

NOTICE OF FILING

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	17/05/2026 8:41:56 PM AEST
Date Accepted for Filing:	17/05/2026 8:41:57 PM AEST
File Number:	VID1036/2024
File Title:	JAYSON LLOYD GILLHAM v MELBOURNE SYMPHONY ORCHESTRA PTY LTD & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 59
Rule 29.02(1)

Affidavit

No. VID 1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicant

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Affidavit of: **Michael David Bradley**
Address: Level 4, 343 George Street, Sydney NSW 2000
Occupation: Managing Partner
Date: 17 May 2026

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Filed on behalf of (name & role of party) Jayson Lloyd Gillham, Applicant
Prepared by (name of person/lawyer) Michael Bradley
Law firm (if applicable) Marque Lawyers
Tel (02) 8216 3000 Fax _____
Email michaelb@marquelawyers.com.au; laureng@marquelawyers.com.au;
lailab@marquelawyers.com.au
Address for service Level 4, 343 George St, Sydney NSW 2000
(include state and postcode) _____

Document number	Details	Paragraph	Page
6	Annexure “MDB-10”, being a copy of the article published in The Age on 29 November 2024 by Chip Le Grand and Kerrie O’Brien titled, “Peter Garrett pulls out of MSO review before it begins amid board exodus”.	9	20 – 26
7	Annexure “MDB-11”, being a screenshot of the First Respondent’s website: https://www.mso.com.au/media-centre/press-releases/2024-melbourne-symphony-orchestra-board-and-governance-update .	10	27 – 31
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I, Michael David Bradley, of Level 4, 343 George Street, Sydney NSW 2000 affirm:

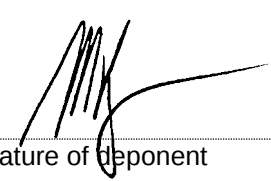
1. I am the Managing Partner of the firm Marque Lawyers, solicitors on the record for the Applicant.
2. I have previously sworn two other affidavits in these proceedings (on 2 October 2025 with the Annexure “MDB-1” and on 30 April 2026 with Annexures “MDB-2” to “MDB-5”).
3. Unless otherwise indicated, I make this affidavit based on my own knowledge, information and belief and based on my knowledge and experience as a solicitor.
4. On 24 April 2026, I was copied to an email sent by Ms Lauren Gasparini, a Senior Associate at Marque Lawyers, to the Respondents’ solicitors, Arnold Bloch Leibler. Ms Gasparini’s email attached a letter from Marque Lawyers dated 24 April 2026, which included a request at paragraphs 2 to 4 that the First Respondent undertake a review and produce any discoverable documents related to the First Respondent’s Governance Review being undertaken by KPMG. Annexed to this affidavit at pages **4 to 7** and marked **Annexure MDB-6** is a copy Ms Gasparini’s email sent on 24 April 2026 and Marque Lawyers’ letter dated 24 April 2026.
5. From 24 April 2026 to 13 May 2026, I did not receive any emails or letters from the Respondents’ solicitors responding to the request made on 24 April 2026 for discovery of documents related to the Governance Review.
6. On 13 May 2026, I was copied to an email sent by Ms Laila Bowden, a Lawyer at Marque Lawyers, to the Respondents’ solicitors requesting an urgent response to paragraphs 2 to 4 of Marque Lawyers’ 24 April 2026 letter. Annexed to this affidavit at pages **8 to 9** and marked **Annexure MDB-7** is a copy Ms Bowden’s email sent on 13 May 2026.
7. On 14 May 2026, I received an email from Ms Nicole Flint on behalf of Mr Leon Zwier, solicitor for the Respondents, attaching a letter dated 14 May 2026 from Arnold Bloch Leibler which disputed the relevance of the documents which had been requested. Annexed to this affidavit at pages **10 to 12** and marked **Annexure MDB-8** is a copy of Arnold Bloch Leibler’s letter dated 14 May 2026.




8. On 15 May 2026, I was copied to an email from Ms Bowden to the Respondents' solicitors attaching a letter from Marque Lawyers which responded to Arnold Bloch Leibler's letter from the previous day. This letter reiterated the Applicant's view that the documents were relevant to the issues in dispute and therefore discoverable in the proceedings and requested confirmation by 5:00pm that day that the relevant searches would be undertaken by the First Respondent. Enclosed with this letter was a copy of the Governance Review's Terms of Reference. Annexed to this affidavit at pages **13 to 19** and marked **Annexure MDB-9** is a copy of Ms Bowden's email, the letter dated 15 May 2026 and its enclosure (being the Governance Review's Terms of Reference).
9. Also annexed to this affidavit at pages **20 to 26** and marked **Annexure MDB-10** is a copy of the article referred to at footnote 1 of Marque Lawyers' letter dated 15 May 2026, being a copy of an article published on 29 November 2024 in The Age by Chip Le Grand and Kerrie O'Brien titled, "Peter Garrett pulls out of MSO review before it begins amid board exodus".
10. Annexed to this affidavit at pages **27 to 31** and marked **Annexure MDB-11** is a screenshot of the First Respondent's website, where the Terms of Reference can be downloaded (<https://www.mso.com.au/media-centre/press-releases/2024-melbourne-symphony-orchestra-board-and-governance-update>).
11. On 17 May 2026, I received an email from the Respondents' solicitors attaching a letter responding to Marque Lawyers' letter dated 15 May 2026. This letter explains that the First Respondent maintain its position that the requested documents are not discoverable. Annexed to this affidavit at pages **32 to 33** and marked **Annexure MDB-12** is a copy of Arnold Bloch Leibler's letter.

