OVERVIEW OF PROCEDURAL FAIRNESS

Bias Rule

- A decision-maker should be impartial, and free from actual or apparent bias.
- A decision-maker must be objectively impartial and not pre-judge the outcome.
- A decision-maker should not have a close personal or family relationship with any parties who have an interest in the outcome.
- A decision-maker should not have a direct or indirect financial or other interest in the outcome of the decision.

Hearing Rule

A person whose interests affected by a proposed decision is to be given a fair hearing, including being provided with:

- reasonable notice of the case to be met, including sufficient information (e.g. particulars of each charge) about the matter to be decided.
- reasonable time to prepare and the opportunity to respond, including calling any relevant evidence in relation to any adverse material that could influence the decision.
- the opportunity to appeal the decision that has been made.

Evidence Rule

- Findings / decisions are based on evidence that is relevant and logically capable of supporting the findings / decision made.

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CASE SCENARIO – PROCEDURAL FAIRNESS

To date, Shane has filed eighteen separate proceedings with your court alleging bribery, fraud and corruption-related breaches against a number of politicians and government officials.

Shane has represented himself in each proceeding and the proceedings have attracted significant media attention. Each proceeding has not been successful and the Court has issued cost orders against Shane, which he has not paid.

Judges, registrars, and court staff who have dealt with Shane's previous proceedings have found Shane to be difficult to deal with and the proceedings have required significant resources. Shane refuses *pro bono* legal representation. Shane has not been declared a vexatious litigant.

Today, Shane attended at the registry and filed a new application alleging further fraud and corruption-related breaches against a number of politicians and government officials. In addition to Shane's new application, he handed the court officer in the registry a note that requested all judges and registrars who have been involved with his previous proceedings not be allocated or have any dealings with his new application as he alleges they are biased against him.

GROUP DISCUSSION

Question 1: How should the Court respond to Shane's note requesting to have all judges and registrars who have been involved with his previous proceedings not be allocated or have any dealings with his new application?

Answer 1: If Shane seeks to have any judges and registrars recused from considering and determining his new application, he should make a formal application that sets out the names of judges and registrars and the basis for his request.

Question 2: Are there any considerations that are important when allocating these types of proceedings?

Answer 2: If Shane does not file an application for recusal, any judges and registrars who have considered Shane's previous applications should consider whether they can be impartial, and free from actual or apparent bias before they accept allocation of Shane's new application (see Bias Rule).

Question 3: Should Shane's new proceeding be case managed differently to other proceedings in your Court?

Answer 3: If Shane does not file an application for recusal, and a judge or registrar does not consider themselves conflicted due to previous applications, the new application should not be case managed any differently to other cases filed with the Court.

Question 4: Should Shane be declared a vexatious litigant?

Answer 4: First, check if your jurisdiction has legislative provisions relating to vexatious litigants. If not, check whether your court has any judgments or publications regarding the matters to be considered before making an order declaring a person to be a vexatious litigant. A vexatious proceedings order should not be made without affording the person procedural fairness by giving the person an opportunity to be heard (see Hearing Rule).

Additional reading: *Storry v Parkyn* [2023] FCA 1141 (see below).

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FEDERAL COURT OF AUSTRALIA

Storry v Parkyn (Vexatious Proceedings Order) [2024] FCAFC 100

Appeal from:	*Storry v Parkyn* [2023] FCA 1141
File number:	QUD 422 of 2023
Judgment of:	**LEE, FEUTRILL AND JACKMAN JJ**
Date of judgment:	31 July 2024
Catchwords:	**HIGH COURT AND FEDERAL COURT** – where the Full Court proposed an order pursuant to s 37AO(2)(b) of the *Federal Court of Australia Act 1976* (Cth) that the appellant be prohibited from instituting proceedings without making an application for leave to institute proceedings – where appellant an "indefatigable litigant" – overarching purpose to civil litigation – whether appropriate to make vexatious proceedings order – orders made
Legislation:	*Constitution* s 51 *Bankruptcy Act 1966* (Cth) ss 58, 60(4) *Evidence Act 1995* (Cth) s 91 *Federal Court of Australia Act 1976* (Cth) Pt VB, ss 4, 14(1), 28(1)(b), 37AM(1), 37AO, 37AQ(1)(a), 37AT(4), 37M(1), 37M(3) *Judiciary Act 1903* (Cth) s 78 *Federal Court Rules 2011* (Cth) *Civil Procedure Act 2005* (NSW) ss 56, 57, 58 *Civil Procedure Act 2010* (Vic) ss 7, 8, 9 *Court Procedure Act 2004* (ACT) s 5A *Court Procedures Rules 2006* (ACT) r 21 *Fair Trading Inspectors Act 2014* (Qld) *Supreme Court (General Civil Procedure) Rules 2005* (Vic) r 1.14 *Supreme Court Civil Rules 2006* (SA) r 3 *Supreme Court Rules* (NT) r 1.10 *Uniform Civil Procedure Rules 1999* (Qld) r 5
Cases cited:	*Attorney-General (NSW) v Mahmoud* [2015] NSWSC 899 *Attorney-General v Reid* [2012] NZHC 2119; [2012] 3 NZLR 630 *Clone Pty Ltd v Players Pty Ltd (in liq)* [2018] HCA 12; (2018) 264 CLR 165

	Commissioner of Taxation v Rawson Finances Pty Ltd [2023] FCA 617; (2023) 116 ATR 458 *Fokas v Mansfield as Trustee of the Bankrupt Estate of Maria Fokas (No 2)* [2020] FCA 30 *Fuller v Toms* [2015] FCAFC 91; (2015) 234 FCR 535 *Jones v Skyring* [1991] HCA 39; (1992) 109 ALR 303 *Kadam v MiiResorts Group 1 Pty Ltd (No 4)* [2017] FCA 1139; (2017) 252 FCR 298 *Krejci in his capacity as liquidator of ENA Development Pty Ltd (in liq) v Sebie* [2023] FCA 884 *Mehajer v Weston (Trustee), in the matter of Mehajer* [2018] FCA 608; (2018) 16 ABC(NS) 135 *Storry v Australian Financial Security Authority* [2024] QCA 55 *Storry v Business Licensing Authority* [2022] FCA 1321 *Storry v Chief Executive, Department of Justice and Attorney General* [2024] QCA 22 *Storry v Commissioner of Police* [2018] QCA 291 *Storry v Commissioner of Police* [2024] QCA 66 *Storry v Office of Fair Trading* [2021] QCA 255 *Storry v Parkyn* [2024] FCAFC 67 *Storry v Weir (No 2)* [2022] FCA 1360 *Storry v Weir* [2022] FCA 794 *Storry v Weir* [2023] QCA 4 *Storry v Business Licensing Authority (No 2)* [2023] FCA 102 *Teoh v Hunters Hill Council (No 8)* [2014] NSWCA 125 *Victorian Building Authority v Andriotis* [2019] HCA 22; (2019) 268 CLR 168
	The Hon M J Beazley AO, "Communicating the law: self-represented litigants in the Court of Appeal" (Speech, NCAT Annual Conference, 29 October 2001) Morehead, R "The Passive Arbiter: Litigants in Person and the Challenge to Neutrality" (2007) 16(3) *Social & Legal Studies* 405
Division:	General Division
Registry:	Queensland
National Practice Area:	Administrative and Constitutional Law and Human Rights
Number of paragraphs:	81
Date of hearing:	2 July 2024

Counsel for the appellant:	The appellant appeared in person
Counsel as *amicus curiae*:	Mr J Mack

ORDERS

QUD 422 of 2023

BETWEEN:	**VENETIA LOUISE STORRY** Appellant
AND:	**NIC PARKYN** Respondent

ORDER MADE BY:	**LEE, FEUTRILL AND JACKMAN JJ**
DATE OF ORDER:	**31 JULY 2024**

THE COURT ORDERS THAT:

1. Pursuant to s 37AO(2)(b) of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), Ms Venetia Louise Storry be prohibited from instituting any proceeding in the Federal Court of Australia (without making an application for leave to institute a proceeding in accordance with s 37AR of the FCA Act and obtaining leave).

