

Case Studies in WIRO Bulletins (Bulletin No. 20 to date)

Case Name	Citation	Decision maker	Decision	Bulletin No.
A Nobile & Son Limited v Naylor	[2019] NSWWCMA 144	WCC - Arbitrator Douglas, Dr D Dixon & Dr D Crocker	Section 323 WIMA – AMS erred by assuming that asymptomatic pre-existing degenerative changes did not contribute to permanent impairment – MAC revoked	47
AAI Limited (t/a AAMI) v Boga	[2020] NSWSC 1903	Supreme Court of NSW - Cavanagh J	Jurisdictional error – Error of law on the face of the record – Alleged failure to give reasons – “Nguyen principle”	84
AAI Limited t/as GIO v Alshenawa	[2022] NSWPICMP 296	PIC - Member Casidy, Dr D McGrath & Dr S Moloney	MAIA 2017 - medical assessment of minor injury and claimant’s review under s 7.26 of the MAIA – Held: All injuries were minor injuries – MAC revoked	118
AAI Limited t/as GIO v Luk	[2022] NSWSC 1007	Supreme Court of NSW - Loneragan J	Judicial review – jurisdictional error and error on the face of the record – extension of time – delay explained – incorrect legal test applied by delegate – no point of principle	118
AAI Limited v Fraser	[2021] NSWSC 938	WCC - Arbitrator Dalley, Dr J Ashwell & Dr P Harvey	Jurisdictional error – Error of law on the face of the record	98
AAI Ltd t/as AAMI v Chan	[2021] NSWCA 19	Court of Appeal - Gleeson & Leeming JJA & Emmett AJA	MACA 1999 – Proper officer not to order further assessment unless there is additional relevant information capable of having a material effect on the outcome of the previous assessment – Primary judge erred in finding reviewable error	90
AAI t/as AAMI v Chan	[2021] NSWCA 19	Court of Appeal - Gleeson JA, Leeming JA & Emmett JA	Judicial review – Application for further assessment under s 62 MACA 1999 - proper officer not to order further assessment unless additional relevant information capable of having a material effect on outcome of previous assessment - further medical opinions covering similar ground to opinions previously considered - further medical opinions accepted to be additional relevant information - primary judge erred in finding reviewable error - appeal allowed and decision of proper officer restored	88
ABALink Early Intervention Services Pty Ltd v Danford	[2019] NSWCA 97	Court of Appeal - Leeming JA & Payne JA	Leave to appeal against a grant of leave under s 151D WCA – significance of arguments that the appellant sought to advance that were not put to the primary judge – Leave to appeal refused	33
ACV v The Nominal Defendant	[2022] NSWPIC 64	PIC - Member Cassidy	MAIA – Claimant was not wholly or mostly at fault as medical evidence supported a finding that he had long standing mental health issues and that the accident occurred when he was in the midst of a psychotic episode - Blameless accident provisions in the MAIA 1999, the no-fault provisions of MAIA and the cases of Davis v Swift, AAI Limited t/as GIO and Whitfield v Melenewycz considered.	110
ACW v ACX	[2022] NSWPICPD 19	PIC - Deputy President Snell	Medical evidence - alleged factual error - common-sense factual findings on the basis of common knowledge or experience - procedural fairness	116
Agricultural and Development Holdings v Parker	Unreported: 2017/368011	NSWSC - Adamson J	Judicial review – Court made consent orders that quashed a decision of a MAP and COD based upon the decision in Hunter Quarries Pty Limited v Mexon	40
AKM Projects Pty Ltd and Tomislav & Ranka Divljak v Dotlic	[2018] NSWWCMA 114	WCC - Arbitrator Dalley, Dr D Prem Kumar & Dr P Harvey-Sutton	Demonstrable error in MAC - WPI assessment of a body part that was not the subject of a claim	26
Alam v Allianz Australia Insurance Limited	[2018] NSWSC 1214	Supreme Court of NSW - Adamson J	Court declines declaratory relief under s 69 of the Supreme Court Act 1970	22
Albao v State of New South Wales (Department of Justice)	[2019] NSWWCC 7	WCC- Arbitrator Homan	Section 11A WCA defence successful as the respondent's recruitment processes were "broadly compliant with applicable statutory requirements and guidelines"	28
Ali Kanj v Nonabel Concrete Pty Ltd	[2018] NSWWCPCD 43	WCC - Wood DP	Death claim - appeals against apportionment dismissed - applications to admit fresh evidence refused	24
Ali v Access Quality Services	[2019] NSWWCC 79	WCC - Senior Arbitrator Bamber	Section 39 WCA & s 322A WIMA - previous MAC did not satisfy threshold under s 38 WCA - Worker not entitled to obtain a further MAC and is not entitled to be re-assessed for the purposes of s 39 WCA	32
Allen v Dux Manufacturing Limited	[2022] NSWSC 158	Supreme Court of NSW - Harrison AsJ	Workers Compensation – Jurisdictional error and error of law on the face of the record	110
Allianz Insurance Australia Limited v Shahmiri	[2022] NSWSC 481	Supreme Court of NSW - Harrison AsJ	MAIA - Statutory construction - Calculation of Pre Injury Weekly Earnings - Meaning of gross earnings received by the earner as an earner – Whether earner as an earner defines the period by which earnings are to be averaged or limits the earnings to be taken into account – Decision of MRP set aside	114

Alphenaar v Wollongong City Council	[2019] NSWWCC 311	WCC - Arbitrator Dalley	Multiple back injuries with same employer (before and after 1 January 2002) – Parties consented to a referral to an AMS to assess WPI for 2 injuries after 1 January 2002 and that the injuries were to be assessed together – AMS assessed only one impairment – Dispute concerning calculation of the s 66 entitlement Held: s 66 entitlement must be calculated by reference to the maximum figure at the later date of injury applying the two-step process in Sutherland Shire Council and liability for the payment must be apportioned between the injuries.	44
Alphenaar v Wollongong City Council	[2019] NSWWCC 311	WCC - Arbitrator Dalley	Multiple back injuries with same employer (before and after 1 January 2002) – Parties consented to a referral to an AMS to assess WPI for 2 injuries after 1 January 2002 and that the injuries were to be assessed together – AMS assessed only one impairment – Dispute concerning calculation of the s 66 entitlement Held: s 66 entitlement must be calculated by reference to the maximum figure at the later date of injury applying the two-step process in Sutherland Shire Council and liability for the payment must be apportioned between the injuries	45
Aluminium Specialities Group Pty Ltd v Opokuware	[2021] NSWWCCPD 3	WCC - President Judge Phillips	Pre-filing statement struck out under s 151DA WCA	86
Ammann v State of New South Wales - Prince of Wales Hospital	[2022] NSWPIC 443	PIC - Delegate McAdam	WCD - definition of suitable employment in s 32A WCA - statutory interpretation - volunteer work - consideration of meaning of “employment in work” – Held: — the worker had no current work capacity based on medical information – award made under s 38 WCA	120
Andersen v J & M Prendl Pty Limited	[2018] NSWWCCPD 41	WCC - Keating P	Causation, procedural fairness, adequacy of reasons and disturbing findings of fact on appeal	24
Anderson v Secretary, Department of Education	[2018] NSWWCCPD 32	WCC - Wood DP	Threshold dispute - no right of appeal unless the monetary threshold under s 352 (3) WIMA is satisfied	22
Annabel v Oracle Corporation (Australia) Pty Ltd	[2019] NSWWCC 234	WCC - Arbitrator Wynyard	Worker fails to establish on the balance of probabilities that a deep vein thrombosis and multiple extensive pulmonary emboli were work-related	37
Anslow v Pool Werx Operations Pty Ltd	[2020] NSWWCC 8	WCC - Arbitrator Sweeney	Worker failed to establish injury to cervical spine – no supporting evidence from the treating doctor and the history recorded by the IME is inconsistent with the worker’s evidence – Claim dismissed	54
