

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Notice of Appeal (Fee for Leave Not Already Paid) - Form 122 - Rule 36.01(1)(b)(c)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	27/09/2023 3:02:20 PM AEST
Date Accepted for Filing:	28/09/2023 9:12:03 AM AEST
File Number:	ACD54/2023
File Title:	HIS HONOUR JUDGE SALVATORE PAUL VASTA v MR STRADFORD (A PSEUDONYM)
Registry:	AUSTRALIAN CAPITAL TERRITORY REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised

Registrar

Important Information

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

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

Form 122
Rule 36.01(1)(b); 36.01(1)(c)

Notice of appeal

No _____ of 2023

Federal Court of Australia
District Registry: Australian Capital Territory
Division: General

On appeal from the Federal Court of Australia

JUDGE SALVATORE PAUL VASTA

Appellant

MR STRADFORD (a pseudonym)

First Respondent and others named in the schedule

To the Respondents

The Appellant appeals from the judgment as set out in this notice of appeal.

- 1 The papers in the appeal will be settled and prepared in accordance with the Federal Court Rules Division 36.5.
- 2 The Court will make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence. You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Commonwealth Law Courts Building, Childers Street, Canberra City

Date:

Filed on behalf of Judge Salvatore Paul Vasta, Appellant

Prepared by Dan Kynaston

Law firm **KING & WOOD MALLESONS**

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Ref: DAK:606-0070774

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 Signed by an officer acting with the authority
 of the District Registrar

The Appellant appeals from orders 2, 3, 4 and 5 of the Federal Court of Australia given on 30 August 2023.

Grounds of appeal

Section 17 of the *Federal Circuit Court of Australia Act 1999* (Cth) and Commonwealth judicial power

1. The learned trial judge erred by:
 - a. failing to hold that section 17 of the *Federal Circuit Court of Australia Act 1999* (Cth) was engaged by, and / or a source of power for, the orders made by the Appellant on 6 December 2018 declaring that the First Respondent was in contempt and sentencing him to imprisonment (**Contempt Orders**) [355] - [357]; and
 - b. failing to conclude (at [186] – [188]; [192]) that the Appellant was invested with the judicial power of the Commonwealth in relation to the making of the Contempt Orders.
2. By reason of the errors in paragraph 1 above, the learned trial judge erred in failing to hold that:
 - a. the Contempt Orders were valid until set aside [178], [184], [192], [195]; and
 - b. the Appellant had the same judicial immunity as a superior court judge with respect to the making of the Contempt Orders [357].

Common law

3. In the alternative to grounds 1 and 2 above, the learned trial judge erred in failing to find that the Appellant, as a judge of the then Federal Circuit Court of Australia, did not have the same judicial immunity as a judge of a superior court, in the making of the Contempt Orders [331] - [332], [351] – [352], [355] – [357].
4. In the alternative to ground 3 above, if the Appellant had the judicial immunity of an inferior court judge, the learned trial judge erred by holding that the errors made by the Appellant

in relation to the Contempt Orders were relevantly “outside” or “in excess of” jurisdiction [174], [359], [361], [365], [368], [371].

Error

5. Further, to the extent, if any, relevant to the disposition of the grounds above, the learned trial judge erred by finding that the Appellant pre-judged the outcome of the hearing in relation to the Contempt Orders [136], [522].

Orders sought

1. That orders 2, 3, 4 and 5 of the Orders made by his Honour Justice Wigney on 30 August 2023 be set aside.
2. In their place, an order that the application be dismissed.
3. Such further or other order as the Court deems appropriate.

Appellant’s address

The Appellant’s address for service is:

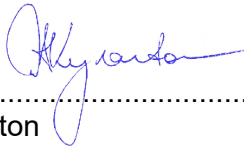
Place: King & Wood Mallesons
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Email: dan.kynaston@au.kwm.com
(Ref: DAK:606-0070774)

The Appellant’s address is [REDACTED] in the State of Queensland.

Service on the Respondent(s)

It is intended to serve this application on all Respondents.

Date: 27 September 2023



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Dan Kynaston
Lawyer for the Appellant
King & Wood Mallesons

This pleading was prepared by S Wood KC for the Appellant.

Schedule

No of 2023

Federal Court of Australia

District Registry: Australian Capital Territory

Division: General

On appeal from the Federal Court of Australia

Second Respondent COMMONWEALTH OF AUSTRALIA

Third Respondent STATE OF QUEENSLAND

Date: 27 September 2023