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### Details of Filing

Document Lodged:	List of Authorities
File Number:	NSD135/2021
File Title:	ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850) v MAYBERG PTY LTD ACN 011 024 070
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 2/09/2021 10:30:15 PM AEST

Registrar

### Important Information

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## List of authorities of the applicants

No NSD132-136; 144-145; 308 of 2021

**Federal Court of Australia**  
**District Registry: New South Wales**  
**Division: General**

**Swiss Re International SE & others named in the schedule**

Applicants

**LCA Marrickville Pty Limited ACN 601 220 080 & others named in the schedule**

Respondents

### PART A

#### Cases

*Antico v Heath Fielding Australia Pty Ltd* (1996) 188 CLR 652

*Australian Casualty Co v Federico* (1986) 160 CLR 513 at 525, 527

*Australian Pipe & Tube Pty Ltd v QBE Insurance (Australia) Limited (No 2)* (2018) 20 ANZ Insurance Cases 62-184; [2018] FCA 1450 at [114]-[117], [291]

*C E Heath Casualty & General Insurance v Grey* (1993) 32 NSWLR 25

*Cat Media Pty Ltd v Allianz Australia Insurance Ltd* (2006) 14 ANZ Ins Cas 61-700; [2006] NSWSC 423 at [54]-[59], [60]

*DRJ v Commissioner of Victims Rights (No 2)* [2020] NSWCA 242 at [9]-[10]

*FAI General Insurance Co Ltd v Australian Hospital Care Pty Ltd* (2001) 204 CLR 641

*Greentree v FAI General Insurance* (1998) 44 NSWLR 706

*Hannover Life Re of Australasia Ltd v Farm Plan Pty Ltd* [2001] FCA 796

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*HDI Global Specialty SE v Wonkana No. 3 Pty Ltd* [2020] NSWCA 296 at [18], [21], [31], [46], [53]-[60], [106], [113], [118], [124]-[125], [130]

*Insurance Australia Ltd v HIH Casualty & General Insurance Ltd (in liq)* [2007] VSCA 223; (2007) 18 VR 528 at [169]

*Lasermax Engineering Pty Limited v QBE Insurance (Australia) Limited* [2005] NSWCA 66; (2005) 13 ANZ Insurance Cases 61-643 at [34]-[100]

*Lend Lease Real Estate Investments Ltd & Anor v GPT Re Ltd* [2006] NSWCA 207

*Maxwell (in his capacity as the authorised nominated representative on behalf of various Lloyds underwriters) v Highway Hauliers Pty Ltd* (2013) 298 ALR 700; [2013] WASCA 115

*Maxwell v Highway Hauliers Pty Ltd* (2014) 252 CLR 590

*McCarthy v St Paul International Insurance Co Ltd* [2007] FCAFC 28; (2007) 157 FCR 402 at [88]-[115]

*Mitchell v Latrobe Regional Hospital* (2016) 51 VR 581

*Orient-Express Hotels Ltd v Assicurazioni Generali SpA* [2010] EWHC 1186 (Comm); [2010] Lloyd's Rep IR 531

*PMB Australia Ltd v MMI General Insurance Ltd* (2002) 12 ANZ Ins Cas 61-537; [2002] QCA 361 at [17], [19]-[23]

*Seery & Anor v John R Carr and Assoc* (SCNSW, unrep, 3 November 1995)

*Star Entertainment Group Limited v Chubb Insurance Australia Ltd* [2021] FCA 907 at [6], [9]-[10], [92], [95], [98], [118], [138], [140]-[141], [145], [164], [166], [168], [172]-[174]

*Swashplate Pty Ltd v Liberty Mutual Insurance Company t/as Liberty International Underwriters* (2020) 381 ALR 648; [2020] FCAFC 137 at [58]-[62]

*Telstra Corporation Ltd v Australian Performing Right Association Ltd* (1997) 191 CLR 140