Affirmed by the deponent
at Melbourne
in Victoria
on 17 May 2026
Before me:

)
)
)
)
)


Signature of deponent



Signature of witness

Lauren Gasparini
Solicitor
Marque Lawyers
Level 4, 343 George St
Sydney NSW 2000

This affidavit was signed and affirmed by the deponent by audio visual link and the authorised affidavit taker has used an electronic copy of the affidavit in completing the jurat requirements. All requirements of section 12 of the Electronic Transactions (Victoria) Act 2000 (Vic) have been met.

Rule 29.02(8)

Certificate identifying annexure

No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-6”

This is the annexure marked “MDB-6” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



.....
Signature of Witness

Lauren Gasparini

From: Lauren Gasparini
Sent: Friday, 24 April 2026 11:45 AM
To: Jarryd Shaw
Cc: Michael Bradley; Laila Bowden; Rachel Soh; Leon Zwier; Jason Rudaizky
Subject: Gillham v MSO - document and information request [Marque-DOCUMENTS.FID121155]
Attachments: 2026.04.24 Letter to ABL (document and info request)(4752386.2).pdf

Dear Jarryd

Please see **attached** letter.

Kind regards
Lauren

Lauren Gasparini
Senior Associate
MARQUE Lawyers Pty Ltd

Certified



P: +612 8216 3087
Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / [LinkedIn](#) / [Bluesky](#) / [Instagram](#)
We do not disclaim anything about this email. We're quite proud of it, really.

Our reference	MB:LG:14879
Phone	+612 8216 3006
Email	michaelb@marquelawyers.com.au
Your reference	011928243

24 April 2026

Leon Zwier
Partner
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne VIC 3000

Rachel Soh
Partner
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne VIC 3000

By email: lzwier@abl.com.au; rsoh@abl.com.au

Dear Leon and Rachel

Jayson Gillham v Melbourne Symphony Orchestra Pty Ltd (ABN 47 078 925 658) & Anor

1. Outstanding requests for documents and information

1.1 We refer to the following requests for further information:

- (a) email from Ms Lauren Gasparini sent on 13 April 2026 at 7:22pm regarding paragraph 21 of Dr Galaise's amended outline of evidence;
- (b) email from Ms Lauren Gasparini sent on 20 April 2026 at 12:41pm regarding paragraph 19 of Ms Dembo's amended outline of evidence;
- (c) email from Ms Laila Bowden sent on 22 April 2026 at 11:04am requesting provision of documents numbered MSO.0001.0001.1091, MSO.0001.0001.1191 and MSO.0001.0001.1331; and
- (d) email from Ms Lauren Gasparini sent on 22 April 2026 at 4:53pm requesting confirmation as to the author of documents numbered MSO.0001.0001.1624 and MSO.0001.0001.1541.

1.2 We request that you please provide the information and documents requested in the emails identified at paragraph 1 above as soon as possible.

2. **Governance Review**

2.1 We also refer to:

- (a) the First Respondent's governance review which we understand is being undertaken by KPMG (see the First Respondent's governance update published on 29 November 2024 here: <https://www.mso.com.au/media-centre/press-releases/2024-melbourne-symphony-orchestra-board-and-governance-update>) (**Governance Review**); and
- (b) the Governance Review's Terms of Reference (<https://melbourne-symphony-orchestra.s3.amazonaws.com/production/Media-PR/Press-Releases/2024-MSO-Governance-Review-Terms-of-Reference.pdf>).

3. We note that the First Respondent has not discovered any documents with respect to the Governance Review.

4. Given the content of the Terms of Reference and the issues in dispute in the proceedings, we request that the First Respondent undertakes a review of all documents with respect to the Governance Review (including but not limited to correspondence and (if relevant) draft reports) and produce any discoverable documents as soon as possible.

Yours sincerely



Michael Bradley
Managing Partner

Rule 29.02(8)

Certificate identifying annexure

No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-7”

This is the annexure marked “MDB-7” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



.....
Signature of Witness

Lauren Gasparini

From: Laila Bowden
Sent: Wednesday, 13 May 2026 5:15 PM
To: Jarryd Shaw
Cc: Michael Bradley; Lauren Gasparini; Leon Zwier; Rachel Soh; Jason Rudaizky
Subject: RE: Gillham v MSO - document and information request [Marque-DOCUMENTS.FID121155]
Attachments: 2026.04.24 Letter to ABL (document and info request)(4752386.2).pdf

Hi Jarryd

We refer to our attached letter dated 24 April 2026.

