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Details of Filing

Document Lodged:	List of Authorities
File Number:	NSD144/2021
File Title:	GUILD INSURANCE LIMITED ACN 004 538 863 v GYM FRANCHISES PTY LTD ACN 611 474 947 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



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

Dated: 3/09/2021 10:39:47 PM AEST

Registrar

Important Information

As required by the Court's Rules, 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.

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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

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

First Respondent

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

Second Respondent