Appleby v Security Specialists Australia Pty Ltd	[2020] NSWWCC 424	WCC - Arbitrator Sweeney	Exacerbation and acceleration of a disease under s 4 (b) (ii) WCA – the absence of positive medical evidence on the issue does not preclude a finding that the employment was both a material contributing factor and the main contributing factor to the exacerbation and acceleration	85
Arquero v Shannons Anti Corrosion Engineers Pty Ltd	[2019] NSWWCCPD 3	WCC - Wood DP	Consequential condition - no diagnosis required - Arbitrator erred by failing to accept an opinion of a medical expert and the error materially affected the outcome - COD revoked	29
AS v State of New South Wales	[2019] NSWWCCPD 18	WCC - DP Wood	Section 11A defence of “reasonable action with respect to transfer, discipline and termination of employment” upheld on appeal	33
Aslam v Ramesh Tanwar & others	[2021] NSWWCC 13	WCC - Arbitrator Rimmer	Taxi driver held to be a deemed worker under Sch 1 Cl 10 WIMA	85
Attorney General for NSW v Gatsby	[2018] NSWCA 254	Court of Appeal - Bathurst CJ, Beazley P, Basten JA & Leeming JA	Only a superior court can pronounce authoritatively on the limits of its own jurisdiction: A State tribunal lacks jurisdiction to exercise judicial power in circumstances where power is not expressly conferred by statute and the dispute is between natural persons who are residents of different states. Based upon this decision, the WCC is not a Court of the State for the purposes of Ch III of the Constitution and s 39 of the Judiciary Act 1903 (Cth)	25
Austin v State of New South Wales (Sydney Children’s Hospital)	[2020] NSWWCC 421	WCC - Arbitrator Homan	Claim under s 66 WCA – Worker relied on respondent’s expert’s assessment – Respondent does not accept its expert’s assessment for reasons set out in the dispute notice – Held: A medical dispute exists under s 319 WIMA – matter remitted to Registrar for referral to an AMS	84
Avopiling Pty Ltd v Bosevski; Avopiling Pty Ltd v The Workers Compensation Nominal Insurer	[2018] NSWCA 146	Court of Appeal - McColl JA, Payne JA & White JA	Court applies a discount of 25% applied to award of damages for future attendant care, lawnmowing and handyman services and 10% discount to damages for future medical treatment costs	22
Ballas v Department of Education (State of NSW)	[2019] NSWSC 234	Supreme Court - Wright J	Review of decision of a delegate of the Registrar refusing to allow an appeal	31
Ballina Shire Council V Knapp	[2019] NSWCA 146	Court of Appeal - Basten JA, Macfarlan JA & P	Journey claim under s 10 (1) WCA - Deputy President incorrectly determined an issue that was not the subject of the appeal - Award for the respondent entered	35
Ballina Shire Council V Knapp	[2018] NSWWCCPD 358	WCC - Wood DP	MVA - injury due to serious and wilful misconduct - s 10 (1A) WCA does not disentitle a worker where the injury arose out of employment under s 4 (a) WCA	23
Bandel v JM Harris, PJ Harris & MJ Harris Pty Ltd	[2018] NSWWCCMA 99	WCC - Arbitrator Harris, Dr D Crocker & Dr J Bodel	AMS committed a demonstrable error by determining causation	24

Basham v State of New South Wales (Riverina Institute of TAFE)	[2019] NSWWC 124	WCC - Arbitrator Anthony Scarcella	Right knee injury resulting from Staphylococcus aureus – employment was not the main contributing factor – worker did not discharge his onus of proof	33
Batshon v Sydney Trains	[2019] NSWCCMA 130	WCC - Arbitrator Sweeney, Dr J Parmegiani & Dr D Andrews	Psychological injury – WPI assessment of treating psychiatrist differs markedly from that of AMS and IME’s – MAC explained the actual path of reasoning – AMS correctly employed psychometric testing under Chapter 11.6 of the Guidelines	43
Baxter v State of New South Wales	[2019] NSWCCMA 145	WCC - Arbitrator Dalley, Dr J Parmegiani & Prof. N Glozier	Worker’s appeal against MAC under ss 327 (3) (b), (c) & (d) WIMA failed	47
Bekkers v State of New South Wales	[2018] NSWCCPD 46	WCC - Snell DP	Extension of time to appeal refused - no exceptional circumstances established	25
Bell v Allianz Insurance Australia Ltd	[2022] NSWSC 1108	Supreme Court of NSW - Basten AJ	MAIA 2017 – judicial review – Delegate of the President of PIC failed to exercise statutory function – matter remitted to President for determination of the application for review of a MAC according to law	120
Berri v Harbour City Ferries Pty Limited	[2019] NSWCCPD 9	WCC - President Phillips DCJ	Current work capacity and s 32A WCA - Material facts either overlooked or given too little weight - COD revoked and matter remitted to another Arbitrator for redetermination	32
Black v Inghams Enterprises Pty Ltd	[2020] NSWCCPD 69	WCC - Deputy President Wood	Alleged failure to admit late evidence & alleged errors of fact – COD confirmed	82
Blackie v Australian Jockey Club	[2019] NSWWC 273	WCC - Arbitrator McDonald	Application for reconsideration of a MAC declined	40
Bluescope Steel (AIS) Pty Ltd v Sekulovski	[2019] NSWCA 136	Court of Appeal - Gleeson JA, White JA & Emmett AJA	Court refuses to grant leave to appeal against an award for hearing aids under s 60 WCA	35
Boga v AAI Limited trading as AAMI	[2022] NSWSC 560	Supreme Court of NSW - Dhanji J	Judicial Review – MVA – permanent impairment dispute – additional surveillance footage and medical reports provided – Held: Delegate failed to exercise the residual discretion under s 62 MACA – jurisdictional error found	115
Boheme v Donau Pty Ltd	[2018] NSWCCMA 122	WCC - Arbitrator Egan, Dr R Crane & Dr J Dixon-Hughes	Appeal dismissed as grounds lack merit	27
Bonica v Piancentini & Son Pty Ltd	[2019] NSWCCPD 4	WCC - Snell DP	Alleged factual error - application of Whiteley Muir & Zwanenberg Ltd v Kerr and associated authorities	30
Bosch v McCain Foods (Australia) Pty Ltd	[2019] NSWSC 1390	Supreme Court of NSW - Simpson AJ	Administrative review of MAP’s decision - Failure to address plaintiff’s argument – Whether jurisdictional error and/or error of law on the face of the record and/or constructive failure to exercise jurisdiction	46
BQ v BT	[2020] NSWCCPD 70	WCC - Deputy President Snell	Satisfying the monetary threshold under s 352 (3) WIMA	83
Bradley v Allianz Australia Insurance Ltd	[2021] NSWPCMP 226	PIC - Principal Member Harris, Dr D Gorman & Dr S Moloney	Motor accidents – Claim for cost of referral to a Cannabis clinic and for medical cannabis – Held: the proposed treatment was not reasonable and necessary – Original medical assessment confirmed	106
Brickworks Ltd v Wright	[2022] NSWPCPD 21	PIC - Deputy President Wood	Section 11A(1) WCA – reasonable action with respect to discipline – having regard not only to the end result but the manner in which disciplinary action was effected – test of reasonableness is objective – employer confined to matters raised in dispute notices	116
Brideson by guardian Lynette Brideson and Australian Capital Territory (Compensation)	[2019] AATA 2314	Administrative Appeals Tribunal - DP Humphri	A psychiatric assistance dog is neither “medical treatment” nor “an aid” as defined in the Safety, Rehabilitation and Compensation Act 1988	38
Briggs v IAG Limited t/a NRMA Insurance	[2022] NSWSC 372	Supreme Court of NSW - Wright J	Jurisdictional error – MACA – Erroneous or wrong understanding of statutory task by MRP – Failure to perform statutory task – Failure to exercise jurisdiction – Error of law on the face of the record	112
Briggs v Leslie T & Michelle M Hanlon	[2020] NSWWC 9	WCC - Arbitrator Scarcella	Lack of contemporaneous evidence regarding disputed injuries – Arbitrator not actually persuaded that the worker suffered disputed injuries under s 4 (a) WCA or that there was a sufficient causal chain between the accepted injury and the disputed injuries	54