*The Financial Conduct Authority v Arch Insurance (UK) Ltd* [2021] AC 649; [2021] UKSC 1 at [26], [61], [64]-[65], [66]-[67], [69], [77], [85]-[86], [97], [147]-[152], [153], [154], [162]-[163], [228]-[231], [244], [254], [257], [332]

## **Legislation**

*Biosecurity Act 2015* (Cth) ss 9, 42

*Insurance Contracts Act 1984* (Cth) ss 13, 14, 37, 57, 71

*Interpretation of Legislation Act 1984* (Vic) ss 16, 38

*National Health Security Act 2007* (Cth) s 11(2)

*Property Law Act 1958* (Vic) s 61A

*Quarantine Act 1908* (Cth)

## PART B

### Cases

*AFC Holdings Pty Ltd v Shiprock Holdings Pty Ltd* [2010] NSWSC 985; (2010) 15 BPR 28 at [13]

*Akai Pty Ltd v People's Insurance Co Ltd* (1996) 188 CLR 418 at 437, 440

*Alcan (NT) Alumina Pty Ltd v Cmr of Territory Revenue* (2009) 239 CLR 27; [2009] HCA 4, [47]

*Australasian Correctional Services Pty Ltd v AIG Australia Limited* [2018] FCA 2043 at [17]

*Axa Global Risks (UK) Ltd v Haskins Contractors Pty Ltd* [2004] NSWCA 138 at [41], [42], [49]

*Beaumont v Yeomans* (1934) 34 SR (NSW) 562 at 570

*Bettergrow Pty Limited v NSW Electricity Networks Operations Pty Ltd as trustee for NSW Electricity Networks Operations Trust t/as TransGrid (No 2)* [2018] NSWSC 514 at [77]

*Birla Nifty Pty Ltd v International Mining Industry Underwriters Ltd* [2014] WASCA 180; (2014) 47 WAR 522 at [57]-[59]

*Blaaupot v Da Costa* (1758) 1 Eden 130; 28 ER 633

*Black Box Control Pty Ltd v Terravision Pty Ltd* [2016] WASCA 219 at [42]

*Bonython v The Commonwealth* (1948) 75 CLR 589; [1948] HCA 2

*Bonython v The Commonwealth* (1950) 81 CLR 486 at 498; [1951] AC at 201, 219

*Burnand v Rodocanachi Sons & Co* (1882) 7 App Cas 333 at 336

*Carillion Construction Ltd v AIG Australia Ltd* (2016) 19 ANZ Insurance Cases 62-115; [2016] NSWSC 495 at [86]-[87], [90]

*Chapmans Ltd v Australian Stock Exchange Ltd* (1996) 67 FCR 402 at 411

*Charter Reinsurance Co Ltd v Fagan* [1996] 3 All ER 46; [1997] AC 313 at 388

*Chubb Insurance Company of Australia Limited v Robinson* [2016] FCAFC 17; (2016) 239 FCR 300 at [98]-[106]

*Cooper Brookes (Wollongong) Pty Ltd v Commissioner of Taxation of the Commonwealth of Australia* (1981) 147 CLR 297; [1981] HCA 26

*Coxe v Employers' Liability Assurance Corporation* [1916] 2 K.B. 629 at 634

*Crimmins v Stevedoring Committee* (1999) 200 CLR 1, [1999] HCA 59 at [34].