We are yet to receive a response from your clients in respect of the documents relevant to the KPMG Governance Review.

Please provide your clients' response urgently.

Kind regards
Laila

From: Lauren Gasparini <laureng@marquelawyers.com.au>
Sent: Friday, 24 April 2026 11:45 AM
To: Jarryd Shaw <jshaw@abl.com.au>
Cc: Michael Bradley <michaelb@marquelawyers.com.au>; Laila Bowden <lailab@marquelawyers.com.au>; Rachel Soh <rsoh@abl.com.au>; Leon Zwier <lzwier@abl.com.au>; Jason Rudaizky <[jrudaizky@abl.com.au](mailto:jrudaiizky@abl.com.au)>
Subject: Gillham v MSO - document and information request [Marque-DOCUMENTS.FID121155]

Dear Jarryd

Please see **attached** letter.

Kind regards
Lauren

Lauren Gasparini
Senior Associate
MARQUE Lawyers Pty Ltd

 Certified

P: +612 8216 3087



Gadigal Country, Level 4, 343 George Street Sydney 2000
marquelawyers.com.au / [LinkedIn](#) / [Bluesky](#) / [Instagram](#)

We do not disclaim anything about this email. We're quite proud of it, really.

Corporation

Rule 29.02(8)

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No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-8”

This is the annexure marked “MDB-8” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



.....
Signature of Witness



MELBOURNE
SYDNEY

Partners
Mark M Leibler AC
Henry D Lanzer AM
Joseph Borensztajn AM
Leon Zwier
Philip Chester
Ross A Paterson
Stephen L Sharp
Kevin F Frawley
Zaven Mardrossian
Jonathan M Wenig
Paul Sokolowski
Paul Rubenstein
Peter M Seidel
John Mitchell
Ben Mahoney
Jonathan Milner
John Mengolian
Matthew Lees
Genevieve Sexton
Jeremy Leibler
Nathan Briner
Justin Vaatstra
Clint Harding
Susanna Ford
Tyrone McCarthy
Teresa Ward
Christine Fleer
Jeremy Lanzer
Bridget Little
Gia Cari
Jason van Grieken
Elyse Hilton
Jonathan Orner
Stephen Lloyd
Scott Phillips
Gavin Hammerschlag
Shaun Cartoon
Damien Cuddihy
Dorian Henneron
Rebecca Zwier
Ben Friis-O'Toole
Raphael Leibler
Gabriel Sakkal
Matthew Davies
Rachel Soh
Luke Jedydynak

Consultant
Kenneth A Gray

Special Counsel
Sam Dollard
Emily Simmons
Brianna Youngson
Briely Trollope
Laura Cochrane
Greg Judd
Paul Chadwick

Senior Associates
Elly Bishop
Vidushee Deora
Emily Korda
Michael Reppe
Anna Sapountsis
Alexandra Harrison-Ichlov
Claire Southwell
Luise Squire
Ari Bendet
Michelle Ainsworth
Micaela Bernfield
Crosby Radburn
Jessica Wills
George Bassil
Harriet Craig
Ellie Mason
Jessica Orner
Freeman Zhong
Ben Chahoud
Sophia Charles
Christopher Davis
Madeleine Durrant
Jason Rudaizky
Emma French-Mullen
Natalie Thomas
Megan Hosiosky
Priyanka Maharaj
Ryan Taylor
Camilla Miles
Zavara Farquhar
Max Griffin
Matthew Harris
Molly Scott
Johnny Sorras
Tamsen Kempster
Eileen Liu
Julia Heyward
Noah Lipshut

14 May 2026

By-Email

Michael Bradley
Managing Partner
Marque Lawyers

michaelb@marquelawyers.com.au

Your Ref 14879

File No. 011928243

Partners

Rachel Soh
Direct +61 3 9229 9962
rsoh@abl.com.au

Leon Zwier
Direct +61 3 9229 9607
lzwier@abl.com.au

Dear Mr Bradley

Jayson Gillham v Melbourne Symphony Orchestra Pty Ltd (ABN 47 078 925 658) & Anor

We refer to paragraphs 2 to 4 of your letter dated 24 April 2026, in which you requested that the First Respondent undertake a review of all documents relating to the “Governance Review” and produce any discoverable documents.

- 1 Set out below are our further instructions.
- 2 Documents concerning the Governance Review are not directly relevant for the purposes of r 20.14 of the *Federal Court Rules 2011* (Cth) (**Rules**).
- 3 The Governance Review is not referred to in the pleadings. The function of pleadings is to identify the issues in dispute and thereby identify the boundaries of relevance. This principle was stated by the High Court in *Dare v Pulham* (1982) 148 CLR 658 at 664, and has been applied in subsequent decisions, including by Rares J in *Wing v Australian Broadcasting Corporation* [2018] FCA 1340 at [77].
- 4 Further, as is apparent from the published Terms of Reference referred to at paragraph 2.1(b) of your letter, the scope of the Governance Review excluded any review of, or the making of any findings about, the events the subject of this proceeding. The Terms of Reference expressly state, *inter alia*, that KPMG would not make findings about any event or any person and specifically excludes the review of any individual's actions, findings about legal compliance and any review of the performance of the Board, senior management or any officers or employees of the MSO.
- 5 Your client has specifically requested copies of any Governance Review reports. While reserving our rights in relation to the position set out above, we note the MSO does not have the documents.
- 6 In the circumstances, putting to one side the lack of relevance, your belated request that the MSO now review “*all documents with respect to the Governance Review*”, including correspondence and draft reports, is not justified.
- 7 Your request is also inconsistent with the overarching purpose in s 37M of the *Federal Court of Australia Act 1976* (Cth). It would impose an unreasonable burden at this stage of the proceeding, particularly given the request has been made just over three weeks before trial, when our clients are engaged in final trial preparation. To agitate, at this