Broadspectrum (Australia) Pty Ltd v Leach	[2019] NSWCCMA 23	WCC - Arbitrator Batchelor, Prof. N Glozier & Dr L Kossoff	Psychological injury - AMS erred in failing to consider pre-existing psychiatric condition - MAC revoked & a new MAC issued	30
Broadspectrum (Australia) Pty Ltd v Willis	[2019] NSWCCMA 13	WCC - Arbitrator Wynyard, Dr J Parmegiani & Dr N Glozier	Matter remitted from NSWSC for determination according to law following judicial review - Assessment of s 323 WIMA deductible for psychological injury	29
Broadspectrum (Australia) Pty Ltd v Willis & Ors	[2018] NSWSC 1320	Supreme Court of NSW - Harrison AsJ	MAP failed to perform its statutory task by revoking a MAC and conducting its own review in circumstances where there was a demonstrable error	22
Broadspectrum (Australia) Pty Ltd v Wills	[2019] NSWSC 1797	Supreme Court of NSW - Meagher J	Judicial review – pre-existing psychiatric conditions that were being treated and were asymptomatic – work caused psychological injury and WPI – MAP applied a deductible of 20% for pre-existing impairment – MAP did not err by not taking account of the fact of treatment – adequacy of reasons	52
Broadspectrum Australia Pty Ltd v Gunaratnam	[2019] NSWCCPD 36	WCC - DP Wood	Whether proposed surgery is reasonably necessary and alleged error of fact	37

Broadspectrum Australia Pty Ltd v Skiadas	[2019] NSWWCCPD 31	WCC - President Phillips DCJ	Extension of time to appeal under r 16.2 (12) of the WCC Rules 2011 – exceptional circumstances – demonstrable and substantial injustice – whether proposed treatment is reasonably necessary under s 60 WCA	36
Buckley v Rivalea (Australia) Pty Ltd	[2021] NSWPIC 62	PIC - Member Sweeney	Claim for s 60 expenses for total hip replacement - Worker ceased to perform work, which could aggravate arthritis several years before his hip became symptomatic; Worker’s medical case assumed an incorrect history – Held that the worker had not established injury	92
Bunnings Group Limited v Collins	[2022] NSWPICPD 24	PIC - President Phillips DCJ	Section 11A (1) WCA – reasonable action with respect to proposed transfer – the test of reasonableness is objective	117
Burke v Suncorp Staff Pty Ltd	[2021] NSWPICPD 6	PIC - Deputy President Snell	Section 261 (4) WIMA – Failure to make a claim “occasioned by ignorance, mistake, absence from the State or other reasonable cause” – Alleged factual error	93
Burridge v PW Russell & M A McNeil	[2019] NSWWCC 398	WCC - Arbitrator Rimmer	Dispute between natural persons who are residents of different states – Whether Commission has jurisdiction due to s 75 of The Constitution – Bilal v Haider discussed & applied – Insurer substituted for respondent	53
Callus v Binettes Pty Ltd	[2020] NSWWCC 421	WCC - Arbitrator J Snell	Proposed surgery in the nature of sleeve gastrectomy and loop bipartition gastric bypass is reasonably necessary as a result of an injury to the left shoulder	85
Candy v MC Connor Racing Pty Ltd	[2020] NSWWCC 2	WCC - Senior Arbitrator Bamber	Worker fell from a horse at work – award for the respondent entered regrading proposed total right hip replacement surgery as worker failed to discharge his onus of proof regarding that injury – Kooragang Cement Pty Ltd v Bates & Comcare v Martin discussed	54
Cannavale Constructions Pty Ltd v Joester	[2019] NSWWCCMA 93	WCC - Arbitrator Egan, Dr D Crocker & Dr T Mastroianni	AMS erred in assessing degenerative changes as employment injury as it was not referred to the AMS and by not applying a deductible under s 323 WIMA	37
Canterbury Bankstown Council v Gazi	[2019] NSWWCCPD 14	WCC - President Phillips DCJ	Psychological injury – causation test in s 11A (1) WCA with respect to “transfer” – application of Manly Pacific International Hotel Pty Ltd v Doyle	33
Careers Australia Group Pty Ltd v Cardemil	[2018] NSWWCCMA 116	WCC - Arbitrator Egan, Dr B Noll & Dr D Crocker	AMS erred in assessing permanent impairment for Complex Regional Pain Syndrome (CRPS)	26
Carrico v A & G Formworkers (Australia) Pty Ltd	[2019] NSWWCC 78	WCC - Arbitrator EBeilby	Section 10 (3A) WCA – injury caused by tripping while walking to a work	31
Carroll v S L Hill and Associates Pty Ltd	[2018] NSWWCCPD 17	WCC – Keating P	Did a death arise out of or in the course of employment? Matter remitted to another arbitrator for determination.	19
Carter v Clinical Laboratories Pty Ltd	[2019] NSWWCC 355	WCC - Arbitrator Homan	Section 10 (3A) WCA – Worker fell on stairs of a double-decker bus while travelling to work – Held: no real and substantial connection between employment and the accident out of which the personal injury arose	49
Cathay Pacific Airways Pty Ltd v Ralph Cavar v Nova Security Group Pty Limited	[2019] NSWWCCPD 21 [2022] NSWPICPD 31	WCC - DP Snell PIC - Deputy President Wood	Proof of injury under s 4 (b) (ii) WCA Procedural fairness – Victims Compensation Fund Corporation v Nguyen [2001] NSWCA 264; Allesch v Maun [2000] HCA 40; Coldham; Ex Parte Municipal Officers Association of Australia [1989] HCA 13 applied – determinations of fact – principles applicable – Whiteley Muir & Zwanenberg Ltd v Kerr	34 119
Central Coast Council v Whitten	[2018] NSWWCCMA 107	WCC - Arbitrator Douglas, Dr D Crocker & Dr R Pillemer	MAP declines to exercise power to reconsider a decision under s 378 (1) WIMA	25
Chahrouk v Allianz Australia Insurance Limited	[2021] NSWSC 1457	Supreme Court of NSW - Harrison AsJ	Judicial review - Denial of procedural fairness – Jurisdictional error – Failure to exercise jurisdiction – Failure to conduct new assessment – Irrelevant consideration – Failure to respond to a clearly articulated argument – Failure to provide reasons – Failure to inquire	104
Chalkias v State of New South Wales	[2018] NSWSC 1561	Supreme Court of NSW - Adamson J	Jurisdictional error not established	24
Chavez v Briben Group Pty Ltd atf Briben Unit Trust	[2019] NSWWCCMA 158	WCC - Arbitrator Dalley, Dr J Bodel & Dr M Burns	Assessment of deductible under s 323 WIMA – Admission of fresh evidence – Cole v Wenaline and Vitaz v Westform discussed – MAC revoked	49
Cincotta v Police Citizens Youth Clubs NSW Ltd & Ors	[2018] NSWSC 1588	Supreme Court of NSW - Hoeben CJ at CL	No jurisdictional error disclosed	24
Citta Hobart Pty Ltd v Cawthorn	[2022] HCA 16	High Court of Australia - Kiefel CJ, Gageler, Keane, Gordon, Edelman, Steward & Gleeson JJ	Federal diversity jurisdiction – Tribunal dismissed complaint for want of jurisdiction without addressing the merits of the defence – Full Supreme Court of Tasmania considered the merits of, and rejected, the defence of inconsistency with federal law – Held: While the Tribunal is not "a court of a State" within meaning of ss 77(ii) and 77(iii) of Constitution, it has jurisdiction to decide the limits of its own jurisdiction to hear and determine a complaint	115
Clark v Department of Communities and Justice	[2021] NSWWCCMA 17	WCC - Arbitrator McDonald, Dr D Andrews & Dr P Morris	Appellant complained that the MAC did not accurately reflect his health, ADLs and well-being because the AMS made him feel relaxed and upbeat and he said things that were incorrect – No demonstrable error found – MAC confirmed	87

Clarke v Secretary, Department of Communities and Justice	[2020] NSWWC 1	WCC - Arbitrator Young	Section 38 WCA – correct approach to adopt in determining worker’s capacity to earn when insurer fails to make a work capacity decision	53
Clarke v State of New South Wales (Greystanes Disability Services)	[2019] NSWWC 11	WCC - Senior Arbitrator Capel	Consent Orders set aside "in the interests of justice" - threshold dispute referred to an AMS	28