*Davuro Pty Ltd v Wilkins* (2000) 105 FCR 476 at [152], [230]

*Eichmann v Commissioner of Taxation* [2020] FCAFC 155 at [40]

*Eureka Funds Management Limited v Freehills Services Pty Ltd* [2008] VSCA 156; 19 VR 676 at [52]

*Evans v Muller* (1983) 151 CLR 117

*Evolution Precast Systems Pty Ltd v Chubb Insurance Australia Limited* [2020] FCA 1690 at [25]

*Fitzgerald v CBL Insurance Ltd* (2015) 18 ANZ Insurance Cases 62-063; [2014] VSC 493 at [415]-[420], [436]

*George Hudson Ltd v Australian Timber Workers' Union* (1923) 32 CLR 413 at 436-7

*Globe Church Incorporated v Allianz Australia Insurance Ltd* (2019) 99 NSWLR 470; [2019] NSWCA 27

*Government Insurance Office of NSW v RJ Green & Lloyd Pty Ltd* (1966) 114 CLR 437 at 443

*Halford v Price* (1960) 105 CLR 23 at 28, 30

*Hammer Waste Pty Ltd v QBE Mercantile Mutual Ltd* (2003) 12 ANZ Insurance Cases 61-553; [2002] NSWSC 1006 at [25]-[27]

*HIH Casualty & General Insurance Limited v Waterwell Shipping Inc* (1998) 43 NSWLR 601 at 608

*Hume Steel Ltd v A-G (Vic)* (1927) 39 CLR 455 at 465-466

*Hyper Trust Limited trading as The Leopards Town Inn v FBD Insurance plc* [2021] IEHC 78 at [178]-[179]

*Hyper Trust Limited t/as the Leopards Town Inn v FBD Insurance plc (No 2)* [2021] IEHC 279 at [23]

*Ingham v ACN 000 333 844 Ltd (in liq)* (2006) 14 ANZ Insurance Cases 61-688; [2006] NSWCA 63 at [6]

*Kooragang Cement Pty Ltd v Bates* (1994) 35 NSWLR 452 at 461F, 463-464

*Liberty Mutual Insurance Company Australian Branch trading as Liberty Specialty Markets v Icon Co (NSW) Pty Ltd* [2021] FCAFC 126 at [151]-[153], [353], [394]-[395]

*LMI Australasia Pty Ltd v Boulderstone Hornibrook Pty Ltd* [2003] NSWCA 74 at [74]

*Massoud v NRMA Insurance Ltd* [2005] NSWSC 241; (2005) 62 NSWLR 653 at [7]

*Mathieson v Burton* (1971) 124 CLR 1 at 20-21

*McCann v Switzerland Insurance Australia Ltd* [2000] HCA 65; (2000) 203 CLR 579 at [22], [74]

*Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v ERY19* [2021] FCAFC 133 at [12]

*Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd* [2015] HCA 37; (2015) 256 CLR 104 at [46]-[51], [59]

*National Insurance Co of New Zealand Ltd v Espagne* (1961) 105 CLR 569 at 599-600

*Ocean Harvester Holdings Pty Ltd v MMI General Insurance Ltd* (2004) 13 ANZ Ins Cas 61-592; [2004] QCA 41 at [12]

*Onley v Catlin Syndicate Ltd as the Underwriting Member of Lloyd's Syndicate 2003* (2018) 360 ALR 92; [2018] FCAFC 119 at [33]

*Pass v Gerling Australia Insurance Company Pty Ltd* (2011) 16 ANZ Insurance Cases 61-887; [2011] WASCA 93 at [48]

*Pollak v Yapp* [2019] NSWCA 150; 19 BPR 39 at [15]

*Prestcold (Central) Ltd v Minister of Labour* [1969] 2 WLR 89 at 97

*Price v Spoor* [2021] HCA 20 at [27], [60]

*Prime Infrastructure (DBCT) Management P/L v Vero Insurance Ltd and Ors* [2005] QCA 369 at [31]

*Project Blue Sky v Australian Broadcasting Authority* (1998) 194 CLR 355 at [69]

*R&B Directional Drilling Pty Ltd (in liq) v CGU Insurance Ltd (No 2)* [2019] FCA 458; (2019) 369 ALR 137 at [76]-[133]

*Randal v Cockran* (1748) 1 Ves Sen 98; 27 ER 916

*Ranicar v Frigmobile Pty Ltd; Ranicar v Royal Insurance Pty Ltd* [1983] Tas R 113; (1983) 2 ANZ Ins Cas 60-525 at 116