late stage in the proceeding, that the MSO should spend time and money searching for documents which do not bear on the pleaded issues and would not assist the just, quick, inexpensive and efficient resolution of the proceeding. This is an unnecessary distraction.

- 8 The First Respondent rejects the suggestion in your letter that it has failed to comply with its discovery obligations in respect of the Governance Review, and otherwise reserves its position.

Yours sincerely

Arnold Bloch Leibler



Leon Zwier
Partner



Rachel Soh
Partner

Rule 29.02(8)

Certificate identifying annexure

No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-9”

This is the annexure marked “MDB-9” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



.....
Signature of Witness

Lauren Gasparini

From: Laila Bowden
Sent: Friday, 15 May 2026 1:50 PM
To: Leon Zwier
Cc: Michael Bradley; Lauren Gasparini; Rachel Soh; Jason Rudaizky; Jarryd Shaw
Subject: RE: VID1036/2024 Jayson Gillham v Melbourne Symphony Orchestra & another [Marque-DOCUMENTS.FID121155]
Attachments: 2025.05.15 Letter to ABL (KPMG review)(4766783.2).pdf; 2024-MSO-Governance-Review-Terms-of-Reference.pdf; MSO_ Peter Garrett walks from review as orchestra board members quit.pdf

Dear Leon

Please see **attached**.

Kind regards
Laila

From: Nicole Flint <NFlint@abl.com.au> **On Behalf Of** Leon Zwier
Sent: Thursday, 14 May 2026 9:41 PM
To: Michael Bradley <michaelb@marquelawyers.com.au>
Cc: Lauren Gasparini <laureng@marquelawyers.com.au>; Laila Bowden <lailab@marquelawyers.com.au>; Rachel Soh <RSoh@abl.com.au>; Jason Rudaizky <JRudaizky@abl.com.au>; Jarryd Shaw <jshaw@abl.com.au>
Subject: VID1036/2024 Jayson Gillham v Melbourne Symphony Orchestra & another

Dear Mr Bradley

We **attach** our correspondence to you.

Yours sincerely
Leon Zwier | Partner

Arnold Bloch Leibler
Level 21, 333 Collins Street, Melbourne Victoria 3000
E: LZwier@abl.com.au | T: +61 3 9229 9607 | M: +61 439 381 683 | [Vcard](#)

Wurundjeri Country



----- Disclaimer -----

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DisclaimerID:AUUYGH000012



Our reference MB:LG:14879
Phone +612 8216 3006
Email michaelb@marquelawyers.com.au
Your reference 011928243

15 May 2026

Leon Zwier
Partner
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne VIC 3000

By email: lzwier@abl.com.au

Dear Leon

Jayson Gillham v Melbourne Symphony Orchestra Pty Ltd (ABN 47 078 925 658) & Anor

1. We refer to your letter dated 14 May 2026 responding to paragraphs 2 to 4 of our letter dated 24 April 2026 and denying that any documents related to the Governance Review must be discovered by the First Respondent.
2. We disagree that documents concerning the Governance Review are not “directly relevant to the issues raised by the pleadings” and therefore are not discoverable pursuant to r 20.14(1)(a) of the *Federal Court Rules 2011* (Cth) (**FCR**). Public reporting in respect of the First Respondent’s review (which we understand was originally planned to be undertaken by Peter Garrett) suggests your client has always been aware of the likelihood that documents related to the Governance Review would need to be discovered.¹
3. The Governance Review itself does not need to be identified in our client’s pleading for documents produced as a result of the Governance Review to be discoverable. This is made clear by the fact that these proceedings were commenced prior to the publication of the Terms of Reference on 29 November 2024. The issue is not whether the Governance Review is

¹ See for example, article published in The Age on 29 November 2024 by Chip Le Grand and Kerrie O’Brien, “Peter Garrett pulls out of MSO review before it begins amid board exodus”, which states, “three sources close to the company, but not authorized to speak publicly, confirmed that the MSO feared any staff testimony gathered by Garrett would have been potentially discoverable by lawyers acting for Gillham or Galaise”.

referred to in the pleadings but whether documents which have been produced according to the Terms of Reference are relevant to the issues in dispute to be determined at trial.