Cobar Shire Council v Harpley-Oeser	[2018] NSWWCMA 94	WCC - Arbitrator Edwards, Dr D Crocker & Dr B Noll	MAC confirmed by second MAP following remitter from Supreme Court of NSW	24
Coenradi v The GEO Group Australia Pty Ltd	[2022] NSWSC 864	Supreme Court of NSW - Rothman J	Judicial Review – Error of Law and Jurisdiction – MAC in relation to Offender – “incorrect criteria” and “demonstrable error” – deduction for pre-existing condition – task to measure impairment, not condition – pre-existing impairment must exist immediately prior to injury being assessed - appeal to be heard by different panel	116
Cole v Rose Brown Pty Ltd	[2019] NSWWCMA 14	WCC - Arbitrator Egan, Dr B Noll & Dr M Gibson	Injuries to lumbar spine, left hip & knee - Assessment of deductible under s 32 WIMA where there is evidence of prior injuries - Assessments set out in the impairment table did not reconcile with AMS' reasons - recommendation that the AMS should reconsider the MAC to clarify the impairment assessments	29
Collins v Dux Manufacturing Ltd	[2021] NSWSC 193	Supreme Court of NSW - Harrison AsJ	A delegate of the Registrar of the Workers Compensation Commission determined several proposed grounds of appeal to a MAP on a final and conclusory basis – Error of law conceded - Decision quashed	89
Collins v Insurance Australia Ltd	[2022] NSWCA 135	Court of Appeal - Meagher & Kirk JJA & Basten AJA	MACA 1999 - collision caused stationary traffic on highway – driver injured avoiding stationary traffic – whether stationary traffic a “situation” – whether original collision caused “dangerous situation” – Appeal allowed	118
Comcare v Banerji	[2019] HCA 23	High Court of Australia - Kiefel CJ, Bell, Gageler, Keane, Nettle , Gordon & Edelman JJ	The Court held that ss 10(1), 13(11) and 15(1) of the Public Service Act 1999 (Cth) does not impose an unjustified burden on the implied freedom of political communication and that the termination of the worker’s employment with the Commonwealth was not unlawful	38
Cooper v Coca Cola Amatil (Aust) Pty Ltd	[2019] NSWWC 176	WCC - Arbitrator Carolyn Rimmer	Application for reconsideration of a MAC refused	34
Cornwall v Allianz Australia Insurance Limited	[2022] NSWSC 541	Supreme Court of NSW - Harrison AsJ	Judicial Review – s 62 MACA 1999 – Application for further assessment – whether further medical reports were considered “additional relevant information” – whether further medical opinions were capable of having a material effect on the outcome of the previous assessment – Proper Officer’s decision upheld	115
Council of the New South Wales Bar Association v DEJ	[2019] NSWCATOD 186	NCAT - M Craig QC ADCJ, Principal Member, G Blake AM SC - Senior Member, E Hayes – General Member	Professional misconduct - Confidentiality and Anonymisation – Tribunal makes orders for anonymisation and non-publication of the names of the respondent and his wife but nevertheless published its decision that the respondent be struck off	51
Craddock v GH Varley Pty Ltd	[2021] NSWWCPCD 10	PIC - Deputy President Snell	Factual error – application of weight of expert evidence in the Commission – admission of fresh evidence on appeal	88
Cross v Department of Education & Training CSR Limited v Ewins	[2018] NSWWC 275 [2021] NSWPICPD 1	WCC - Arbitrator Brett Batchelor PIC - Deputy President Wood	Suspension of weekly payments under ss 48 & 48A WIMA Section 352 (3A) WIMA – interlocutory decision – acceptance or rejection of evidence – the exercise of discretion as to whether a matter should be referred for reconsideration of a MAC in accordance with s 329 WIMA	26 90
CSR Ltd v Ewins	[2019] NSWWCMA 123	WCC - Arbitrator Egan, Dr J Parmegiani & Dr D Andrews	Admission of fresh evidence on appeal	42
Cuskelly v New England Milk Industries Pty Ltd	[2020] NSWWCMA 2	WCC - Arbitrator Batchelor, Dr P Niall & Dr H Harrison	Hearing loss – jurisdiction to make a deduction for hearing loss resulting from post-injury employment outside NSW and non-work related conditions	54
D’Ament v Allianz Australia Insurance Ltd	[2019] NSWCA 201	Court of Appeal - Simpson AJA, Macfarlan & Leeming JJA	Jurisdictional error not established – A finding of fact for which there is no evidence does not necessarily constitute an error of law on the face of the record	42
D’Mello v Coles Supermarkets Australia Pty Ltd	[2021] NSWPIC 426	PIC - Delegate McAdam	Work capacity dispute - definition of suitable employment in s 32A WCA - applicant injured in bakery - suitable employment identified as role as a bank branch manager - applicant had prior work experience an assistant bank manager and had transferrable skills, experience and qualifications – WCD upheld	104
Dadd v Toll Dnata Airport Services Pty Limited	[2021] NSWPIC 54	PIC - Member McDonald	Death Benefits – Suicide – Injuries to both knees aggravated a psychological condition – Section 14 (3) WCA	91
Dahal v QBE Insurance (Australia) Limited	[2021] NSWPIC 308	PIC - Member Ford	Claimant rode his bicycle and attempted to make a left hand turn at a t-intersection controlled by traffic lights and was struck by the insured’s motor vehicle – Held: Both parties had an unobstructed vision available and failed to keep a proper lookout, but the accident was not caused wholly or mostly by the fault of the claimant - Contributory negligence assessed as 50%	102
Dalcol v Ku-ring Gai Council	[2019] NSWWCPCD 5	WCC - Wood DP	No error in exercise of discretion to exclude cross-examination - consideration of objective evidence when witness evidence is unreliable	30

Daoud v RAF Constructions Pty Limited	[2019] NSWWCC 44	WCC - Arbitrator Sweeney	Provision of company t-shirt to the applicant and the fact that the respondent accompanied the applicant to hospital suggested an employment relationship	29
Datta v Universal Consultancy Services Pty Ltd	[2018] NSWWCC 223	WCC - Arbitrator Sweeney	The degree of permanent impairment for a psychological injury suffered prior to 1/01/2002 can be assessed for the purposes of satisfying the threshold under s 39 WCA	24
Dawson v Harvey Mechanical Installation	[2019] NSWWCCR 6	WCC - Delegate McAdam	Ground of appeal against MAC not made out – Appeal not to proceed	51
Day v SAS Trustee Corporation	[2021] NSWCA 71	Court of Appeal - Meagher, Payne & White JJA	Administrative law – Alleged constructive failure to exercise jurisdiction – Held: primary judge did not fail to address substantial, clearly articulated arguments – Appeal dismissed	93
Di Donato v Paesanella Food Emporium	[2019] NSWWCC 293	WCC - Arbitrator Homan	Proof of injury on the balance of probabilities – Arbitrator not satisfied that the worker suffered an injury to his neck at work	43
Dickinson v Chapman	[2022] NSWCA 2	Court of Appeal - Basten, McFarlan & McCallum JJA	Worker & deemed worker under Sch 1 cl 2 WIMA - work was done under contract of employment – non-compliance with procedural requirements for WID claim	108
Dickson v Zurich Financial Services Australia Limited	[2022] NSWPIC 22	PIC - Senior Member Haddock	PIC has power to award weekly payments under s 38 WCA	109
Digby v Hyspec Construction & Roofing Pty Ltd	[2018] NSWWCCPD 39	WCC - Keating P	Worker or deemed worker - weighing the indicia of employment principles	23
Dinning v Westpac Banking Corporation	[2019] NSWWCC 49	WCC - Arbitrator Isaksen	Psychological injury - s 11A WCA defence fails	29
Donnelly v Camsons Pty Ltd	[2021] NSWWCC 21	WCC - Arbitrator Sweeney	Claim for cost of medical cannabis treatment rejected – no compelling evidence that the proposed treatment was effective or safe in the circumstances of the case	86