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

REASONS FOR JUDGMENT

THE COURT:

A INTRODUCTION

1 Section 78 of the *Judiciary Act 1903* (Cth) relevantly provides that in every Court exercising federal jurisdiction, "the parties may appear personally".

2 It has become increasingly common for litigants in this Court to exercise their right to appear in person. As was observed by Richard Morehead in his article "The Passive Arbiter: Litigants in Person and the Challenge to Neutrality" (2007) 16(3) *Social & Legal Studies* 405 (at 406), litigants in person often disturb the normal conventions of the courtroom and substantially challenge the well-ordered roles of judges and lawyers in that they are "classic outsiders – legally uninformed in a technical and rarefied atmosphere, unaware of procedure, often unknowingly in breach of convention": see also the Hon M J Beazley AO, "Communicating the law: self-represented litigants in the Court of Appeal" (Speech, NCAT Annual Conference, 29 October 2001) (at 1).

3 Most self-represented litigants behave courteously and are often forced to do so because of circumstances outside their control and sometimes, of course, they present valid claims and defences. But a few self-represented litigants, unrestrained by the norms regulating the professional conduct of lawyers and aggrieved by a perceived wrong, become serial litigants obsessed with seeking vindication of their position and in doing so mount, often repeatedly, arguments which would never be advanced by a responsible practitioner. This phenomenon has occasioned significant problems for this Court in the efficient exercise of its original and appellate jurisdiction.

4 Any informed observer would conclude the incidence of this phenomenon has increased at the same time as a number of other developments in modern litigation, including: *first*, the increased demand on judges occasioned by the complexity and size of cases; *secondly*, the size and scale of the evidentiary material often placed before courts; and *thirdly*, the reality that courts are an arm of government dependent upon public resources at a time of increased focus on the efficient allocation of those resources.

5 As Lee J pointed out in *Kadam v MiiResorts Group 1 Pty Ltd (No 4)* [2017] FCA 1139; (2017) 252 FCR 298 (at 300 [2]), the response to these and related developments in litigation generally

has caused what might be described as a revolution in case management. Over the last 20 years, almost every Australian jurisdiction has introduced a provision by either legislation or by way of Rules of Court, setting out the "overriding" or "overarching" purpose of procedural rules: see *Federal Court of Australia Act 1976* (Cth) (**FCA Act**), Pt VB; *Civil Procedure Act 2005* (NSW), ss 56–58; *Supreme Court Civil Rules 2006* (SA), r 3; *Court Procedure Act 2004* (ACT), s 5A (formerly *Court Procedures Rules 2006* (ACT), r 21); *Uniform Civil Procedure Rules 1999* (Qld), r 5; *Civil Procedure Act 2010* (Vic), ss 7–8; *Supreme Court (General Civil Procedure) Rules 2005* (Vic), r 1.14; *Supreme Court Rules* (NT), r 1.10.

6 The stark contemporary reality is that there are an increasing number of controversies being brought before the Court and a finite number of judges able to manage and determine those matters. Every day a judge of the Court is required to deal with a vexatious proceeding is another day the judge is prevented from using the judicial power of the Commonwealth to quell a *real* dispute between parties who have invoked the Court's jurisdiction.

7 The importance of s 37M(3) of the FCA Act in the work of the Court cannot be overstated. It *requires* judges of the Court to interpret and apply any power conferred by the civil practice and procedure provisions in the way that best promotes the overarching purpose, being the just resolution of disputes according to law and as quickly, inexpensively, and efficiently as possible: see also s 37M(1). A fundamental aspect of doing more than paying lip service to these case management objectives is taking the necessary steps to ensure that the *whole* of the Court's business is managed efficiently. The aim of the overarching purpose provisions is undermined if the Court is passive and refrains from taking active steps to prevent the abuse of the Court's processes when such abuses become manifest. This involves judges taking a proactive role, where appropriate, in identifying circumstances where the processes of the Court are being repeatedly or frequently abused by a pattern of apparently vexatious proceedings.

8 In *Storry v Parkyn* [2024] FCAFC 67 (**appeal judgment**) (at [36]–[43]), we noted that the appellant in this case, Ms Storry, an undischarged bankrupt, is an indefatigable litigant who has been involved in many proceedings. We further noted that the proceedings the subject of the appeal judgment and her other litigious endeavours have consumed considerable time and resources of courts and that we had come to the preliminary view that it *may* be the Court could be satisfied that Ms Storry has frequently instituted or conducted vexatious proceedings in

Australian courts and tribunals, and if this was established, that a vexatious proceeding order *could* follow.

9 Having reached this preliminary view, and as foreshadowed in the appeal judgment, a proposed order was made by the Full Court, on its own motion, in the following terms:

> Pursuant to s 37AO(2)(b) of the [FCA Act], Ms Venetia Louise Storry be prohibited from instituting proceedings in this Court without making an application for leave to institute proceedings in accordance with s 37AR of the FCA Act.

10 The orders of the Full Court also provided that, in addition to filing any material upon which Ms Storry intended to rely to oppose the proposed order, she notify the Registry in writing as to whether she wished to have an oral hearing in relation to whether the proposed order ought to be made.

11 Ms Storry indicated she wished to avail herself of the opportunity to have an oral hearing and such a hearing was convened. Given the nature of the proceeding, the Full Court considered it appropriate that an *amicus curiae* be appointed, and written and oral submissions were received by both Ms Storry and the *amicus*.

12 For the following reasons, we have determined that it is appropriate that a vexatious proceeding order be made against Ms Storry.

B THE APPLICABLE LAW

13 Section 37AO of the FCA Act empowers the Court to make a vexatious proceedings order against a person, including an order that the person not institute proceedings in the Court. The Court (which may be constituted by the Full Court: see s 14(1) of the FCA Act) may make a vexatious proceedings order on its own initiative, but must not make such an order without hearing the person or giving the person an opportunity to be heard.

14 It is worth setting out s 37AO in full:

> **37AO Making vexatious proceedings orders**
>
> (1) This section applies if the Court is satisfied:
>
> (a) a person has frequently instituted or conducted vexatious proceedings in Australian courts or tribunals; or
>
> (b) a person, acting in concert with another person who is subject to a vexatious proceedings order or who is covered by paragraph (a), has instituted or conducted a vexatious proceeding in an Australian court or tribunal.

(2) The Court may make any or all of the following orders:

(a) an order staying or dismissing all or part of any proceedings in the Court already instituted by the person;

(b) an order prohibiting the person from instituting proceedings, or proceedings of a particular type, in the Court;

(c) any other order the Court considers appropriate in relation to the person.

Note: Examples of an order under paragraph (c) are an order directing that the person may only file documents by mail, an order to give security for costs and an order for costs.

(3) The Court may make a vexatious proceedings order on its own initiative or on the application of any of the following:

(a) the Attorney-General of the Commonwealth or of a State or Territory;

(b) the Chief Executive Officer;

(c) a person against whom another person has instituted or conducted a vexatious proceeding;

(d) a person who has a sufficient interest in the matter.

(4) The Court must not make a vexatious proceedings order in relation to a person without hearing the person or giving the person an opportunity of being heard.

(5) An order made under paragraph (2)(a) or (b) is a final order.

(6) For the purposes of subsection (1), the Court may have regard to:

(a) proceedings instituted (or attempted to be instituted) or conducted in any Australian court or tribunal; and

(b) orders made by any Australian court or tribunal; and

(c) the person's overall conduct in proceedings conducted in any Australian court or tribunal (including the person's compliance with orders made by that court or tribunal);

including proceedings instituted (or attempted to be instituted) or conducted, and orders made, before the commencement of this section.