4. The relevance of documents related to the Governance Review is clearly demonstrated by the Terms of Reference (**enclosed**).
5. The “purpose and scope” of the Governance Review is stated as being to “*consider the MSO’s policies, risk frameworks and processes in the context of the MSO’s overarching principle that the MSO’s stage is subject to the direction of the MSO*”.
6. As stated in the email sent by the First Respondent to its subscribers yesterday with the subject, “Important message from MSO Chair and CEO”,

“a fundamental issue in dispute in the proceeding is who controls the MSO’s stage”.

As the Terms of Reference make clear that the purpose of the Governance Review is to consider the First Respondent’s operating frameworks in the specific context which Mr Myer and Mr Wigley yesterday described as a “fundamental issue in dispute in the proceeding”, it is difficult to see how the First Respondent can maintain its position that documents related to the Governance Review are not relevant to the issues in dispute.

7. Further, your clients’ pleaded position is that the “MSO’s policies ... and processes” with respect to the control of your client’s stage are an important aspect of your clients’ defence. For example, your clients maintain that the First Respondent “expect[ed]” the Applicant to comply with the MSO’s Code of Conduct (at [9](c) of your clients’ Amended Defence), which is described by your clients as an “applicable policy or procedure” (at [9](a) of your clients’ Amended Defence). Your clients’ defence goes on to allege that parts of the MSO’s Code of Conduct reflected a “custom and practice within the classical music industry” and a purported “convention”, which your clients then assert formed part of our client’s contractual obligations in a number of alternative ways (at [9] of your clients’ Amended Defence).
8. In relation to the concerns expressed in your letter as to the timing of our client’s request for these documents to be discovered, the First Respondent was obliged to discover any relevant documents (which existed at the time) with its verified list dated 29 August 2025. In any event, as you know, discovery obligations are ongoing (r 20.20(1) FCR). We wrote to you raising this issue several weeks ago.
9. We reiterate our client’s request for relevant documents related to the Governance Review to be discovered immediately.
10. Please obtain instructions and confirm by 5:00pm today that the First Respondent will undertake searches for discoverable documents as soon as possible.

11. We place your clients on notice that if we do not receive this confirmation by 5:00pm today, our client will issue a notice to produce for these documents to be produced during the trial scheduled to commence on 18 May 2026.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M Bradley', with a long horizontal stroke extending to the right.

Michael Bradley
Managing Partner

Encl.

Melbourne Symphony Orchestra

Melbourne Symphony Orchestra Governance Review

Terms of Reference

Background

The Melbourne Symphony Orchestra (MSO) has engaged KPMG to review its policies, risk frameworks and processes. The MSO Board has commissioned the Review to help strengthen its governance. The MSO Board considers that the complexity of the contemporary environment facing creative and performing arts organisations warrants a review to ensure that the MSO's policies, risk frameworks and processes are fit for purpose and compliant with the principles of the MSO.

While KPMG work product is confidential, on completion of the Review the MSO may consider sharing its proposed enhancements.

Purpose & Scope

The Review will consider the MSO's policies, risk frameworks and processes in the context of the MSO's overarching principle that the MSO's stage is subject to the direction of the MSO. The main objectives are to review:

- the policies, risk frameworks and processes currently in place at the MSO;
- whether the policies, risk frameworks and processes are fit for purpose;
- what new (or revised) policies, risk frameworks and processes may be required to manage creative rights and freedoms within an appropriate organisation risk framework (i.e. how the MSO may understand, mitigate and manage risk appropriately in the future); and
- the policies, risk frameworks and procedures of other orchestras and relevant performing arts organisations, as comparable governance processes.

The Review will be conducted with reference to best practice governance expected of a performing arts organisation in the position of the MSO and will be informed by Creative Australia's 'Essential governance practices for arts organisations' (January 2021).

Governance Review Terms

The Review will not affect the rights of third parties. KPMG will conduct the Review without formality. KPMG will not be required to speak to or engage with any party, however they may choose to engage with any other party on such terms and conditions as they deem fit and appropriate. KPMG will not make any findings about any event or any person. KPMG will make recommendations only, which will be directed solely to governance enhancement. The MSO will provide KPMG with such information and documentation as the MSO deems necessary subject to legal requirements. KPMG will obtain instructions from time to time from the CEO of the MSO, as appropriate.

Governance Scope Exclusions

This Review is not an audit or enquiry, and its scope excludes all matters other than those specifically included above. To be clear, it specifically excludes:

- Making findings about compliance with legal and other obligations by the MSO, its individual directors or officers, or any other party;
- Any specific review of any individual's actions;

Melbourne Symphony Orchestra

- Any detailed review of particular policies, procedures or other governance artefacts beyond the elements within the scope of this review specifically outlined above;
- Any review of the performance of the MSO Board, MSO senior management, or any other officers or employees of the MSO; and
- Specific advice on the substance of policies that pertain to issues such as freedom of speech and creative license.

Rule 29.02(8)

Certificate identifying annexure

No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-10”

This is the annexure marked “MDB-10” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



.....
Signature of Witness

This was published 1 year ago

Peter Garrett pulls out of MSO review before it begins amid board exodus

Chip Le Grand and Kerrie O'Brien

November 29, 2024 – 5:56pm

Midnight Oil frontman Peter Garrett has ended his review of the Melbourne Symphony Orchestra before it began, as chairman David Li and three fellow directors exit the board of the troubled arts company.