Dooley’s Lidcombe Catholic Club Limited v Lytwyn	[2020] NSWWCCMA 177	WCC - Arbitrator Harris, Dr J Parmegiani & Dr M Hong	Psychiatric injury – Grounds of Appeal did not properly articulate how there was demonstrable error or application of incorrect criteria – Mere difference of opinion does not satisfy the concept of error – Appeal dismissed	84
Dotlic v AKP Projects Pty Ltd & Ors	[2019] NSWWCC 226	WCC - Arbitrator Harris	Arbitrator refuses applications for reconsideration of a COD under s 350 WIMA; for referral to the AMS for further assessment under s 329 WIMA; and for referral to MAP for further assessment under s 378 WIMA	36
Dotlic v CFMEU (NSW Branch) Construction	[2019] NSWWCCMA 143	WCC - Arbitrator Harris, Dr R Crane & Dr B Noll	Demonstrable error as the AMS deducted 100% under s 323 WIMA because movement in the injured knee was the same as that in the uninjured knee – MAC confirmed because the outcome was the same: Ferguson v State of New South Wales applied	46
Drew v QBE Insurance Australia	Local Court of NSW - 2020/0012731	Local Court of NSW - Magistrate D Price	Worker succeeds in a private prosecution against the insurer under s 283 (1) WIMA – Order made under s 10 (1) (a) of the Crimes (Sentencing Procedure) Act 1999 – Insurer ordered to pay costs of \$1,250	86
Dries v CGA Glass & Aluminium Pty Ltd	[2019] NSWWCC 329	WCC - Arbitrator Peacock	New motor vehicle held to be a “curative apparatus” under s 59 WCA because it was required to transport the mobility aids needed by the worker	47
Drylie v Transport for NSW	[2019] NSWWCC 2	WCC - Arbitrator Wynyard	Section 11A defence succeeds - psychological injury wholly or predominantly caused by reasonable action taken ... with respect to transfer	27
Duck v EB & DE Bunt Pty Ltd	[2019] NSWWCC 279	WCC - Arbitrator Egan	Absence of expert evidence to discharge worker’s onus of proof regarding injury – Luxton v Flounders applied	42
Duff v Helicopter Aerial Surveys Pty Ltd	[2019] NSWWCC 382	WCC - Arbitrator Bell	Section 9AA (3) (c) WCA – Principal working outside Australia for 50% of the time is held to be entitled to compensation under the NSW scheme because the respondent’s principal place of business was in NSW	52
Duran v RSL Life Care Ltd	[2019] NSWWCC 325	WCC - Senior Arbitrator Capel	Employer’s application for reconsideration and re-assessment by the AMS under s 329 (1) (b) WIMA allowed and (surveillance taken before and after the AMS’ examination) is admitted into evidence and referred to the AMS	46
Durant v Healthe Care Australia Pty Ltd	[2022] NSWPICMP 10	PIC - Member Dalley, Dr D Andrews & Dr J Parmegiani	Workers Compensation - psychological injury in July 2014 (deemed) – COD issued in 2018 – Further IME assessment in 2021 relied on to seek reconsideration of the previous COD – At TC, parties agreed to rescind the COD to permit an appeal to be lodged under ss 327(3)(a) & (b) WIMA for the limited purpose of a threshold dispute	109
Eather v Skillset Limited et Al	[2020] NSWWCC 11	WCC - Senior Arbitrator Capel	Arbitrator finds a real and substantial connection between a fatal MVA that was caused by fatigue and the deceased worker’s employment	54
El-Chami v DME Engineering Services Pty Limited	[2019] NSWWCCPD 35	WCC - ADP King SC	Arbitrator was correct to find that the worker had not made out any case of incapacity as a result of injury	37
El-Chami v DME Engineering Services Pty Ltd	[2018] NSWWCC 279	WCC - Arbitrator John Isaksen	No entitlement to weekly compensation established, but limited expenses awarded under s 60 WCA	27
Elias Bader T/as Genuine Kitchens v Workers Compensation Nominal Insurer	[2018] NSWWCCPD 54	WCC - DP Wood	Exempt employer - appellant denied procedural fairness - COD revoked and matter remitted to another arbitrator for determination	28

Elias Bader t/as Genuine Kitchens v Workers Compensation Nominal Insurer	[2019] NSWWC 350	WCC - Arbitrator Perry	Exempt employer – Remitter of application after previous COD was set aside due to denial of procedural fairness	48
Ellis v AlSCO Services Pty Ltd	[2019] NSWWC 76	WCC - Arbitrator Bell	Causal link between accident and condition not established - time between the accident and the onset of the condition was too long for the possibility of causation	30
Elsamad v Belmadar Pty Ltd	[2019] NSWWCPCD 22	WCC - DP Wood	Burden of proof – Briginshaw standard of “comfortably satisfied” does not apply to a determination of injury under s 4 WCA	34
Elsworthy v Forgacs Engineering Pty Ltd	[2018] NSWSC 1638	Supreme Court of NSW - Fagan J	No jurisdictional error established	25
EML as agent for Insurance for NSW v AAI Limited t/as GIO	[2019] NSWWCPCD 60	WCC - DP Wood	Sections 22 & 22A WCA – Apportionment of liability for weekly payments between insurers – Arbitrator not bound by agreed earlier apportionment regarding s 60 expenses	51
Employers Mutual Ltd v Heise	[2022] NSWSC 465	Supreme Court of NSW - Adamson J	Appeal from Local Court conviction by an insurer convicted or sentenced for the offence of failing to determine a claim as and when required – Appeal on a mixed question of law and fact – Leave to appeal granted – Held: the claims manager (insurer) was not a ‘person’ for the purpose of the offence	114
Employers Mutual Ltd v Heise * Subject to appeal	[2018] NSWSC 1842	Supreme Court of NSW - McCallum J	Court declines to grant prohibition to the insurer in respect of a Court Attendance Notice issued by the Local Court of NSW upon an application by an injured worker	26
Estate of Clarke v State of New South Wales (Greystanes Disability Services)	[2019] NSWWCPCD 29	WCC - President Phillips DCJ	Appropriate standard of proof - "actual persuasion on the balance of probabilities" and not "comfortably satisfied"	36
Etherton v ISS Property Services Pty Limited	[2019] NSWWC 107	WCC - Arbitrator Wynyard	Worker estopped from making a claim under s 66 WCA for an injury that was the subject of a previous consent award for the respondent – Following the 2018 amendments, Trustees for Roman Catholic Church for the Diocese of Bathurst v Hine is not good law	33
Etherton v ISS Property Services Pty Limited	[2019] NSWWCPCD 53	WCC - President Phillips DCJ	Estoppel - Bouchmouni v Bakhos Matta t/as Western Red Services [2013] NSWWCPCD 4 considered; Workers Compensation Legislation Amendment Act 2018; Pt 19L of Sch 6 of the Workers Compensation Act 1987 considered	48
Evangelista v Coles Supermarkets Australia Pty Ltd	[2021] NSWPIC 87	PIC - Member Batchelor	Member rejected the respondent’s application to admit late documents comprising video surveillance film and a report into evidence and refer them to the AMS – Held: exceptional circumstances were not made out and it was not in the interests of justice that the late documents be admitted into evidence and referred to the AMS	93
Ewins v CSR Limited	[2018] NSWWC 301	WCC - Arbitrator John Harris	Respondent denied opportunity to arrange a further IME	27
Fabik v State of New South Wales	[2019] NSWWCMA 101	WCC - Arbitrator Dalley, Dr J Bodel & Dr M Burns	AMS did not err in applying 1/5 s 323 deductible – “one slip in one paragraph did not amount to demonstrable error”	39
Fairfield City Council v Deguara	[2019] NSWWCPCD 1	WCC - DP Wood	Section 17 WCA - no requirement to establish that employment was the main contributing factor to the hearing loss - s 261 (6) WIMA - when did the worker become aware of his injury? - procedural fairness and discretion to refuse an application to cross-examine a witness	28
Fairfield City Council v McBride	[2019] NSWWCPCD 28	WCC - DP Snell	Duty to give reasons and error in fact finding	36
Fairfield City Council v McCall	[2022] NSWPICPD 15	PIC - Acting Deputy President Parker SC	Procedural fairness – onus of proof – inferences drawn – discussion of Jones v Dunkel [1959] HCA 8 – adequacy of reasons – Beale v Government Insurance Office of NSW (1997) 48 NSWLR 430 applied	115