15 A number of terms used in s 37AO are defined by s 37AM(1). The relevant definitions of those terms are as follows:

Australian court or tribunal means a court or tribunal of the Commonwealth, a State or a Territory.

institute, in relation to proceedings, includes:

(a) for civil proceedings—the taking of a step or the making of an application that may be necessary before proceedings can be started against a party; and

(b) for proceedings before a tribunal—the taking of a step or the making of an application that may be necessary before proceedings can be started before the tribunal; and

(c) for criminal proceedings—the making of a complaint or the obtaining of a warrant for the arrest of an alleged offender; and

(d) for civil or criminal proceedings or proceedings before a tribunal—the taking of a step or the making of an application that may be necessary to start an appeal in relation to the proceedings or to a decision made in the course of the proceedings.

proceeding*:*

(a) in relation to a court—has the meaning given by section 4; and

(b) in relation to a tribunal—means a proceeding in the tribunal, whether between parties or not, and includes an incidental proceeding in the course of, or in connection with, a proceeding.

proceedings of a particular type includes:

(a) proceedings in relation to a particular matter; and

(b) proceedings against a particular person.

vexatious proceeding includes:

(a) a proceeding that is an abuse of the process of a court or tribunal; and

(b) a proceeding instituted in a court or tribunal to harass or annoy, to cause delay or detriment, or for another wrongful purpose; and

(c) a proceeding instituted or pursued in a court or tribunal without reasonable ground; and

(d) a proceeding conducted in a court or tribunal in a way so as to harass or annoy, cause delay or detriment, or achieve another wrongful purpose.

vexatious proceedings order means an order made under subsection 37AO(2).

16 As noted above, the consequences of a vexatious proceedings order may include that the person the subject of the order is precluded from instituting proceedings, or proceedings of a particular type, without the leave of the Court: s 37AQ(1)(a) of the FCA Act. As Wheelahan J observed in *Fokas v Mansfield as Trustee of the Bankrupt Estate of Maria Fokas (No 2)* [2020] FCA 30 (at [6]), the Court's power to grant such leave is fettered, because leave may be granted only if the Court is satisfied that the proceeding is not a vexatious proceeding: s 37AT(4).

17 As was noted in the appeal judgment, a vexatious proceeding order has been described as an "extreme measure" (at [39]). Similarly, as the New South Wales Court of Appeal (Beazley P,

Emmett JA and Sackville AJA) explained in *Teoh v Hunters Hill Council (No 8)* [2014] NSWCA 125 (at [56]):

> … [A]n order restricting a person's access to the courts is a very serious matter and thus an order under the VP Act is not to be made lightly. The purpose of the statutory power is not to punish the litigant for past misdeeds. The purpose is to shield other litigants from harassment and to protect the Court itself from the expense, burden and inconvenience of baseless and repetitious suits.

18 But although the order is, by its nature, exceptional and serious, these and similar observations in the cases should not mean that a judge should shrink away from making a vexatious proceedings order if the preconditions to it being made are established and if it is appropriate to do so. Although an order restricting a person's access to the courts is not to be made lightly, the extent of the increasing disruption to the efficient management of the Court's business caused by allowing vexatious proceedings to be instituted and maintained without check is also a serious matter. Further, it should be recognised that the consequence of a vexatious proceedings order is not to impose an insuperable barrier to litigation by a vexatious litigant entirely, but to control it by imposing a requirement for leave.

19 As Wheelahan J further observed in *Fokas* (at [36]), by allowing for such control, the relief authorised by the legislation reinforces the power of the Court "to protect its own processes against unwarranted usurpation of its time and resources and to avoid loss caused to those who have to face proceedings that lack substance": see *Jones v Skyring* (1992) 109 ALR 303 (at 312 per Toohey J). As the Full Court (Besanko, Logan and McKerrracher JJ) stated in *Fuller v Toms* [2015] FCAFC 91; (2015) 234 FCR 535 (at 545 [31]):

> Section 37AO of the Federal Court Act empowers a court to balance the right of one individual of access to justice with other rights namely, a correlative right on the part of the present respondents to finality and the separate right of other individuals also to access this Court. It is for this Court, the present manifestation of a recognition by the Australian Parliament, the origins of which may be traced to an earlier recognition by the United Kingdom Parliament, via the *Vexatious Actions Act 1896* (UK) (59 & 60 Vict. C. 51), of a need for a power to effect just such a balance.

20 As is evident from the terms of s 37AO(1)(a), the four cumulative conditions necessary to engage its operation are that the person has: (1) frequently; (2) instituted or conducted; (3) vexatious proceedings; (4) in Australian courts or tribunals.

21 Although it was not in dispute before us, it is appropriate to record that we agree with the views expressed by Wheelahan J in *Fokas* (at [41]–[66]) that the Court's evaluation as to whether the section is engaged is framed by s 37AO(6), which expressly authorises the Court to have regard

to: other proceedings; orders made in other proceedings; and the conduct of those proceedings, and that s 91 of the *Evidence Act 1995* (Cth) (which provides that evidence of the decision, or of a finding of fact in another proceeding, is not admissible to prove the existence of a fact that was in issue in that proceeding) is not infringed by relying on orders and reasons for judgment in other proceedings for the purposes of considering whether a proceeding is vexatious (and hence whether s 37AO(1) is engaged). In short, this is because the judgments and orders are not relied upon to prove a fact in issue in those other proceedings but rather (as s 37AO(6) authorises) to show the outcome of the proceedings, and the course they had taken, and to record the person's conduct in those proceedings for the statutory purpose of characterisation.

C THE NATURE OF THE DISPUTE

22 For reasons that will become obvious, Ms Storry did not dispute she had frequently instituted or conducted various proceedings in Australian courts and tribunals.

23 The real issues are whether: (a) proceedings have been instituted by Ms Storry that could be properly characterised as being vexatious proceedings as that term is defined and, in particular, whether the proceedings constituted an abuse of process or were proceedings instituted or pursued without reasonable grounds; and (b) if so, whether this has occurred frequently. We will come back to what is meant by the word "frequently".

D THE RELEVANT PROCEEDINGS

24 The *amicus*, Mr Mack of counsel, helpfully produced a table of proceedings (**Table**) listing some of the litigation Ms Storry has been involved over the last seven years (including 19 decisions since 2021). It is convenient to set out the Table below together with extracts from those cases or submissions made by the *amicus* in relation to each of those proceedings. Some of the proceedings identified below are interlocutory; this is because an interlocutory proceeding may be a "proceeding" because, as s 4 of the FCA Act provides, a proceeding includes an incidental proceeding in the course of, and in connexion with, a proceeding.

Ref	Case	Proceeding/result	Relevant extracts/submission
1 BP1	*Storry v Commissioner of Police* [2024] QCA 66 (Dalton JA)	Recusal application - dismissed	BP3 "no basis to allege bias" tenuous"
2 BP5	*Storry v Australian Financial Security Authority* [2024] QCA 55 (Mullins P, Boddice JA, Martin SJA)	Application for leave to appeal - dismissed	BP6 "There is no substance in the applicant's contentions" BP7 "The primary Judge did not err in law in dismissing the appeal. It was incompetent" BP7 "There were other matters raised as grounds of appeal concerning provisions of the *Bankruptcy Act 1966* (Cth). Those matters are not relevant to a determination of whether the decision of the primary judge was wrong in law or in fact."
3 BP8	*Storry v Chief Executive, Department of Justice and Attorney General* [2024] QCA 22 (Morrison and Dalton JJA; Fraser AJA)	Application for extension of time for leave to appeal - dismissed	BP9 [2] the applicants are more than eleven months out of time to bring such an application and require an extension of time within which to bring such an application BP12 [20] None of those points require comment as they lack merit. Others were made in oral submissions but were equally meritless and need no further mention" BP13 [24] In my view, Ms Storry has failed to demonstrate any arguable point of law to be raised in respect of the Judicial Member's conclusion that the matter is one apt for resolution at a substantive hearing, rather than by way of summary disposal." BP14 [28] There has been no satisfactory explanation of that delay

