunal Act 1980 – Powers of GREAT on appeal – Appeal from GREAT to Supreme Court – Decision of the Tribunal on a question of law – whether it is sufficient that the Tribunal’s decision manifests resolution of a question of law.</p> <p>PUBLIC SERVICE – Disciplinary action – Public Sector Employment and Management Act 2002, Pt 2.7 – Dismissal from Public Service – Relevant considerations – Distinction between protective and punitive purposes – Relevance of hardship to employee – Whether period of probation can be imposed – Whether Government and Related Employees Appeal Tribunal has wider powers in disposing of an appeal.</p>
08/12/2011	<p><u>Commissioner of Police for New South Wales v Lawrance & Anor [2011] NSWCA 377 (8 December 2011)</u></p>	<p>http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2011/377.html?stem=0&synonyms=0&query=lowson</p>	<p>JUDICIAL REVIEW - Police sergeant seeks review of Commissioner's decision removing him from the Police Force - Industrial Relations Commission ("IRC") finds removal harsh and directs Commissioner to re-employ the former sergeant at the lower rank of Senior Constable - whether the IRC's decision affected by jurisdictional error - whether s 89(2) of the Industrial Relations Act 1996 empowers the IRC to</p>

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			direct re-employment of a former police officer at a lower rank - whether there was evidence to support IRC's finding that re-employment was practicable.
06/03/2012	<u>Eaton v Industrial Relations Commission of New South Wales [2012] NSWCA 30 (6 March 2012)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2012/30.html?stem=0&synonyms=0&query=lowson	JURISDICTION - Industrial Relations Commission - Probationary police constable - Unfair dismissal - Right to review - Inconsistency or incongruity between the provisions of Police Act and Industrial Relations Act - implied repeal
01/11/2013	<u>Horsell International Pty Ltd v Divetwo Pty Ltd [2013] NSWCA 368 (1 November 2013)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2013/368.html?stem=0&synonyms=0&query=lowson	INSURANCE - construction of insurance policy - insuring clause - whether first and second respondents entitled to indemnity from third respondent - policy cover for claims arising "in connection with the Insured's Business" - injury and damage caused during recreational boat trip - whether trip in connection with insured's business INSURANCE - construction of insurance policy - exclusion clause - dangerous navigation - Crimes Act 1900 s 52B - whether second respondent's conduct "criminal act or omission" for purposes of exclusion clause - whether act needs to be intentional NEGLIGENCE - insurance broker - duty of care - retainer - whether insurance broker failed to advise of deficiencies in policy
08/04/2014	<u>Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales v Secretary of the Treasury [2014] NSWCA 112 (8 April 2014)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2014/112.html?stem=0&synonyms=0&query=lowson	ADMINISTRATIVE LAW - jurisdictional error - precondition for the existence of jurisdiction - whether appellate jurisdiction of the Full Bench of the Industrial Relations Commission depended on its satisfaction that a relevant error affected decision under appeal or upon demonstration of error to the reviewing court - Industrial Relations Act 1996 (NSW), s 191 ADMINISTRATIVE LAW - jurisdictional error - whether Full Bench of the Industrial Relations Commission erred in its redetermination of the matter - whether the Full Bench, having accepted misconduct, asked

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			<p>itself whether the proposed dismissal was harsh, unreasonable or unjust - Industrial Relations Act 1996 (NSW), s 89(7)</p> <p>ADMINISTRATIVE LAW - implied duty to give reasons - whether inadequacy of reasons constitutes jurisdictional error - obligation of the Full Bench of the Industrial Relations Commission to give reasons when not sitting as a court - statutory scheme under the Industrial Relations Act 1996 (NSW) considered</p> <p>INDUSTRIAL LAW - disciplinary proceedings - whether threatened dismissal harsh, unreasonable or unjust - public sector employment - application to restrain threatened unfair dismissal - review of employer's decision - jurisdiction of Industrial Relations Commission</p>
07/12/2015	Bahramy v Medical Council of New South Wales [2015] NSWCA 384 (7 December 2015)	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2015/384.html?stem=0&synonyms=0&query=lowson	ADMINISTRATIVE LAW – Civil and Administrative Tribunal NSW – appeal on question of fact – challenge to findings regarding credibility of expert witness
06/11/2017	Medical Council of New South Wales v Lee [2017] NSWCA 282 (6 November 2017)	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWCA/2017/282.html?stem=0&synonyms=0&query=lowson	<p>PROFESSIONS AND TRADES – allegations of criminal conduct against medical practitioner – medical practitioner suspended pursuant to s 159 of Health Practitioner Regulation National Law (NSW) – stay granted by Tribunal pursuant to s 43(3) of Civil and Administrative Tribunal Act 2013 (NSW) – whether Tribunal had power to grant stay – Tribunal not empowered by s 43(3) – National Law intended to be exhaustive – Tribunal not empowered by s 161B of National Law unless medical practitioner appeals against the suspension decision with respect to a point of law</p> <p>PROCEDURE – whether appellant’s failure to put argument to Tribunal precludes grant of leave – appellant concedes it should pay costs of appeal – interests of justice that appellant be permitted to rely on argument</p>