Fairfield City Council v McCall (No 2)	[2022] NSWPICPD 29	PIC - Acting Deputy President Parker SC	Reconsideration application – s 57 of the PIC Act 2020 – Samuel v Sebel Furniture Limited [2006] NSWWCPCD 141; 5 DDCR 482 discussed and applied – held that the appropriate remedy that should be sought should be under s 353 of the WIMA instead of a reconsideration application	119
Fard v Sash Transport Pty Ltd	[2019] NSWWCMA 114	WCC - Arbitrator Rimmer, Dr M Burns & Dr T Mastroianni	An AMS’ failure to assess permanent impairment as a result of a referred injury is a demonstrable error	41
Fardell v Clinton Industries Pty Ltd	[2022] NSWSC 111	Supreme Court of NSW - Harrison AsJ	Judicial review - Deduction under s 323 WIMA – Jurisdictional error – Error of law – Matters that were not raised at first instance	109
Farrugia v TSY Transport Pty Ltd	3090/17	WCC - Senior Arbitrator McDonald	Leave to amend an AARFD declined in relation to a request for reconsideration of a MAC	22
Ferguson v Central Coast Council	[2019] NSWWC 206	WCC - Arbitrator Scarcella	Applicant not a rural worker within the meaning of s 5 & sch 1 cl 5 WIMA	36
Field v WH Health, ML, EC, MH, TA, JR	[2019] NSWWCMA 18	WCC - Arbitrator Peacock, Dr R Pillemer & Dr G McGroder	AMS erred in certifying that the degree of permanent impairment was fully ascertainable – MAC revoked	33
Field-Whittaker v Thomas & Naaz Pty Ltd	[2022] NSWSC 666	Supreme Court of NSW - Harrison AsJ	Judicial Review – Rejection of additional relevant evidence – Error in PIRS Assessment of concentration, persistence, pace and employability – Matter remitted to President of PIC	116
Finney Pty Limited t/as Cut Price Car Rentals v Chequer (No 2)	[2021] NSWPICPD 20	PIC - Acting Deputy President Parker SC	A Presidential Member of the PIC has power to reconsider a decision and correct asserted errors under s 350 (3) WIMA	97

Finney Pty Ltd t/as Cut Price Car Rentals v Chequer	[2021] NSWPICPD 13	PIC - Acting Deputy President Parker SC	Section 9AA WCA – connection with the State of NSW - procedural fairness - whether weekly payments made under Queensland scheme should be considered regarding entitlements under the NSW Scheme	95
Fischer v DTD Engineering Pty Limited (No. 2 decision – Recon)	[2019] NSWWCC 168	WCC - Arbitrator Scarcella	Application for reconsideration of COD refused - further evidence that the worker sought to rely upon could have been presented earlier	35
Fit Concepts Pty Limited v Workers Compensation Nominal Insurer (iCare)	[2020] NSWWCC 400	WCC - Arbitrator McDonald	Application under s 245 (4) WCA – Whether the applicant is liable to reimburse the Nominal Insurer for compensation paid – Held: No actual persuasion that the injury occurred whilst the worker was working for the applicant – Applicant not required to reimburse the Nominal Insurer	82
Fitzgerald v State of New South Wales	[2019] NSWSC 1439	Supreme Court of NSW - Harrison AsJ	Section 60G of the Limitation Act 1969 (NSW) - Extension of time to commence common law proceedings granted because the plaintiff was unaware of the connection between the personal injury and the defendant's act or omission	47
Foster v Broadspectrum Australia Pty Ltd	[2018] NSWWCC 202	WCC - Arbitrator Gerard Egan	Application for reconsideration and rescission of a COD issued by another arbitrator is rejected	23
Fourmeninapub Pty Ltd v Booth	[2019] NSWWCCPD 25	WCC - President Phillips DCJ	A prior determination of an injury under s 4 (a) WCA does not give rise to an issue estoppel or Anshun estoppel – No entitlement to costs under s 341 WIMA because the dispute arose and proceedings commenced after 31 March 2013	35
Fraser v Lingstar Pty Ltd	[2019] NSWWCCMA 97	WCC - Arbitrator Moore, Dr P Harvey-Sutton & Dr J B Stephenson	An AMS is not required to adopt any opinion of an IME	39
French v Harwood Slipway Pty Ltd & others	[2022] NSWPIC 473	PIC - Member Whiffin	Medicinal cannabis – Held: prescription is recently necessary medical treatment so long as approval is obtained from the TGA as a result of the back injury – The evidence only allows the PIC to order payment for the costs of and incidental to the prescription of medicinal cannabis for a period of 73 days into the future.	121
Fujitsu General Pty Ltd v Mendez	[2019] NSWWCCMA 119	WCC - Arbitrator Egan, Dr R Pillemer & Dr G McGroder	Calculation of ADL's and assessment of a deductible under s 323 WIMA	42
Fuller v Avichem Pty Ltd t/as Adkins Building & Hardware	[2019] NSWCA 305	Court of Appeal - Macfarlan, Payne and White JJA	Damages – residual earning capacity – whether a discount greater than 15% for vicissitudes is warranted – whether clinical psychologist is sufficiently qualified to give expert evidence about residual earning capacity	52
Galal v University of New South Wales	[2020] NSWWCCPD 74	WCC - Deputy President Wood	Appeal against factual determination – principles applicable to whether there is a contract of service – deemed worker	83
Galea v Colourwise Nursery (NSW) Pty Ltd	[2019] NSWWCC 362	WCC - Arbitrator Harris	Application to rescind COD to enable an appeal against a MAC issued in a s 66 WCA under ss 327 (3) (a) and (b) WIMA, for the purpose of satisfying the threshold under ss 39 and/or 151H WCA, where no threshold claim made – Held: worker entitled to lodge appeal under ss 327 (3) (a) and/or (b) WIMA	50
Galvin v Comtam Pty Ltd	[2020] NSWWCCMA 3	WCC - Arbitrator Douglas, Dr R Pillemer & Dr D Crocker	Failure to consider relevant evidence is an error - AMS not provided with, or did not consider, a forensic medical report that the worker relied upon – Tattersall v Registrar of the Workers Compensation Commission of NSW & Anor and Wentworth Community Housing Ltd v Brennan considered	54
Gardener v Sauer's Bakehouse Pty Ltd	[2018] NSWWCCPD 49	WCC - Snell DP	Challenge to arbitrator's findings of fact fails - COD confirmed	26
Gardiner v Laing O'Rourke Australia Construction Pty Limited	[2019] NSWWCCPD 66	WCC - President Phillips DCJ	Effect of deed of release signed by the worker – ss 149 and 151A WCA considered	53
Gatt v State of New South Wales	[2019] NSWSC 451	Supreme Court - Campbell J	Section 323 WIMA - MAP did not err in applying a deductible of 75% for pre-existing osteoarthritis - No denial of procedural fairness - Summons dismissed	32
Gatt v Visy Packaging Pty Limited	[2019] NSWWCCMA 21	WCC - Arbitrator Ross Bell, Dr M Hong & Dr J Parmegiani	Assessment of permanent impairment under PIRS - full weight given to medical discretion of AMS as contrary medical opinions alone cannot constitute demonstrable error when it is open to the AMS to choose between 2 classes	30
Gazal v QBE Insurance (Australia) Limited	[2021] NSWPIC 492	PIC - Member McTegg	Miscellaneous claims assessment – Whether the claimant was wholly or mostly at fault under s 3.28 of the MAI Act 2017	106
Gazi v Canterbury Bankstown City Council	[2018] NSWWCC 257	WCC - Arbitrator John Isaksen	Section 11A WCA - Psychological injury due to conditions encountered after a transfer and not as a result of the respondent's action in effecting it	25
Geary v UPS Pty Ltd	[2021] NSWPICPD 47	PIC - President Phillips DCJ	Anshun estoppel – Appellant is estopped from pursuing a claim for a disease injury (s 4(b)(ii) WCA) because he failed to plead this in previous proceedings	107

Ghilagabar v Kmart Australia Pty Ltd	[2022] NSWPIC 25	PIC - Principal Member Bamber	Section 66 claim - issues regarding injury & thresholds under s 65(2) WCA & s 322(3) WIMA – Amalgamation - Held: injuries to thoracic spine & right upper extremity (shoulder) arose from the same incident and could be assessed together, but the claims for other injuries do not result from the same incident and cannot be referred to a MA as the s 66(1) threshold is not satisfied	109