4 BP15	*Storry v Parkyn* [2023] FCA 1141 (Rangiah J)	Application for judicial review of a Registrar's decision to refuse to accept documents for filing – dismissed	BP19 [15] The proposed originating application was rejected on the basis that it was an abuse of process. It had no reasonable prospect of success. A proceeding that has no reasonable prospect of success is an abuse of process: *Walton v Gardiner* [1993] HCA 77; (1993) 177 CLR 378 at 393. The applicant has failed to demonstrate any legal error by the
5 BP20	*Storry v Business Licensing Authority* [2023] FCA 964 (Sarah C Derrington J)	Application for leave to appeal from summary dismissal of appeal from Administrative Appeals Tribunal - dismissed	BP28 [27] it would be futile to revisit the merits of that issue BP28 [28]The decision is not attended by sufficient doubt for leave to be granted.
6 BP30	*Storry v Business Licensing Authority* (No 3) [2023] FCA 245 (Thomas J). File No QUD 343 of 2021.	Costs application – no order as to costs	BP32. The successful respondent submitted there should be no order as to costs and as such no order was made. However, this proceeding is the same as proceeding as #7 below (QUD 343/2021) and it is clear enough from the extract below that proceeding was pursued without reasonable grounds

7 BP33)	*Storry v Business Licensing Authority (No 2)* [2023] FCA 102 (Thomas J). File No QUD 343 of 2021.	Appeal from decision of the Administrative Appeals Tribunal - dismissed	BP45 [67] In the circumstances, proceeding to deal with the original merits of this matter is not an efficient and appropriate use of Court time – the issues are no longer "live" as between the parties and the determination of the issues will produce no foreseeable consequence or benefit for the parties.
8 BP47	*Storry v Weir* [2023] QCA 4 (Mullins P)	Application for lifting stay order and application for cross-vesting to the Federal Court - dismissed	BP50 [14] there is no point in this Court's considering her application for leave to appeal against Judge Porter KC's orders which were made on the basis that Ms Storry was bankrupt
9 BP52	*Storry v Weir* [2022] FCA 1484 (Logan J)	Application for leave to appeal interlocutory judgment of single judge sitting in appellate jurisdiction - dismissed	In this case, Logan J, attributed some of the responsibility for the case proceeding to the registry and also characterised the issue of whether there was a right of appeal as "novel". In those circumstances, this proceeding does not readily fit within the concept of a "vexatious proceeding". Relevant extracts below. BP58 [25] It also follows, as, with respect, Ms Storry quite properly accepted, in the event of an adverse conclusion, that the Registrar should be directed not to accept the notice of appeal for filing, because it would institute a proceeding which is correctly to be characterised as vexatious BP58 [26] I should make it plain that that characterisation does not in this instance carry with it any pejorative quality in relation to Ms Storry. The question of the characterisation of the order of 15 November and, further, whether any right of appeal to this Court existed was hitherto a novel one. Further, and as I have already mentioned, it may be that she was given an understanding by the Registry that such an appeal was possible.

10 BP60	*Storry v Weir (No 2)* [2022] FCA 1360 (Thomas J)	Application under r 39.05(b) of the *Federal Court Rules 2011* (Cth) (vary or set aside judgment after it has been entered) - dismissed	BP80 [70] The ground is irrelevant to the application which has been made BP82 [80] This ground and associated assertions are not relevant to the question of whether the judgment was obtained by fraud instigated by the successful party. BP84 [87] The arguments raised do not have any bearing on the issues relevant to the application of r 39.05 of the Rules – they do not go to the question of whether the judgment was obtained by fraud instigated by the successful party. BP84 [88] As to the allegations of fraud, it is noted that the appellant makes suppositions without providing any factual basis for these allegations BP86 [93] The matters raised in relation to this ground are not relevant to the question of whether the judgment in this matter was obtained by fraud of the successful party. BP87 [102] In none of the grounds raised has the appellant addressed or satisfied the requirements which must be met in the exercise of the jurisdiction conferred by r 39.05 of the Rule
11 BP88	*Storry v Business Licensing Authority* [2022] FCA 1321 (Thomas J)	Recusal application - dismissed	BP97 [33] there is no discernible logical connection between the matters raised by the applicant and a feared deviation from the course of deciding the Mutual Recognition Proceedings on its merits BP98 [40] I cannot see any substance in the application for my recusal from the hearing of the Mutual Recognition Proceedings.
12 BP100	*Storry v Weir* [2022] FCA 794 (Thomas J)	Appeal against decision of the Federal Circuit and Family Court of Australia and stay application - dismissed	BP112 [58] In all the circumstances, on the basis of the information available, no reason was shown for questioning whether behind the judgment there may be in truth and reality a debt due so that the Court could no longer accept the judgment as satisfactory proof. In fact, the contrary was the case. BP113 [60] Based on the information available (including the conclusions of the Queensland Court of Appeal), such an appeal would have no prospects of success. BP113 [62] The primary judge was not in error in taking that course and his conclusions regarding the prospects of success were consistent with the evidence then available. BP114 [70] There is nothing irregular about this process.

			BP116[86] This issue cannot give rise to a reason being shown for questioning whether behind the judgment there is in truth and reality debt due to the petitioning creditor
13 BP117	*Storry v Chief Executive, Department of Justice and Attorney-General* [2022] QCATA 43 (Judicial Member D J McGill SC)	Application for leave to appeal from Tribunal decision - dismissed	BP 123 [25] The conclusion reached, that the matters raised by the company were appropriately dealt with on a hearing of the substantive application rather than on an application under s 47, was clearly open on the material. Indeed, I regard it as the obvious conclusion. If an application under s 47 seeks to challenge in detail the factual basis of a factually complex disciplinary proceeding, it is in substance seeking to convert the hearing of the s 47 application into the hearing of the substantive application. That is not an appropriate use of s 47, and does not satisfy the established tests for its operation.
14 BP124	*Storry v Weir* [2022] FCA 362 (Collier J)	Application for stay of sequestration order - dismissed	BP133[33] To that extent it is difficult to see how the primary Judge erred, when his Honour was simply applying the provisions of the Bankruptcy Act to the respondent's sequestration application. BP136 [48] It is unclear to me how the observation of his Honour, that this material was of no obvious significance to the question whether a sequestration order ought be made, would constitute an appellable error. BP137 [51] In my view ground of appeal 1 from the decision of the primary Judge has no prospect of success BP138 [60] In my view ground of appeal 2 has no prospect of success. BP138 [61] Ground of appeal 3 ground of appeal is vague, imprecise, and relates to issues which could properly have been raised in the Magistrates Court. In my view it is not competent as a ground of appeal. BP139 [62] Ground of appeal 4 is vague to the point of meaningless. In my view it has no prospect of success. BP139 [66] This litigation has been taken place over almost six years. It appears that at every stage, in every Court, Ms Storry has been unsuccessful in her applications.

15 BP140	*Weir v Storry* [2022] FedCFamC2G 183 (Judge Egan)	Application for sequestration order	Ms Storry did not institute or pursue this proceeding. She was the respondent. This is not a vexatious proceeding.
16 BP146	*Storry v Department of Justice and Attorney-General - Office of Fair Trading* [2021] QCAT 435 (Member Paratz AM)	Applications for transfer to another forum - dismissed	BP158 [54] I am satisfied that all of the various applications brought by Ms Storry to have the Applications to review a decision transferred to another forum have no proper basis, and I will dismiss all of those applications in all of the relevant files. BP158 [55] I am further satisfied that all of the Applications to Review a decision are wholly misconceived as to liability, as there is no power under the AFAA for the Chief Executive to act in the way sought by Ms Storry to pay the claims from the agents trust account rather than the claims fund.
17 BP161	*Storry v Office of Fair Trading* [2021] QCA 255 (Sofronoff P)	Application to appeal decision of Queensland Civil and Administrative Appeal Tribunal - dismissed	BP163 [7] It became apparent that her real interest was a personal interest to vindicate her father's reputation. However, an interest of that kind is not a legal interest that can form the basis for a legal proceeding like this one. The applicant lacks standing to challenge those decisions and always did so. BP163 [8] The decision freezing the account in the first place was withdrawn long ago. There would, therefore, be no utility in an appeal against a decision not to set aside these decisions. Again, the point of the proceeding appears to be personal vindication. A person is entitled to pursue such a purpose and many cases are litigated for only such a reason. However, when a person is seeking to agitate the correctness of an administrative decision for the third time, as I have said, something special must be shown to justify such a course. There is nothing of that kind shown here. It is material to notice that, as Boddice J observed in his reasons, when he dismissed the application for judicial review, that the applicant had previously commenced and then abandoned proceedings for judicial review. This is, therefore, actually an attempt by the applicant to relitigate the propriety of these decisions for the sixth time