Garrett's withdrawal from the independent review he publicly agreed to lead, and the extensive boardroom overhaul, were confirmed late on Friday by a company statement.



Peter Garrett was commissioned to lead an independent review of the MSO. GETTY

Australia's oldest professional orchestra has been wrestling with the legal fallout from its decision four months ago to cancel a performance by acclaimed pianist Jayson Gillham. The British-Australian musician had earlier publicly dedicated a piece of music to journalists killed in Gaza.

MSO lawyers on Friday reached settlement with the company's former managing director Sophie Galaise. She had lodged a Fair Work complaint after being sacked for her handling of the Gillham affair. No details of the settlement were provided.

A separate workplace discrimination claim by Gillham against the MSO, Galaise and the orchestra's chief operating officer Guy Ross is in Federal Court mediation.

The MSO confirmed Li would retire early next year after 11 years on the board and the past three as chairman. He will be followed by former Qantas chair Margaret Jackson, who for personal reasons has progressively wound down her once extensive company directorships.



Pianist Jayson Gillham's Federal Court claim against the MSO is now in mediation. SIMON SCHLUTER

Diane Jameson, a board member since 2018, ally of Galaise and one of Li's most prominent detractors within the company, has already quit the board, along with former Australian Defence Force commander Andrew Dudgeon.

Jameson served until recent weeks as a deputy chair. She did not respond to questions by this masthead.

In its statement, the MSO described the boardroom overhaul as part of "an orderly process of board renewal".

Li's departure would have been constitutionally required in July next year once he reached 12 years on the board, the maximum allowed by the company's constitution.



Sophie Galaise was sacked as managing director of the MSO in the wake of the Gillham affair. LAURA MANARITI

The remaining board members will be led by Edgar Myer, a regulatory lawyer heavily involved in his family's philanthropic affairs. New Zealand-born Richard Wigley, a concert bassoonist and experienced orchestral leader, has been appointed chief executive of the MSO after acting in the role since Galaise's sacking.

"The MSO is an iconic organisation brimming with talented musicians and artistic teams, led by a professional management team under Richard," Myer said.

"I am humbled by the privilege of leading the MSO board and am committed to working with the board to strengthen the MSO, with an immediate focus on engaging new directors to reflect a renewed approach to achieving the organisation's objectives and growing audiences."

One of Myer's most pressing tasks will be to fill the empty chairs around his board table. Former Victorian arts and health minister Martin Foley and Farrel Meltzer, chief executive and chair of the Wingate funds management group, will serve as co-deputy chairs.



The MSO is Australia's oldest professional orchestra.

Garrett, a still performing rocker and former federal arts minister, was commissioned to lead an independent review, supported by consultancy group KPMG, into the MSO's policies and practices surrounding artistic and political expression.

The review was commissioned at a time when the war in Gaza had driven a rift within Sydney and Melbourne arts organisations between pro-Palestinian performers, their employers and Jewish philanthropists who fund their artistic endeavours.

Garrett's review was announced on August 26, but he did not start his work due to the legal complexities presented by Gillham's legal claim against the MSO and the company's dispute with Galaise.

Three sources close to the company, but not authorised to speak publicly, confirmed that the MSO feared any staff testimony gathered by Garrett would have been potentially discoverable by lawyers acting for Gillham or Galaise.

This masthead has previously revealed the MSO's practice of gagging exiting staff and orchestra members with non-disclosure agreements.

Garrett has now informed the MSO that the window open to him to conduct the review is closed and that he is too busy with other work.

KPMG will instead complete the governance review it has already commenced.

“The MSO intended that musician and former federal arts minister the Hon Peter Garrett AM would lead the review,” the company statement read. “Unfortunately, due to the delays in progressing the review arising from legal action commenced against the MSO, Mr Garrett is no longer available to lead the review because of pre-existing commitments.

“The MSO is deeply appreciative of Mr Garrett’s willingness to support this process.”

The MSO statement said that once the legal issues were resolved, the company would embark on a “cultural change process”.

Tensions within the MSO broke into public view on August 12 when Gillham, an internationally acclaimed pianist contracted to perform two concerts with the company, made a speech on stage during his first performance accusing Israel of war crimes by targeting Palestinian journalists in Gaza.

Gillham made the comments when he was introducing a piece titled *Witness* by an Australian composer, Connor D’Netto. The piece was dedicated to journalists killed in the conflict.

“Over the last 10 months, Israel has killed more than 100 Palestinian journalists,” Gillham said according to his statement of claim. “A number of these have been targeted assassinations of prominent journalists as they were travelling in marked press vehicles or wearing their press jackets.”

Israel denies its armed forces target journalists. International groups such as the US-based Committee to Protect Journalists claimed at the time of Gillham’s comments that more than 100 journalists in Gaza had been killed by IDF strikes.