Gibson v Holcim (Australia) Pty Ltd	2019] NSWCC 330	WCC - Arbitrator Harris	Consent orders - Dispute about monies that the respondent could claim credit for under s 50 WCA (sick leave) for payment of sick leave – Held: credit limited to amount of weekly compensation payable in any period	47
Gillard v G and H Harris and M E Jarret	[2019] NSWCC 22	WCC - Senior Arbitrator Glenn Capel	Section 39 WCA - work capacity decision made - worker entitled to weekly payments for a closed period under s 38 (6) WCA - Kennewell applied	28
Gilliana v Souvenir World (Airport) Pty Ltd	[2018] NSWCC 116	Arbitrator Glenn Capel	Insurer criticised for acting upon erroneous legal advice, resulting in 2 arbitral hearings and an oral hearing before a Deputy President	19
Gimis v Tweed Shire Council	[2022] NSWPIC 403	PIC - Member Beilby	Consent Awards for the respondent regarding “injury” in weekly benefits proceedings – Worker sought to claim lump sum compensation for those same body parts - Trustees for the Roman Catholic Church for the Diocese of Bathurst v Hine distinguished on facts – Claim dismissed.	119
Globe church Incorporated v Allianz Australia Insurance Limited	[2019] NSWCA 27	Court of Appeal - Bathurst CJ, Beazley P, Ward JA, Meagher JA & Leeming JA	Limitation period - property damage – Majority held that the cause of act	30
Glogoski v Workers Compensation Nominal Insurer	[2019] NSWDC 154	District Court of NSW - Russell SC DCJ	Court refuses leave to revoke an election to claim lump sum compensation for permanent impairment under s 151A WCA	34
Golden Swan Investments (Australia) Pty Ltd v Yahiaoui	[2019] NSWCCPD 40	WCC -DP Wood	Adequacy of reasons – COD revoked & matter remitted to another Arbitrator for redetermination of all issues	38
Gower v State of New South Wales	[2018] NSWCA 132	Court of Appeal - Basten JA, White JA, Simpson AJA	Principles applying to an application for an extension of time to make a claim for WIDs under s 151D WCA - leave not granted	20
Graham v Tristate Produce Merchants Pty Ltd	[2019] NSWCC 295	WCC - Arbitrator Sweeney	Proof of injury on the balance of probabilities – Arbitrator not satisfied that the worker suffered an injury to his neck or an exacerbation of a cervical spine lesion	43
Grange v NSW Police Force	[2019] NSWCC 28	WCC - Arbitrator Michael Perry	Heart attack - Takutsobo Cardiomyopathy is a heart attack within the meaning of s 9B WCA because employment gave rise to a significantly greater risk of injury	29
Grant v Dateline Imports Pty Ltd	[2022] NSWPCPD 3	PIC - Deputy President Wood	Consequential condition – circumstances in which a diagnosis is relevant – Arquero v Shannons Anti Corrosion Engineers Pty Ltd [2019] NSWCCPD 3, Kumar v Royal Comfort Bedding Pty Ltd [2012] NSWCCPD 8, Trustees of the Roman Catholic Church for the Diocese of Parramatta v Brennan [2016] NSWCCPD 23 discussed – requirement for expert medical opinion	108
Gray v Geoff Groom Building Pty Ltd	[2019] NSWSC 1081	NSWSC - Leeming JA	Judicial review – need to make out jurisdictional error or error of law on face of record – significance of distinction – MAP empowered to rely on medical examination by one of its members – significance of “clinical judgment” – application dismissed	40
Grbasliev v Tooheys Pty Limited	[2021] NSWPIC 61	PIC - Member Haddock	Section 261 WIMA – Alleged injuries to right shoulder and lumbar spine – Award for the respondent with respect to injury to the lumbar spine – dispute under s 66 WCA not referred to an AMS because the threshold under s 66 (1) WCA was not satisfied	92
Gready v Ricegrowers Limited	[2022] NSWPIC 438	PIC - Member Homan	Claim for weekly benefits for alleged total incapacity - voluntary payments being made at a rate agreed in prior proceedings – subsequent downgrade in COC’s - evidence of ongoing symptoms at left knee and right hip – suitable employment under s 32A WCA - relevance of geographical labour market – Held: worker was unfit for pre-injury duties and other physical work but there was evidence of capacity to work in light sedentary duties - evidence of real jobs in which the worker would be able to work – PIC not satisfied that the worker had no current work capacity & declined to make an award under s 37(1) WCA	120
Green v Seven Network (Operations) Limited	[2021] NSWPIC 75	PIC - Member Rimmer	Calculation of PIAWE – Monetary allowance covering the expense of ingredients is specifically excluded from the calculation of PIAWE under the former s 44G (1) WCA	93
Green v Seven Network (Operations) Ltd	[2021] NSWPIC 458	PIC - Member Rimmer	A psychologist is not a medical practitioner and the insurer cannot compel a worker to attend an examination by a psychologist - Entitlement to compensation was not suspended under 119(3) WIMA	106
Grima v Bursons Automotive Pty Limited	[2019] NSWCC 184	WCC - Arbitrator John Harris	Work Capacity Decision made before 1 January 2019 - WCC lacks jurisdiction to review an insurer’s internal review decision	34

Group Marketing (AUST) Pty Ltd t/as Barberhouse Cafe v Workers Compensation Nominal Insurer	[2021] NSWPCPD 39	PIC - President Phillips DCJ	Dismissal of proceedings – s 54 of the PIC Act 2020 – r 77(a) of the PIC Rules 2021 – procedural requirements for an appeal under s 352 WIMA – deficient appeal application – non-compliance with Delegate’s direction – appellant not taking steps to prosecute its case – appeal dismissed	105
Guettaf v Spotless Services Australia Ltd	[2019] NSWCC 239	WCC - Senior Arbitrator Capel	Insurer’s letter to worker was not a work capacity decision because it did not conform with SIRA Guidelines	37
Gulic v Angelkovski	[2018] NSWCA 161	Court of Appeal - Beazley P, McColl JA & Sackville AJA	Assessment of damages arising from breach of duty by a Solicitor - what is the value of the chance lost by the appellant?	22
Gundelj v Brighton Australia Pty Limited	[2021] NSWPCPD 28	PIC - Acting Deputy President Parker SC	Common law deed of release entered into between the parties – Appellant later claimed lump sum compensation for further loss of hearing – Held: the deed of release extended to that injury	101
Haddad v The GEO Group Australia Pty Ltd	[2022] NSWPCPD 23	PIC - Acting Deputy President Parker SC	Application to amend the ARD - whether leave should have been refused – exercise of discretion on the leave application – taking into account irrelevant factors – error found – COD revoked & matter remitted to another Member for re-determination	117
Hafizi v Rack Technologies Pty Ltd	[2018] NSWCC 119	Arbitrator Josephine Bamber	A worker cannot combine separate injuries (or pathologies) arising from separate injurious events for threshold purposes	19
Hall v Ecoline Pty Ltd t/as Treetop Adventure Park	[2018] NSWSC 1732	Supreme Court of NSW - Davies J	Statement of claim dismissed because it was materially different from that proposed in the Pre-filing Statement	25
Hall v Lindsay Brothers Management Pty Limited	[2021] NSWPCPD 31	PIC - Acting Deputy President Parker SC	PIAWE – ss 44C & 44E WCA – Calculation of PISWE in accordance with an Enterprise agreement – Whether or not earnings were calculated on the basis of ordinary hours worked	102
Hancock v Holman Industries Pty Ltd	[2019] NSWCCPD 16	WCC - DP Snell	Breach of procedural fairness - application of Muin v Refugee Review Tribunal - error in fact-finding	33
Hancock v Holman Industries Pty Ltd	[2018] NSWCC 279	WCC - Arbitrator Jill Toohey	Worker fails to discharge onus of proving work-related injury	26