18 BP164	*Storry v Commissioner of Police* [2021] QCA 230 (Fraser JA)	Stay application - dismissed	BP167 "There is no utility in staying the orders made by the President." BP167 "Nor is there any such utility as might justify a stay in relation to the order appointing a costs assessor to assess the costs ordered by the President." BP169 "The matters advanced by the applicant do not supply a principled basis for refusing the application for costs."
19 BP170	*Storry v Office of Fair Trading* [2021] QCATA 127 (Senior Member Aughterson Member Paratz AM)	Application for leave to appeal - dismissed	BP177 [50] Notwithstanding the unconventional presentation of the Application for leave to appeal or appeal, and of the Grounds of Appeal in that Application, and of the submissions by Ms Storry, we have considered her Application and submissions and have apprehended the basis of her appeal as best we can. BP177 [52] The decision of the Tribunal was carefully considered. We have not identified, and do not find, any error by the Member, either as to fact or law. BP177 [53] Leave to appeal is refused, and the application for leave to appeal or appeal is dismissed.
20 BP178	*Storry and Office of Fair Trading (Victoria)* [2021] AATA 5329 (Senior Member B. Pola)	Review application - dismissed	BP194 [39] Therefore, the Tribunal is of the view that it is appropriate to grant the application for dismissal pursuant to section 42B(1)(b) of the AAT Act, as the Applicant's application has no reasonable prospect of success
21 BP197	*Storry v Chief Executive of the Office of Fair Trading, Department of Justice and Attorney-General* [2021] QCA 30 (Philippides and Mullins JJA and Williams J)	Application for leave to appeal - dismissed	BP209 [57] The ability to apply to QCAT for a transfer of proceedings from QCAT to the Supreme Court in certain circumstances was not relevant to the considerations relevant to the application for dismissal under s 48 of the Judicial Review Act in this case. BP209 [58] This ground of appeal must fail. BP214 [74] … The second ground of appeal must also fail. BP214 [75] The applicant has not established an error in his Honour's reasoning and the substantive appeal must fail. In the circumstances, leave to appeal is refused.

22 BP217	*Storry v Department of Justice and Attorney-General - Office of Fair Trading* [2020] QCAT 94 (Member Kanowski)	Review application – decision affirmed	This was a merits review application. As the extracts below identify, Ms Storry enjoyed some success, although the ultimate result was not disturbed. BP233 [110] Accordingly, this seventh matter has not been substantiated. BP233 [116] This information appears to be inconsistent with a misapplication of trust money, and so I am not satisfied that the eighth matter is substantiated. BP234 [118] This allegation appears to relate to the sum of $9,151.90 discussed in relation to the eight matter. It has not been satisfactorily explained how this could amount to a misapplication BP234 [120] This is put very broadly. In the absence of evidence showing that such beliefs were well-founded and related to additional alleged underpayments and not merely delay in payments because of Office of Fair Trading intervention, I regard this matter as adding nothing to what was indicated by Mr Beauchamp's information about the ASRE trust account. BP234 [124] While I am not satisfied that all of the adverse matters advanced by Office of Fair Trading have been substantiated, I consider that the principal ones that have been are significant: particularly the problems in the operation of the ASRE trust account in 2017, the failure to address the shortfall in that account by September 2018, and the use of the SRE Pty Ltd trust account to receive deposits without proper authorisation.
23 BP237	*Storry v Commissioner of Police* [2018] QCA 291 (Sofronoff P and McMurdo JA and Bond J)	Application for leave to appeal - dismissed	BP245 [26] For the foregoing reasons, I conclude that the applicant has not identified any reasonable argument that there was a factual error which should be corrected. There being no reasonable argument as to the existence of such error, the applicant cannot establish her contention that there was a substantial injustice.
24 BP246	*Storry v Commissioner of Police* [2017] QDC 282 (Dearden DCJ)	Appeal from conviction - dismissed	BP253 [28] It follows that the appellant has failed to demonstrate any legal, factual or discretionary error on the part of the learned magistrate, and therefore, the appeal should be dismissed.

25 We will refer to each proceeding below by reference to its number in the reference column of the Table. The *amicus* submitted that leaving aside three cases in the Table (Proceedings 9, 15 and 22), the remaining proceedings identified were each capable of being characterised as a "vexatious proceeding" but, as will become evident, it is unnecessary to reach a concluded view as to the characterisation of each of the proceedings.

26 In addition to the proceedings identified in the Table prepared by the *amicus*, the Full Court expressed that it wished to receive submissions from Ms Storry as to whether the two proceedings the subject of the appeal judgment were also vexatious. These were: (1) *Venetia Louise Storry v Nic Parkyn* (QUD 422 of 2023) (**Proceeding 25**); and (2) *Venetia Louise Storry v Registrar Thomas Stewart* (QUD 49 of 2024) (**Proceeding 26**).

E MS STORRY'S SUBMISSIONS

27 It is appropriate to identify Ms Storry's submissions in relation to each proceeding (to the extent they were intelligible). This is not only because it identifies Ms Storry's contentions as to each of the proceedings which we later find to be vexatious, but also because the submissions made by a litigant in response to an application for a vexatious proceedings order may be relevant to the question of whether such an order should be made: *Attorney-General (NSW) v Mahmoud* [2015] NSWSC 899 (per Rothman J at [21]).

28 Despite its length, this summary of submissions demonstrates how difficult it was to understand Ms Storry's contentions. They were largely directed to what she perceived were the underlying merits of each proceeding and amounted to general complaints as to the perceived source of her difficulties, rather than addressing the repeated criticisms of judicial and other officers as to the apparent lack of reasonable grounds for her contentions made in the various proceedings, being comments helpfully summarised in the Table.

Proceeding 1

29 This matter concerns what Ms Storry submits was her first judicial review. Ms Storry raises two submissions regarding this matter: *first*, that the judge was biased; and *secondly*, that the judge acted in error. Regarding the *first*, Ms Storry alleges that the way in which this matter was timetabled prejudiced her because it led to her bookwork being seized, and indicated bias on the part of the judge. *Secondly*, Ms Storry believes the judge made an error in relation to the Storry Real Estate trust account in considering that the account was created or opened by her in an attempt to do "something strange",

rather than by what Ms Storry contends was a bank error. Ms Storry says that there has been an acknowledgment that the account was opened by the bank (T15.27–16.04).

Proceeding 2

30 Ms Storry submits that Proceeding 2 relates to a decision made by the District Court of Queensland (**QDC**) which dismissed her application for leave to appeal. Ms Storry says that the decision was incorrect because she had alleged that an abuse of process had occurred, and that "it was implied in general that if you bring an abuse of process application before the Court, they should hear it first, before any evidence is lead" (T16.35–37). Ms Storry proceeded to submit that the dismissal application was now being heard separately, although she was unclear whether "this [was] contrary to the judgment of Mullins P" (T16.31–45). It not entirely clear what Ms Storry meant by this submission.

Proceeding 3

31 This proceeding concerns an application for an extension of time for leave to appeal a decision of a Queensland Civil and Administrative Tribunal (**QCAT**) member handed down on 26 April 2022. In relation to this proceeding, Ms Storry contends that it was agreed the merits review would be finalised before any decision was made in relation to the strike out application. Contrary to this agreement, Ms Storry alleges that the strike out application was decided first on the papers. After the determination of the strike out application, Ms Storry submits that the issue of the Storry Real Estate Agency opening a trust account was raised. Ms Storry believes that the Office of Fair Trading (**OFT**) were using the opening of the trust account as grounds to discipline her in circumstances where they had knowledge that the account was created in error by the bank, and where they subsequently granted her a licence (T17.01–44).