Supreme Court of New South Wales

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01/08/2000	<u>"K" v NSW Ombudsman and Anor [2000] NSWSC 771 (1 August 2000)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2000/771.html?stem=0&synonyms=0&query=lowson	
28/06/2002	<u>The Commission for Children and Young People v 'Ag' [2002] NSWSC 582 (28 June 2002)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2002/582.html?stem=0&synonyms=0&query=lowson	Application for Declaration as to new application of Act-Powers of Statutory Tribunal-relationship of Crimes Act and Child Protection (Prohibited Employment) Act 1998- Prerogative relief-relationship of Court with Industrial Relations Commission-comity
03/10/2006	<u>Mp v Director General of Education and Training and Ors [2006] NSWSC 1041 (3 October 2006)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2006/1041.html?stem=0&synonyms=0&query=lowson	FAMILY LAW AND CHILD WELFARE - Child Welfare other than under Family Law Act 1975 and related Acts - Crimes and offences by and against children - Plaintiff accused of inappropriate behaviour against a child - Plaintiff employed by Department of Education and Training - Injunction sought restraining Director General of Education and Training from notifying any other entity in purported exercise of statutory functions - Whether Director General should be restrained from reporting under the Ombudsman Act 1974, s 25F or the Commission for Children and Young People Act 1998, s 39
09/02/2012	<u>Rian Lane v Dive Two Pty Ltd [2012] NSWSC 49 (9 February 2012)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2012/49.html?stem=0&synonyms=0&query=lowson	PRACTICE AND PROCEDURE - pleadings - amendment - application to amend pleadings - whether issue sufficiently raised - whether issue raised too late in proceedings - exercise of discretion to grant amendment
24/02/2012	<u>Rian Lane v Dive Two Pty Ltd [2012] NSWSC 104 (24 February 2012)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2012/104.html?stem=0&synonyms=0&query=lowson	CONTRACT - construction - construction of an insuring clause - meaning of "in connection with the Insured's business" - construction by reference to external factors - construction of an exclusion clause in a contract of insurance - meaning of "criminal act" - whether the contract of insurance excludes negligent criminal acts - maxims of construction - the contra proferentem rule - implied retainer TORT - negligence - negligent misstatement -

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			<p>negligent misrepresentation - duty of care - scope of an insurance broker's duties under an implied retainer - standard of care - standard of care expected of a reasonably competent insurance broker - breach of duty</p> <p>PRACTICE AND PROCEDURE - pleadings - whether cross-claimants ought to be constrained by their pleadings - sufficiency of pleaded case in all the circumstances - undesirability of deciding substantive matter on pleading points - distinction between negligent misstatement and negligent representation</p>
12/03/2012	<u>Rian Lane v Dive Two Pty Ltd (No 2) [2012] NSWSC 209 (12 March 2012)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2012/209.html?stem=0&synonyms=0&query=lowson	<p>PRACTICE AND PROCEDURE – costs</p>
04/03/2013	<u>Bank of Western Australia Limited v Leila El-Khoury & Ors [2013] NSWSC 157 (4 March 2013)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2013/157.html?stem=0&synonyms=0&query=lowson	<p>PROCEDURE - Supreme Court procedure - bank applies for summary judgment and principal claim against guarantors - whether summary judgment should be granted - bank seeks to strike out cross claim for want of prosecution</p>
16/07/2014	<u>Estate Kouvakas; Lucas v Konakas [2014] NSWSC 786 (16 July 2014)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2014/786.html?stem=0&synonyms=0&query=lowson	<p>SUCCESSION - Wills, Probate and Administration - Probate and Letters of Administration - Alteration and Revocation of Grants - Application to revoke grant of administration in common form - Plaintiff acquiesced in grant of administration in favour of defendant - Whether in the interests of the due administration of justice and of the estate to revoke grant - Court's power to revoke grant is discretionary - Revocation proceedings an abuse of process - Application summarily dismissed</p> <p>SUCCESSION -Wills, Probate and Administration - Probate and Letters of Administration - Practice - New South Wales -Form of probate and letters of administration - Distinction between grant in common form and grant in solemn form - Principles governing revocation of grants</p>