*Re Batchelor* [1905] VLR 366

*Re Sigma Finance Corporation* [2009] UKSC 2; [2010] 1 All ER 571 at [9]

*Rizeq v Western Australia* (2017) 262 CLR 1; [2017] HCA 23

*Rockment Pty Ltd t/a Vanilla Lounge v AAI Limited t/a Vero Insurance* (2020) 149 ACSR 484; [2020] FCAFC 228 at [54], [65]-[68]

*Russell Gould Pty Limited v Ramangkura* [2013] NSWSC 1114 at [102]

*Russell Gould Pty Ltd v Ramangkura* (2014) 87 NSWLR 552; [2014] NSWCA 310

*S & Y Investments (No. 2) Pty Ltd (in liq) v Commercial Union Assurance Co of Australia Ltd* (1987) 4 ANZ Insurance Cases 60-780 at 74, 752; (1986) 44 NTR 14 at 20-22

*Sheehan v Lloyds Names Munich Re Syndicate Ltd* [2017] FCA 1340 at [77], [81]

*Siegwerk Australia Pty Ltd (in liq) v Nuplex Industries (Aust) Pty Ltd* (2013) 305 ALR 412; [2013] FCAFC 130 at [162]

*Stevenson v Stephens* [1990] 1 Qd. R 575 at 580-581

*Swashplate Pty Ltd v Liberty Mutual Insurance Company t/as Liberty International Underwriters* [2020] FCA 15; 141 ACSR 313 at [62]

*Switzerland Insurance Australia Ltd (formerly Federation Insurance Ltd) v Dundean Distributors Pty Ltd* (1998) 10 ANZ Ins Cas 61-388; [1998] 4 VR 692 at 74, 102

*Tal Life Ltd v Shuetrim* (2016) 91 NSWLR 439; [2016] NSWCA 68 at 457 [80]

*Taylor v The Owners - Strata Plan No 11564* (2014) 253 CLR 531; [2014] HCA 9

*The Financial Conduct Authority v Arch Insurance (UK) Limited* (2020) Lloyd's Rep IR 527; [2020] EWHC 2448 at [62], [255]-[312], [328], [406], [430], [442], [444], [466]

*Todd v Alterra at Lloyd's Ltd* [2016] FCAFC 15; 239 FCR 12 at [42]

*Transfield Construction Pty Ltd v GIO Australia Holdings Pty Ltd* (1997) 9 ANZ Insurance Cases 61-336; [1996] NSWCA 538 at [1]-[2]

*Trust Co (Nominees) Ltd v Banksia Securities Ltd* [2016] VSCA 324 at [46]

*Turner v York Motors Pty Ltd* (1951) 85 CLR 55 at 75

*Vero Insurance Pty Ltd v Australian Prestressing Services Pty Ltd* [2013] NSWCA 181 at [35], [40]

*Wallaby Grip Ltd v QBE Insurance (Australia) Ltd* [2010] HCA 9; (2010) 240 CLR 444 at [28]-[29]

*Wayne Tank & Pump Co Ltd v Employers Liability Assurance Corporation Ltd* [1974] QB 57

*Wilkie v Gordian Runoff Limited* [2005] HCA 17; (2005) 221 CLR 522 at [15], 529

*William Sindall plc v Cambridgeshire County Council* [1994] 1 WLR 1016 at 1024

*WorkPac Pty Ltd v Rossato* [2021] HCA 23 at [63]

*Worth v HDI Global Specialty SE* [2021] NSWCA 185 at [6], [179], [207]

*Wright v Bastin* [1978] VR 609

*XL Insurance Co SE v BNY Trust Company of Australia Ltd* [2019] NSWCA 215 at [72]-[73]

*Zheng v Cai* (2009) 239 CLR 446

## **Legislation**

*Acts Interpretation Act 1901* (Cth) s 15AA

*AFCA Complaint Resolution Scheme Rules* dated 13 January 2021 cl A.7.2(b)