Proceedings 6 and 7

32 Given that Proceeding 5 involves an appeal and that Proceeding 4 involves an appeal to Proceeding 5, it is convenient to deal with Proceedings 6 and 7 first. Proceedings 6 and 7 relate to the appeal of an Administrative Appeals Tribunal (**AAT**) decision, which was the review of the Business Licensing Authority's (**BLA**) refusal to grant Ms Storry an estate agent's licence. Ms Storry addressed these proceedings together.

33 Ms Storry alleges, to put it in her terms, that she had made an application for utility because she was deemed bankrupt, and while someone who is deemed bankrupt cannot hold a real estate licence, they can hold a sales representative licence. While Ms Storry argues that this was not final, she says that

it did require that the pro forma, along with its attachment, be corrected. This is because Ms Storry believed that she was unable to apply for registration when there were decisions against her stating that she had put in a false statutory declaration, as this would mean she was not a fit and proper person (T19.15–24).

Proceeding 5

34 This proceeding concerns an application for leave to appeal the summary dismissal of an appeal from the AAT, which was ultimately dismissed. Ms Storry alleges that in her application which contained a pro forma, she attached information about the appeal to BLA. Ms Storry believes that the judge did not have the attachment before her, because reference was only made to an email sent to BLA. She believes that the judge thought she had made a false statement, but that when viewing the attachment which contained information about the appeal, it is clear that her statement was not false (T18.44–19.09).

Proceeding 4

35 Proceeding 4 relates to an application for judicial review of a Registrar's decision to refuse to accept documents for filing, which was ultimately dismissed. Ms Storry alleges fraud on the basis that the directions hearing of the QCAT appeal went well into October 2021, so it was impossible for the actual merits review application with the attachment to be false or unsuccessful, as the QCAT strike out application was still under directions notice at the time and all relevant evidence was not at hand. Therefore, the ground of appeal before the Federal Court regarding the AAT decision was that she had never made a false statement. She believes that her case had underlying merit and it was wrong to characterise her application for judicial review as lacking merit. This is because "others" had brought a faulty dismissal application against her, in bad faith (T18.4–45; T46.30–38).

Proceeding 8

36 This proceeding relates to an application for the lifting of a stay order and an application for cross-vesting to the Federal Court. Ms Storry requested that the proceeding be transferred to the Federal Court because the trustee did not provide grounds for electing to discontinue a proceeding relating to an application for an extension of time to appeal a decision concerning property damage and associated costs resulting from a vehicle collision, and Ms Storry wanted that issue to be heard as an associated matter to an application to have a sequestration order set aside so that the relevant judge would have the "full story". Ms Storry argues another judge said that she had the right to challenge the decision of the trustee in abandoning her application and, later on, the QCAT merits review in the

Federal Court. She further submits that there is an acknowledgement in the transcript that the respondents never filed any material on Ms Storry (T8.46–9.33).

Proceeding 10

37 Proceedings 10 and 11 follow the judgment in the Federal Court, *Storry v Weir* [2022] FCA 794 (Proceeding 12), which dismissed an appeal against a decision of the Federal Circuit and Family Court of Australia (**FCFCOA**) and a stay application concerning sequestration orders made in Proceeding 15. Ms Storry initiated this proceeding on the basis that the judge made a discretionary decision not to include the OFT as a party to the proceeding, but that this decision was not reflected in the judgment. Given, as Ms Storry puts it, the judge included the OFT as if they were a party to the proceeding in the judgment delivered, Ms Storry argues that the decision should be rescinded because it was obtained by fraud (T20.14–20.31, 41.29–42.16).

Proceeding 11

38 This proceeding was an application to have a judge disqualify himself from the hearing. Ms Storry made the submission that the findings in this proceeding did not reflect the grounds upon which the application was made, which Ms Storry contends were privately communicated to the Registry. Ms Storry disclosed that the private grounds supporting the recusal application were that the judge had sent the "fixation squad" to her door. Ms Storry submitted that the "fixation squad" were sent because the judge believed that she was visiting his house. Further, Ms Storry said that she had already asked the judge to recuse himself because the judge's associate was another judge's child, and there had been related issues regarding the leasing of a house owned by Ms Storry (T20.35–22.19).

Proceeding 12

39 Proceeding 12 concerns an appeal against a decision of the FCFCOA and a stay application, both of which were ultimately dismissed. The submissions made by Ms Storry in relation to this proceeding were particularly difficult to follow, but Ms Storry submits that this proceeding has been "superseded" by a decision of Bond J. She argues that Bond J made various concessions relevant to the merits of her case (T23.25–37).

Proceeding 13

40 This proceeding was an appeal of the dismissal of the strike out application heard on the papers by QCAT, referred to when discussing Proceeding 3. Ms Storry contends that she asked QCAT to finalise the merits review for the purpose of efficiency. Ms Storry submits that she was denied natural justice because the finalisation of the QCAT merits review did not occur before the decision to strike

out her application against the disciplinary action, which amounted to an abuse of process. She argues that if this had been finalised, they would have known the true nature of the strike out application (T23.45–24.11).

Proceeding 14

41 Proceeding 14 is an application for the stay of the sequestration order that resulted from Proceeding 15, which was ultimately dismissed. Ms Storry again argues that this decision has been "superseded" by a decision of Bond J (T24.20–47) and that the proceeding connects to Proceeding 12.

Proceeding 16

42 Proceeding 16 concerns an application for transfer to another forum, which was ultimately dismissed. This proceeding regards Ms Storry's liability to pay nine claimants from the claim fund of her business, following the decision of the OFT. Ms Storry contends that the claims were belonging to amounts frozen by the OFT and that the claims did not "belong" to money missing from her late father's trust account, and that this was what the trustee had abandoned. On this basis, Ms Storry submits that the claims were invalid, and that there has been no real conclusion as to the amount left in the trust. Further, it is said by Ms Storry that the matter was decided prematurely (by saying that it did not have merit) and that "the submissions" of Soroya Annells (who stated that the money was frozen) were not "read" (T25.12–21).

Proceeding 17

43 Similarly, Proceeding 17 relates to the OFT's directions regarding the freezing of certain accounts and the appointment of a receiver. Ms Storry believes she had grounds for judicial review of the decision to freeze the account and appoint a receiver. She also submits that the appointment of a receiver was on false grounds, as it was incorrect that the money was missing. Further, Ms Storry believes that she had grounds for merits review on the basis that her bookwork was seized by the respondents, and she was left with no evidence which the decision-maker was not originally aware of. Ms Storry submits that the applications were dismissed on a false basis because the judge misunderstood the difference between merits review and judicial review, which lead him to incorrectly believe that the issues had "been gone through six times" (T25.31–27.16).

Proceeding 18

44 Ms Storry contends that this proceeding was an application for the stay of a bankruptcy notice. Ms Storry requested fresh evidence to be heard before a civil appeal in the QDC was heard, so that it would not affect its decision. Ms Storry submits that the judge said that he did not have jurisdiction

to grant the stay of the proceedings, and that it was on this basis that the stay was not granted. Ms Storry contends that the stay application was not dismissed on the merits, but rather was dismissed because the relevant judges involved could not agree on the issue of jurisdiction (T27.33–28.21).

Proceeding 19

45 Proceeding 19 concerns an application for leave to appeal, which Ms Storry submits relates to Proceeding 17. In relation this proceeding, Ms Storry clarifies that she had authority to act on behalf of her father's business, and that her merits review was refused on the false understanding that she did not have such authority. Further, Ms Storry submits that there was no finalisation of her father's trust account because there was a merits review claim in QCAT which the trustee had abandoned. Because these claims had not been finalised, Ms Storry reasoned that there was no basis to discontinue or dismiss judicial or merits review applications made by her (T28.30–29.36).

Proceeding 20

46 This proceeding was said to be an appeal to the AAT for an urgent review of the decision made by the BLA refusing Ms Storry's application for an estate agent licence. Ms Storry argues that the BLA could not discriminate against her, relying upon s 51 of the *Constitution* (also citing Gageler J in *Victorian Building Authority v Andriotis* [2019] HCA 22; (2019) 268 CLR 168). She contends that a mutual recognition should only be "disallowed in instances where a false statutory declaration has been provided". She argues that her statutory declaration was not false as her QCAT directions were ongoing (with her QCAT appeal continuing well into October 2021, after this judgment was delivered). She further submits that this dismissal application prejudiced her, contributed to her bankruptcy and that "the other side sought to benefit by having a utility decision heard in their favour, when they had themselves caused delay by bringing a false dismissal application" (T29.42–30.03; T45.41–46.04).