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30/07/2014	<u>Health Services Union NSW -v- Peter Mylan [2014] NSWSC 1026 (30 July 2014)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2014/1026.html?stem=0&synonyms=0&query=lowson	EVIDENCE - self-incrimination - Evidence Act 1995 (NSW) s 128 - where plaintiff seeks the grant of a certificate in respect of evidence to be given by a witness who has agreed to provide an affidavit but only on condition that such a certificate is granted - held requirements of s 128 not met and certificate cannot be granted because the witness has not objected to giving particular evidence under compulsion - Certificate refused - PROCEDURE - advance rulings and findings - s192A of the Evidence Act 1995 (NSW)
11/05/2015	<u>BKE v Office of Children’s Guardian & Anor [2015] NSWSC 523 (11 May 2015)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2015/523.html?stem=0&synonyms=0&query=lowson	ADMINISTRATIVE APPEAL – adult persons residing with authorised carer must hold a working with children check clearance – plaintiff’s wife is carer for grandson – plaintiff disqualified from obtaining clearance from the Office of the Guardian due to convictions in 1968 and 1970 – applied to NCAT for enabling order and clearance – assessment of risk – application refused based on finding that event subject of charge laid in 2000 for which he was acquitted happened. JUDICIAL REVIEW – appeal on a question of law – procedural fairness – finding that applicant committed offence for which he was acquitted – clear notice required – statutory requirement to consider information provided by applicant in relation to application for review – failure to consider applicant’s explanation of incident – review of fact finding by NCAT – standard to be applied – whether findings illogical or had no evidentiary support . HELD: NCAT decision set aside – matter to be re-heard before NCAT
18/12/2015	<u>Estate of Joan Esme Little and the Succession Act 2006 [2015] NSWSC 1913 (18 December 2015)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2015/1913.html?stem=0&synonyms=0&query=lowson	FAMILY PROVISION – Claim by two daughters and a grandson – Estate insufficiently large to make adequate and proper provision for all claimants – Issue of credibility of parties – Extension of time for making application

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24/06/2016	<u>Children’s Guardian v BQJ [2016] NSWSC 869 (24 June 2016)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2016/869.html?stem=0&synonyms=0&query=lowson	APPEAL – civil – appeal from decision of New South Wales Civil and Administrative Tribunal – granting of working with children check clearance to person convicted of manslaughter of child
09/02/2017	<u>Richardson v The Medical Council of NSW [2017] NSWSC 105 (9 February 2017)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2017/105.html?stem=0&synonyms=0&query=lowson	ADMINISTRATIVE LAW – application for stay of inquiry by Professional Standards Committee – whether reasonable apprehension of bias – whether member ought to have recused himself in circumstances where member and expert did not have a professional relationship and degree of association was insubstantial – not open to infer that member would bring an open mind only in relation to preference of evidence between expert witnesses - no reasonable layperson would reasonably apprehend that member might not bring an impartial mind
23/06/2017	<u>Reynolds v Bonnici [2017] NSWSC 828 (23 June 2017)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2017/828.html?stem=0&synonyms=0&query=lowson	SUCCESSION – Wills, probate and administration – Ademption of testamentary gift – Presumption against double portions – Not applicable otherwise than to legacy for a child or particular purpose – Not generally applicable as between de facto partners without particularised purpose. SUCCESSION – Wills, Probate and administration – Ademption of testamentary gift – Where presumption against double portions not available – Express ademption – Intention to adeem must be brought to knowledge of donee at time of acceptance of inter vivos gift. EQUITY – Ademption – Types – Ademption of legacy by portions – Ademption of legacy given for particular purpose – Express ademption – Intention of donor – Knowledge of donee – Different criteria for different types of ademption.
27/07/2017	<u>CCW v Children's Guardian [2017] NSWSC 988 (27 July 2017)</u>	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NWSC/2017/988.html?stem=0&synonyms=0&query=lowson	ADMINISTRATIVE LAW – judicial review – appeal from decision of New South Wales Civil and Administrative Tribunal – Working with Children Check Clearance – Plaintiff’s stepson and daughter make and withdraw