Appropriation Bill (No 5) 2019-20 (Cth)

Appropriation Bill (No 6) 2019-20 (Cth)

*Biosecurity (Listed Human Diseases) Amendment Determination 2020* (Cth) s 4(h)

*Biosecurity (Listed Human Diseases) Determination 2020* (Cth)

*Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Act 2020* (Cth) ss 5, 6

*Coronavirus Economic Response Package Omnibus (Measures No 2) Act 2020* (Cth)

*Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (Cth) ss 3, 7(1)

*Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* (Cth) rr 5, 6(1), 7, 8, 9

*Corporations Act 2001* (Cth)

*COVID-19 Omnibus (Emergency Measures) (Commercial Leases and Licences) Regulations 2020* (Vic)

Explanatory Memorandum to the *Biosecurity Bill 2014* (Cth)

*Federal Court of Australia Act 1976* (Cth) ss 22, 32

*Health Practitioner Regulation Law 2009* (NSW) s 41B

*Interpretation Act 1987* (NSW) s 5

Interpretation of Legislation Bill 1984 (Vic) (including Explanatory Notes)

*Judiciary Act 1903* (Cth) s 39B



*Liquidator Act 1992 (Qld) sub-s 235D(2)(a)*

*Public Health Act 2005 (Qld) ss 319, 362B, 362D*

*Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020 (Qld)*

*Public Health and Wellbeing Act 2008 (Vic) sub-ss 198(1), 200(1)(b)-(d)*

*Quarantine Proclamation 1998 (Cth)*

*Quarantine Repeal Proclamation 2016 (Cth)*

*Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response)*

*Regulation 2020 (Qld) cls 14, 15*

*Rural and Regional Adjustment Regulation 2011 (Qld) sch 27*

Date: 2 September 2021

## Schedule 1

<b>SWISS RE INTERNATIONAL SE</b> Applicant <b>LCA MARRICKVILLE PTY LIMITED ACN 601 220 080</b> Respondent	<b>NSD132/2021</b>
<b>INSURANCE AUSTRALIA LIMITED</b> Applicant <b>MERIDIAN TRAVEL (VIC) PTY LTD</b> Respondent	<b>NSD133/2021</b>
<b>INSURANCE AUSTRALIA LIMITED</b> Applicant <b>THE TAPHOUSE TOWNSVILLE PTY LTD</b> Respondent	<b>NSD134/2021</b>
<b>ALLIANZ AUSTRALIA INSURANCE LIMITED</b> Applicant <b>MAYBERG PTY LTD</b> Respondent	<b>NSD135/2021</b>
<b>ALLIANZ AUSTRALIA INSURANCE LIMITED</b> Applicant <b>THE STAGE SHOP PTY LTD (FORMERLY VISINTIN PTY LTD)</b> Respondent	<b>NSD136/2021</b>
<b>GUILD INSURANCE LIMITED</b> Applicant <b>GYM FRANCHISES AUSTRALIA PTY LTD</b> First Respondent <b>DOUGLAS REASON</b> Second Respondent	<b>NSD144/2021</b>
<b>GUILD INSURANCE LIMITED</b> Applicant <b>DR JASON MICHAEL (T/A ILLAWARRA PAEDIATRIC DENTISTRY)</b> Respondent	<b>NSD145/2021</b>
<b>QBE INSURANCE (AUSTRALIA) LIMITED (ACN 003 191 035)</b> Applicant <b>DAVID COYNE IN HIS CAPACITY AS LIQUIDATOR OF EDUCATIONAL WORLD TRAVEL PTY LTD ACN 006 888 179 (IN LIQUIDATION)</b>	<b>NSD308/2021</b>

First Respondent

**EDUCATIONAL WORLD TRAVEL PTY LTD ACN 006 888 179 (IN LIQUIDATION)**

Second Respondent