The MSO management, led at the time by Galaise, was unaware of the contents of Gillham’s planned speech. Without consulting the board, they apologised to audience members offended by his comments and cancelled his second and final show.

This triggered a vote of no confidence in Galaise and Ross by orchestra members and a crisis within the MSO that culminated in the board severing Galaise’s tenure after eight years in the job.

Galaise has defended her response to Gillham’s on-stage remarks. “Why was I sacked?” she told *The Australian* at the time. “In my opinion it’s not fair.”

In Federal Court documents, Gillham said the decision to cancel his second performance caused him distress, hurt and humiliation and damaged his professional reputation. He has accused the MSO, Galaise and Ross of breaching the Fair Work Act by discriminating against his sincerely held political views.

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Chip Le Grand leads our state politics reporting team. He previously served as the paper's chief reporter and is a journalist of 30 years' experience. Connect via [email](#).



Kerrie O'Brien is a senior writer, culture, at The Age and The Sydney Morning Herald. Connect via [X](#), [Facebook](#) or [email](#).

Rule 29.02(8)

Certificate identifying annexure

No. VID1036 of 2024

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Jayson Lloyd Gillham

Applicants

Melbourne Symphony Orchestra Pty Ltd ABN 47 078 925 658 and Anor

Respondents

Annexure “MDB-11”

This is the annexure marked “MDB-11” to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



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Melbourne
Symphony
Orchestra
Board and
governance
update

Melbourne Symphony Orchestra Board and governance update

29 November 2024

The Melbourne Symphony Orchestra (MSO) is pleased to provide the following update on Board and governance matters.

The MSO Board has released the Terms of Reference for its governance review.

The review will be led externally by professional services firm KPMG, supported by MSO management.

The governance review, which is currently in progress, will include recommendations for organisational governance and risk management initiatives.

A program to drive cultural change will be conducted in 2025 to design improvements necessary to support a modern creative cultural organisation.

The MSO Board has appointed Richard Wigley as CEO, effective immediately.

The MSO Board has also commenced a process of orderly Board renewal, with MSO Chair David Li AM, Co-Deputy Chair Margaret Jackson AC, Co-Deputy Chair Diane Jameson OAM and Director Andrew Dudgeon AM retiring progressively by the end of the first quarter of 2025.

Director Edgar Myer has assumed the role of MSO Chair-elect, with immediate effect. Directors The Hon Martin Foley and Farrel Meltzer have been appointed as Co-Deputy Chairs.

MSO Review

Following the MSO's decision in August 2024 to commission an independent governance review, the Board today released the Terms of Reference for the review. The Terms of Reference are available below.

The MSO intended that musician and former Federal Arts Minister The Hon Peter Garrett AM would lead the review. Unfortunately, due to the delays in progressing the review arising from legal action commenced against the MSO, Mr Garrett is no longer available to lead the review because of pre-

The review will consider the MSO's policies, risk frameworks and processes in relation to the MSO's principle that the MSO's stage is subject to the direction of the MSO. The review will be informed by Creative Australia's 'Essential governance practices for arts organisations' (January 2021). This governance review is expected to include recommendations to enhance organisational governance and risk management.

MSO cultural change process

The MSO will also conduct a forward-focused, cultural change process designed to understand perceptions of culture and, through a collaborative process, make the necessary improvements to policies, risk frameworks and processes to support a modern creative cultural organisation. This work will begin following the resolution of legal proceedings commenced by Jayson Gillham against the MSO and others. The cultural change process will be guided by Creative Australia's 'Cultural Engagement Framework'. The review will support the MSO to develop a best practice organisational culture and systems.

CEO Appointment

The MSO Board has appointed Richard Wigley as CEO, effective immediately.

Mr Wigley, an experienced orchestral leader has demonstrated strong leadership since his appointment as Interim CEO in September 2024. Mr Wigley has swiftly established effective working relationships with all stakeholders, particularly musicians and employees, while progressing important initiatives to drive organisational change.

Richard Wigley said "It's been a privilege to work closely with musicians, staff, audiences and Board in recent months as we seek to build on the remarkable history of the Melbourne Symphony Orchestra. I've seen first-hand why the MSO's global reputation for artistic and creative excellence is well deserved and look forward to harnessing this spirit as we continue the rebuild of the MSO. While I am conscious there is more work to do, we have already made important progress in repositioning the MSO while continuing to deliver landmark musical experiences for our audiences."

MSO Board Renewal

David Li AM will retire as a Director and Chair in the first quarter of 2025, having served on the MSO Board for 12 years' tenure, to enable an orderly process for the appointment of new board members to commence. Co-Deputy Chair Margaret Jackson AC will also retire from the MSO Board next year, having served as a director for a decade. Both Mr Li and Ms Jackson will remain members of the MSO Music Hub Committee.

Edgar Myer has been appointed Chair-elect of the MSO and Directors Martin Foley and Farrel Meltzer appointed as Co-Deputy Chairs, with immediate effect. Mr Myer will assume the role of Chair on Mr Li's retirement in 2025. Mr Foley and Mr Meltzer will support Mr Myer in progressing the Board renewal process.