Proceeding 21

47 Ms Storry argues this proceeding concerns an application for leave to appeal a decision dismissing Ms Storry's application for judicial review. The application related to the appointment of a receiver and the moving of funds from the trust account to the claims fund. Ms Storry submits that there was evidence missing on her USB and that her books had been removed. She claims that the trustee's affidavit stated that the OFT attempted to have $28,000 given to them from the trust account "which was false and a gross over-estimation". Further, she believes that this was an action under the *Fair Trading Inspectors Act 2014* (Qld) and that the Court mistakenly believed it did not have jurisdiction.

She argues that the application was dismissed on the false understanding that she was bringing an application for judicial review, when in fact she was seeking a review under the Act (T30.15–23).

Proceedings 23 and 24

48 Ms Storry addressed these proceedings together. Both relate to appeals of a conviction in the Magistrates Court, but in the Supreme Court of Queensland and the QDC respectively. Ms Storry asserts that these decisions have also been "superseded" by Bond J's decision. It is now before Bond J as relevant evidence was not before the courts in the preliminary hearings (T30.35–31.08).

Proceedings 25 and 26

49 Ms Storry also addressed Proceedings 25 and 26 together. Ms Storry raised jurisdictional questions about the correct forum for the "process of rescission due to fraud". She argues that she was instructed by a judge that she needed to go to the High Court for an application for rescission because an application under r 39.05(b) of the *Federal Court Rules 2011* (Cth) (**FCR**) "cannot be brought" in the Federal Court. Ms Storry also referred to *Commissioner of Taxation v Rawson Finances Pty Ltd* [2023] FCA 617; (2023) 116 ATR 458 which, she argues, is consistent with *Clone Pty Ltd v Players Pty Ltd (in liq)* [2018] HCA 12; (2018) 264 CLR 165. *Rawson* was said to be heard under FCR 39.05(b) in the original jurisdiction of the Court, after an appeal had been heard in the Full Court, which is the opposite of what Ms Storry was instructed to do. Therefore, there was confusion concerning the proper jurisdiction for the proceeding. She further submits that there had been fresh evidence evincing actual fraud committed by the trustee in their affidavit (T42.35–45.37).

F VEXATIOUS PROCEEDINGS?

50 Having identified proceedings commenced in recent times and noted in summary, as best we can, what Ms Storry has to say about them, it is necessary to determine whether Ms Storry has commenced proceedings which were vexatious, in that they constituted an abuse of process or were instituted or pursued without reasonable grounds. In coming to a conclusion, the Court is not to make findings about the facts in issue (to which Ms Storry's submissions were largely directed) but rather, is to take account of the record and make an assessment as to its character.

51 It would unnecessarily add to this judgment to deal with each proceeding separately. The statutory conditions that Ms Storry has commenced vexatious proceedings and has done so frequently is amply satisfied by referring to only some of the proceedings in the Table.

52 It is worth recalling that Ms Storry is an undischarged bankrupt. As we noted in the appeal proceeding (at [44]–[45]), a sequestration order was made in relation to Ms Storry on 18 March 2022 and, upon that order, all her property vested in her trustee in bankruptcy, including any legal or equitable choses in action, and any other property, other than that exempt under statute.

Proceeding 1

53 Contrary to Ms Storry's submissions, this application heard before Dalton JA was made in another interlocutory application in a finalised appeal concerning a traffic accident following the 2021 dismissal of an application for leave to appeal.

54 The substantive application was an attempt to reagitate matters already dealt with by the President of the Court of Appeal and "to attack something he said in his reasons". Dalton JA sought to have the substantive application dealt with on the papers, which was met with the response by Ms Storry that she wanted her Honour "to recuse [her]self for bias", being an application for recusal, which was manifestly without reasonable grounds for reasons explained in *Storry v Commissioner of Police* [2024] QCA 66. The proceeding was vexatious.

Proceeding 2

55 This was an application to the Queensland Court of Appeal (**QCA**) for leave to appeal orders of the QDC (following an appeal to that Court arising from the refusal of an Acting Magistrate of the Magistrates Court of Queensland to grant an adjournment of a summary hearing). The reasons of the QCA (*Storry v Australian Financial Security Authority* [2024] QCA 55) amply demonstrate: (a) the attempt by Ms Storry to include irrelevant assertions in the leave proceeding; and (b) the wholly misconceived nature of her arguments to the QCA – the application was made without reasonable grounds and was vexatious.

Proceeding 3

56 Notwithstanding she was an undischarged bankrupt, Ms Storry (in her own right), and a company she asserted she controlled, Storry Real Estate Pty Ltd, sought leave to appeal from the decision of a judicial member of QCAT more than eleven months out of time. Such appeals are confined to questions of law. Even leaving aside questions as to bankruptcy, it is apparent from the reasons of Morrison JA (with whom Dalton JJA and Fraser AJA agreed) that a miscellany of meritless arguments were put forth by Ms Storry, and that she was unable to articulate a coherent basis for other applications made: see *Storry v Chief Executive, Department of Justice and Attorney General* [2024]

QCA 22 (at [19]–[20], [27]). This can also be characterised as a vexatious proceeding lacking reasonable grounds.

Proceeding 7

57 In *Storry v Business Licensing Authority (No 2)* [2023] FCA 102, Thomas J held (at [66]–[68]) that it was appropriate to halt proceedings as, following a dismissal of the appeal against the sequestration order made against Ms Storry, the proceeding (the details of which do not need to be recounted) amounted to an abuse of process as they dealt with an issue that had become moot, and because any order made would be futile. This was a vexatious proceeding.

Proceeding 8

58 This was further litigation commenced by Ms Storry after becoming a bankrupt and later pursued after the unsuccessful appeal against the sequestration order. Ms Storry sought to appeal an order made by the QDC dismissing a claim for property damage that had been discontinued by her trustee, Mr Clout: see *Storry v Weir* [2023] QCA 4 (at [4], [6] per Mullins P). Mullins P usefully set out Ms Storry's uniformly unsuccessful endeavours in this Court concerning her sequestration order (at [12]):

> She was unsuccessful in *Storry v Weir* [2022] FCA 362 in applying for interim orders to stay the sequestration order made by Judge Egan. Her appeal against the making of the sequestration order was then dismissed by Thomas J on 7 July 2022: *Storry v Weir* [2022] FCA 794. Ms Storry then made a further application seeking a stay of the sequestration order in connection with an application to set aside the judgment of Thomas J dismissing her appeal against the making of the sequestration order on the basis it was obtained by fraud. In a lengthy decision given on 15 November 2022 that traversed each of the allegations, Thomas J concluded that none of the grounds raised by Ms Storry addressed or satisfied the requirements which must be met in the exercise of the jurisdiction to set aside the judgment dismissing her appeal on 7 July 2022: *Storry v Weir (No 2)* [2022] FCA 1360. Ms Storry then sought to file an application to challenge the dismissal of her application to set aside the judgment given on her appeal. Logan J concluded on 30 November 2022 that the Federal Court had no jurisdiction to entertain an application for leave to appeal against the judgment given on 15 November 2022 and that the Registrar should be directed not to accept the notice of appeal for filing: *Storry v Weir* [2022] FCA 1484.

59 Although for reasons unnecessary to detail, Mullins P considered there was "no point" in dealing with Ms Storry's application for leave to appeal against orders which were made on the basis that Ms Storry was bankrupt (at [14]). The misconceived and unreasonable basis upon which Ms Storry sought to lift the stay of proceedings in the QCA (which turned on the operation of s 60(4) of the *Bankruptcy Act 1966* (Cth) (**Bankruptcy Act**)) is evident (at [12]). The pursuit of this proceeding, at the very least after the dismissal of her appeal against the making of the sequestration order, was without reasonable grounds and it amounted to a vexatious proceeding.