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			<p>allegations that he sexually assaulted them – criminal charges dropped – Plaintiff has significant criminal record and exhibits other antisocial risk factors – Children’s Guardian cancelled Clearance – Tribunal confirmed decision to cancel Clearance – whether Tribunal’s decision so unreasonable that no reasonable Tribunal could have made it – whether Tribunal failed to place sufficient weight on Family Court consent order giving Plaintiff custody of grandchildren – whether Tribunal erred in not finding that allegations did not occur – no error of law demonstrated – summons dismissed</p>

Family Court of Australia, Full Court

Date	Decision	URL	Catchwords
17/02/2017	Official Trustee in Bankruptcy & Galanis and Anor [2017] FamCAFC 20; (17 February 2017)	http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FamCAFC/2017/20.html?stem=0&synonyms=0&query=lowson	<p>FAMILY LAW – APPEAL – JURISDICTION – Matrimonial cause – Whether the Family Court of Australia has jurisdiction to hear an application to set aside a financial agreement entered into under the Family Law Act 1975 (Cth) (“the Family Law Act”), where that application is made by the trustee in bankruptcy of a discharged bankrupt – Construction of definitions (cb) and (eab) within the definition of “matrimonial cause” in s 4(1) of the Family Law Act – Construction of “government body” within s 4A of the Family Law Act – Where the phrase “bankrupt party to the marriage” in definition (cb) means an undischarged bankrupt – Where the Official Trustee in Bankruptcy is not a government body for the purposes of s 4A of the Family Law Act – Where the Court has no jurisdiction to hear the application as it does not fall within the definition of a matrimonial cause – No error established – Appeal dismissed.</p> <p>FAMILY LAW – APPEAL – COSTS – Where the appellant was wholly unsuccessful – Where the respondent seeks costs on an indemnity basis – Where the circumstances do not justify indemnity costs – Costs as agreed or assessed.</p>

Family Court of Australia

Date	Case	URL	Catchwords
11/12/2014	<u>Notaros & Houlis [2014] FamCA 1254; (11 December 2014)</u>	http://classic.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FamCA/2014/1254.html?stem=0&synonyms=0&query=lowson	FAMILY LAW – PROPERTY – Settlement in relation to marriage – Where the husband and wife were married for six years and have one child – Where the husband’s brother and his wife loaned him money – Where pursuant to the Limitation Act 1969 (NSW) any action to enforce the loan is out of time – Where as a result of the unenforceable loan, the initial contributions by the husband were significantly greater than those by the wife – Where the major part of financial contributions over the relevant years were made by the husband – Where the wife made the overwhelming contribution to the welfare of the family – Where overall contributions are found to be 64 per cent by the husband and 36 per cent by the wife – Where the husband is older than the wife and faces health issues – Where the wife has not worked in paid employment for 11 years – Where the wife is the primary parent of the parties’ child – Where a 10 per cent s 75(2) adjustment is appropriate in favour of the wife – Where an order is made for the husband to receive 54 per cent and the wife to receive 46 per cent of the available property and superannuation.

Publications

<https://itsnotnormalisit.com/tag/patricia-lowson/>

<https://www.dailytelegraph.com.au/technology/doctor-accused-of-sending-thousands-of-texts-and-emails-to-former-lover-fights-ban/news-story/a136917a75bdb6c3cec39bb74c57be2d>

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<https://www.injuredworkerssupport.org.au/incompetent-and-uncaring-bosss-attitude-responsible-for-teenagers-death/>

<https://kangarocourtofaustralia.com/trade-union-royal-commission/>

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