David Li said "For more than a decade I have been honoured to work closely with the Board, management team and our extraordinary musicians to solidify the MSO's reputation as a world-class orchestra. Among the initiatives closest to my heart is the creation and endorsement of the East Meets West concert series, a pioneering program that has fostered cultural exchange and brought communities together.

"I am thrilled I can continue to contribute to this wonderful organisation by supporting the development of the MSO Hub project building a 21st Century home for the MSO and the wide Victorian arts community."

Edgar Myer said "I thank David, Margaret, Di and Andrew for their leadership, drive and dedication to the advancement of the MSO. I pay particular tribute to David, who has made a profound contribution to the MSO and has led the board with great energy and vision.

"The MSO is an iconic organisation brimming with talented musicians and artistic teams, led by a professional management team under Richard. I am humbled by the privilege of leading the MSO Board and am committed to working with the Board to strengthen the MSO, with an immediate focus on engaging new directors to reflect a renewed approach to achieving the organisation's objectives and growing audiences."

Biographies

Edgar Myer

Edgar Myer is a family office executive and a company director. Mr Myer worked as a lawyer at top-tier firms in Sydney and New York City before returning to Melbourne, where he is currently Investment Director at Yulgilbar Group of Companies. In addition to his role as a director on the MSO Board, Mr Myer serves as a director of The Aranday Foundation, a member of the Asialink Advisory Council, and as a member of The Myer Foundation's Kenneth Myer Innovation Fellowships Committee. Previously, he was chairman of CAUSINDY, the Conference of Australian and Indonesian Youth.

Richard Wigley

Born in New Zealand, Richard studied at the New England Conservatory of Music in the United States before embarking on a professional career playing the bassoon for the Hallé Orchestra in Manchester in the United Kingdom. At Hallé he was appointed the Orchestra's Education Director and then Head of

Music Planning leading to management roles at the Royal Northern College of Music in Manchester, the Netherlands Symphony Orchestra and overall leadership as General Manager of the BBC Philharmonic. Most recently he was Managing Director for the Ulster Orchestra in Northern Ireland and Interim CEO of the Dunard Centre, a premier concert hall being built in Edinburgh, Scotland.

Melbourne Symphony Orchestra Governance Review

Terms of Reference

(pdf)

Download  <https://melbourne-symphony-orchestra.s3.amazonaws.com/production/Media-PR/Press-Releases/2024-MSO-Governance-Review-Terms-of-Reference.pdf>

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Annexure "MDB-12"

This is the annexure marked "MDB-12" to the affidavit of Michael David Bradley affirmed before me on 17 May 2026.



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Signature of Witness

17 May 2026

By-Email

Michael Bradley
Managing Partner
Marque Lawyers

michaelb@marquelawyers.com.au

Your Ref 14879

File No. 011928243

Partners

Rachel Soh
Direct +61 3 9229 9962
rsoh@abl.com.au

Leon Zwier
Direct +61 3 9229 9607
lzwier@abl.com.au

Partners

Mark M Leibler AC
Henry D Lanzer AM
Joseph Borensztajn AM
Leon Zwier
Philip Chester
Ross A Paterson
Stephen L Sharp
Kevin F Frawley
Zaven Mardirossian
Jonathan M Wenig
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Rebecca Zwier
Ben Friis-O'Toole
Raphael Leibler
Gabriel Sakkal
Matthew Davies
Rachel Soh
Luke Jedynek

Consultant

Kenneth A Gray

Special Counsel

Sam Dollard
Emily Simmons
Brianna Youngson
Briely Trollope
Laura Cochrane
Greg Judd
Paul Chadwick

Senior Associates

Elly Bishop
Vidushee Deora
Emily Korda
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Noah Lipshut

Dear Mr Bradley

Jayson Gillham v Melbourne Symphony Orchestra Pty Ltd (ABN 47 078 925 658) & Anor

Thank you for your letter dated 15 May 2026.

- 1 The MSO maintains its position as set out in our letter dated 14 May 2026. The documents concerning the Governance Review are not directly relevant to the issues raised by the pleadings and are not discoverable under r 20.14 of the *Federal Court Rules 2011* (Cth).
- 2 Your letter in response does not change that position.
- 3 The failure to pursue the discovery of these documents until only a couple of weeks before trial speaks for itself. The Governance Review was reported in the media in November 2024.
- 4 Public reporting about the Governance Review is not a substitute for the test in r 20.14. Nor does it justify your client's broad request for "*all documents with respect to the Governance Review*" on the eve of trial.
- 5 While your letter relies on public reporting from November 2024, it does not explain why the allegation that documents concerning the Governance Review are discoverable is being raised only now.
- 6 If your client issues a notice to produce in relation to documents relevant to the Governance Review, the MSO will apply to set it aside, including on the basis that the notice is an abuse of process. The MSO will seek its costs of any such application.
- 7 Our clients would much prefer not to waste judicial time and MSO resources on this last minute kerfuffle.

Yours sincerely
Arnold Bloch Leibler



Leon Zwier
Partner



Rachel Soh
Partner