Proceeding 10

60 In one of the cases referred to in the extract above, *Storry v Weir (No 2)* [2022] FCA 1360, Thomas J set out, in very comprehensive detail, the unreasonable and infirm nature of various allegations of fraud made by Ms Storry in support of an application seeking an order to set aside a judgment. This was also a vexatious proceeding.

61 For completeness, it can be noted that it appears a further interlocutory application filed after judgment was apparently made for a "stay of her sequestration order" (a wholly misconceived application for reasons explained in *Mehajer v Weston (Trustee), in the matter of Mehajer* [2018] FCA 608; (2018) 16 ABC(NS) 135 (at [9] per Lee J)) but it is unnecessary to characterise this further interlocutory application as vexatious.

Proceeding 11

62 In *Storry v Business Licensing Authority* [2022] FCA 1321, Thomas J dealt with and dismissed another unreasonable application for the disqualification of a judge on the basis of apprehended bias (as is evident from the submissions summarised above (at [38])). There was no reasonable basis for suggesting a discernible logical connexion between the matters raised by Ms Storry and a feared deviation from the course of deciding the underlying proceeding on its merits. This application amounted to a vexatious proceeding.

Proceeding 17

63 As Sofronoff P explained in *Storry v Office of Fair Trading* [2021] QCA 255 (at [8]), this proceeding amounted, in substance, to an attempt by Ms Storry to relitigate the propriety of certain administrative decisions for the sixth time. Even leaving aside the characterisation of earlier attempts at re-litigation, this proceeding plainly amounted to an abuse of process and was a vexatious proceeding.

Proceeding 23

64 In *Storry v Commissioner of Police* [2018] QCA 291, Bond J (with whom Sofronoff P and McMurdo JA agreed) dealt with an application for leave to appeal from the QDC which had dismissed an appeal from Ms Storry's conviction in the Brisbane Magistrates Court for failing to give way at a stop sign, which resulted in a fine of $475, and an order that she pay court costs and witnesses expenses. His Honour concluded (at [26]) that Ms Storry did not identify any reasonable argument that there was a factual error which should be corrected. A review of the reasons establishes the application was without reasonable grounds and was vexatious.

Proceeding 26

65 This proceeding was dealt with by this Court in the appeal judgment (at [24]–[35]) and was described as the "original jurisdiction proceeding". For reasons we have explained, there was not a reasonable ground for challenging the decision of the Registrar to reject the relevant interlocutory application for filing on the basis that it was an abuse of process and was otherwise vexatious or frivolous. The original jurisdiction proceeding was a vexatious proceeding.

66 It is unnecessary to deal with the significant number of other proceedings Ms Storry has instituted or conducted in Australian courts and tribunals. Even if we were wrong about the characterisation of some of the proceedings identified above as vexatious, this would not matter. The meaning of the word "frequently" is relative, and must be viewed in context: *Teoh v Hunters Hill Council (No 8)* [2014] NSWCA 125 (at [46]–[49] per Beazley P, Emmett JA and Sackville AJA) and the number of proceedings may be small if a litigant attempts to re-litigate or re-agitate issues previously determined: *Fuller v Toms* (at 545 [33]–[34]). The recurring nature of Ms Storry's complaints in various fora emerges plainly from the record.

67 It is evident that by reference to the proceedings identified above, or some of them, Ms Storry has, within the meaning of s 37AO(1)(a) of the FCA Act: (1) frequently; (2) instituted or conducted; (3) vexatious proceedings; (4) in Australian courts or tribunals.

G WHETHER AN ORDER SHOULD BE MADE

68 Having established that all pre-conditions for the making of a vexatious proceedings order are present, we turn to the question of whether we are satisfied that the Court should make such an order.

69 A vexatious proceedings order can be made by a Full Court. Even leaving aside that the reference to "Court" in s 37AO (by reason of the definition of "Court" and how it may be constituted in ss 4 and s 14(1)) extends to a Full Court, s 28(1)(b) of the FCA Act relevantly provides that in the exercise of its appellate jurisdiction, the Court may make such order, as, in all the circumstances, it thinks fit.

70 But having noted this, we are mindful that such an order made by a Full Court would preclude any appeal without special leave being granted (although this consideration is incomplete without also recognising that there is some apparently conflicting intermediate court of appeal authority, summarised by Jackman J in *Krejci in his capacity as liquidator of ENA Development Pty Ltd (in liq) v Sebie* [2023] FCA 884 (at [53]–[55]), as to whether leave is required to appeal vexatious proceedings orders at the intermediate court of appeal level).

71 We also recognise that an order which has the effect of restricting a person's access to the Courts by imposing a leave requirement is not to be made lightly and is exceptional and serious. We are also cognisant of not punishing Ms Storry for past mistakes.

72 But this is not a case at the margins. Several factors compel the making of a vexatious proceedings order.

73 *First*, we recognise that as an undischarged bankrupt there are already fetters on Ms Storry's ability to commence most types of proceedings but, in this case, the fact that Ms Storry is an undischarged bankrupt does not militate against making the order. Indeed, the contrary is true. As is evident from the above, Ms Storry's bankruptcy has not stopped her commencing non-exempt proceedings notwithstanding all her property is vested in her trustee in bankruptcy pursuant to s 58 of the Bankruptcy Act.

74 *Secondly*, and most importantly, the present circumstances represent a clear example of where the Court must act to protect itself from the expense, burden, and inconvenience of baseless and repetitious proceedings instituted by Ms Storry. Ms Storry has had plenty of days in Court, but she is not entitled to another person's day in Court to pursue quixotic and misconceived complaints. We are amply satisfied a vexatious proceedings order in this case is reasonably necessary to protect Court resources so that they are available to other litigants.

75 *Thirdly*, as is evident from the submissions summarised in Section E above, Ms Storry's arguments are replete with irrelevancies and misconceptions rendering them difficult to follow, and trying to understand them and make them comprehensible causes considerable Court time to be consumed and directed to no useful end.

76 *Fourthly*, we are satisfied such an order is also reasonably necessary to protect Ms Storry from the consequences of her own actions: see *Attorney-General v Reid* [2012] NZHC 2119; [2012] 3 NZLR 630 (at 635 [25] per Keane and Woodhouse JJ). As was evident from the way Ms Storry presented her submissions at both hearings, she is much vexed and disturbed by appearing in Court to conduct her litigation. No doubt she has also wasted associated out-of-pocket expenses.

77 *Fifthly*, although not decisive to the exercise of the discretion, it is also relevant that absent the making of an order, we are amply satisfied other vexatious proceedings are likely to be brought in the Court.

78 Having regard to all matters put by Ms Storry (to the extent relevant) and in all the circumstances, a form of the proposed order notified to Ms Storry by Order 2(a) of the Orders dated 28 May 2024 should be made.

F WHETHER ANY OTHER ORDER SHOULD BE MADE

79 During the oral hearing, the Full Court raised with Ms Storry that s 37AO(2)(a) of the FCA Act provides the Court may make an order staying any proceeding already instituted. This was because it became apparent, during her oral submissions, that Ms Storry is also pursuing relief in proceedings QUD 479 of 2023.

80 This is a proceeding in which, put in broad terms, Ms Storry is seeking the removal of her trustee in bankruptcy, certain interim orders relating to the preservation of property and related orders. It is apparent from the Court file that this has been the subject of several interlocutory orders by Rangiah J and his Honour has reserved judgment in relation to aspects of that proceeding. In these circumstances, it is neither necessary nor appropriate that we consider whether this proceeding is vexatious or otherwise interfere, leaving the matter to be dealt with, in the usual course, by the Docket Judge.

81 We should not conclude without recording our appreciation for Mr Mack appearing in the Full Court without remuneration as an *amicus* to assist the administration of justice and for his helpful and cogent submissions.

I certify that the preceding eighty-one (81) numbered paragraph is a true copy of the Reasons for Judgment of the Honourable Justices Lee, Feutrill and Jackman.

Associate:

Dated: 31 July 2024