Hand v State of New South Wales	[2019] NSWCCMA 157	WCC - Arbitrator McDonald, Prof. N Glozier & Dr M Hong	Anxiety is a symptom and not impairment – Parker v Select Civil Pty Ltd applied	52
Hanna v Delta Electrical and Security Pty Ltd	[2019] NSWSC 1127	Supreme Court of NSW - Harrison AsJ	Jurisdictional error	43
Hanna v Sargents Pty Ltd	[2021] NSWPIC 243	PIC - Delegate McAdam	Work capacity dispute – suitable employment under s 32A WCA – Held: Worker had no capacity for suitable employment – Continuing weekly benefits awarded under s 38 WCA	98
Hanzlicek v Protech Management Pty Limited	[2020] NSWCC 13	WCC - Arbitrator Burge	Hearing loss – worker entitled to prosecute claim against respondent despite making a claim against another employer as no compensation was recovered	53
Hassett v Secretary, Department of Communities and Justice	[2019] NSWCCR 5	WCC - Senior Arbitrator Capel	WCD – Strict compliance with the legislation is not required – Delegate issued an IPD and directed respondent to pay weekly compensation at a higher rate	49
Hearne v Spamil Discretionary Trust	[2018] NSWSC 1631	Supreme Court of NSW - Hamill J	Jurisdictional error on the face of the record	25
Hee v State Transit Authority of New South Wales	[2019] NSWCA 175	Court of Appeal - White JA, Simpson AJA, Gleeson JA	A worker with highest needs is entitled to compensation under s 38A WCA even where the amount payable under s 37 WCA is deemed to be “zero”.	36
Heise v Employers Mutual Limited	2020/00200346	Local Court of NSW - Magistrate Lacy	Insurer found guilty of failure to determine a claim under s 283 (1) WIMA in a private prosecution under s 14 of the Criminal Procedure Act 1986	99
Henderson v Secretary, Department of Education	[2019] NSWCCMA 175	WCC - Arbitrator Peacock, Dr P Morris & Dr D Andrews	Psychological injury – No evidence of demonstrable error or application of incorrect assessment criteria by AMS – MAC confirmed	51
Hetherington v Aldi Foods Pty Ltd	[2020] NSWCCMA 170	WCC - Arbitrator McDonald, Dr D Dixon & Dr G McGroder	Difference between DRE Lumbar Categories II and III requirements in Guidelines for assessment of radiculopathy – Principles of assessment for scarring under the TEMSKI	82
Heyworth v VMWare Australia Pty Limited	[2019] NSWCCPD 64	WCC - ADP King SC	Whether the Arbitrator, having found injury, was correct to find that the appellant had not made out a case of resultant incapacity for 2 closed periods	52
Hilder v The Secretary, NSW Department of Family and Community Services	[2019] NSWCCMA 102	WCC - Arbitrator Dalley, Dr M Gibson & Dr J Ashwell	AMS erred in assessing s 323 WIMA deduction contrary to referral	39
Hitchings v Secretary, Department of Planning, Industry and Environment	[2021] NSWCCPD 12	PIC - Deputy President Wood	Section 4 WCA – Whether the worker was in the course of employment – Hatzimanolis v ANI Corporation Ltd [1992] HCA 21 – considered and applied	88
Hi-Tech Express Pty Ltd v Fuimaono	[2019] NSWCCMA 165	WCC - Arbitrator Batchelor, Dr R Crane & Dr N Berry	Demonstrable error – Assessment of WPI of the upper digestive tract – MAC revoked	50
Hochbaum v RSM Building Services Pty Limited	[2019] NSWCC 31	WCC - Arbitrator Josephine Bamber	Section 39 WCA - weekly payments ceased in December 2017, but threshold not satisfied until July 2018 - s 39 does not apply & the worker is entitled to weekly payments from the date of cessation until the date of the MAC - Kennewell applied	29
Homa v Anne Petroleum Pty Limited	[2018] NSWCC 287	WCC - Arbitrator Josephine Bamber	Pre-2012 injury - Mitchell steps applied to calculate entitlement to weekly payments under the former s 40 (1) WCA	26

Honarvar v Professional Painting AU Pty Ltd	[2021] NSWPIC 282	PIC - Member Wynyard	Declaration that proposed surgery is reasonably necessary and a claim for the costs of a bed and mattress as a “curative apparatus” failed – Worker failed to satisfy his onus of proof	102
Honarvar v Professional Painting AU Pty Ltd	[2022] NSWPICPD 12	PIC - Deputy President Snell	Sections 59 and 60 WCA - ‘reasonably necessary’, ‘curative apparatus’ – evidence in the PIC –weight of evidence – factual error	113
Hossain v Unity Grammar College Ltd and Ors	[2019] NSWSC 1313	Supreme Court of NSW - Campbell J	Damages – joint liability –proceedings for recovery of damages for personal injury against multiple parties – action may be brought against each tortfeasor subject to statutory modifications – Plaintiff cannot recover more than full satisfaction for loss against one or more of the tortfeasors	48
Hou v Zhen Qi Hou Pty Ltd	[2022] NSWPICPD 6	PIC - President Judge Phillips DCJ	Section 261(4) WIMA – Failure to make a claim occasioned by ignorance, mistake, or other reasonable excuse – Adequacy of Member’s reasons	110
Howlader v FRF Holdings Pty Ltd	[2019] NSWWCCPD 55	WCC - Deputy President Wood	No right of appeal because threshold under s 352 (3) WIMA is not satisfied	49
Hoysted v Asbestos Removal & Demolition Contractors Pty Limited	[2019] NSWWCC 231	WCC - Arbitrator Anthony Scarcella	Employment was not a substantial contributing factor to a ruptured aneurism and subarachnoid haemorrhage	36
Hudson v Toll Holdings Limited	[2020] NSWWCC 405	WCC - Arbitrator Snell	Alleged injuries to cervical and lumbar spines – Work-related injury found with respect to the lumbar spine but not the cervical spine – Awards for weekly payments and s 60 expenses but s 66 dispute not referred to an AMS as s 66 (1) threshold was not satisfied	82
Humphries v McDermott Drilling Pty Ltd	[2019] NSWSC 508	Supreme Court of NSW - Schmidt J	Extension of time to commence WID proceedings under s 151D WCA granted based upon a concept of “representative error”	33
Hunter Quarries Pty Ltd v Alexandra Mexon as Administrator of the Estate of the late Ryan Messenger	[2018] NSWCA 178	Court of Appeal - Basten JA, Gleeson JA, Payne JA, Sackville AJA & Simpson AJA	Compensation for permanent impairment is not payable in addition to death benefits where death occurred shortly after injury	22
Hunter v Insurance Australia Ltd trading as NRMA Insurance	[2021] NSWSC 623	Supreme Court of NSW - Adamson J	MACA 1999 - Review panel decided that injury sustained by medical treatment was not caused by the MVA - Issue of causation — Original injury carries some risk that medical treatment administered by reason of it will cause further harm — An indirect, but foreseeable, consequence is sufficient to establish causation — Application of incorrect legal test amounts to an error on the face of the record	95
Huynh v Australian Reinforcing Company (ARC) – St Marys	[2020] NSWWCC 3	WCC - Arbitrator Burge	Accepted injury to right arm - whether worker suffered a frank injury or consequential condition to his cervical spine – no frank injury or consequential condition established	53
IAG Limited t/as NRMA Insurance v Jammal	[2019] NSWSC 676	Supreme Court of NSW - Wright J	Jurisdictional error - decision of Proper Officer of SIRA set aside because it failed to address a substantial, clearly articulated argument	35
IAG Limited t/as NRMA Insurance v McBlane	[2019] NSWSC 1789	Supreme Court of NSW - Loneragan J	Jurisdictional error – reasons inadequate	52
IAG Limited trading as NRMA Insurance v Lucic	[2019] NSWSC 620	Supreme Court of NSW – Adamson J	No issue estoppel results from an assessment of notional damages in recovery proceedings commenced by a workers compensation insurer under s 151Z WCA	34
Ibrahim v State of New South Wales (South Western Sydney Local Health District)	[2021] NSWPICMP 92	PIC - Member Rimmer, Prof. N Glozier & Dr P Morris	No demonstrable error identified regarding PIRS assessment for social and recreational activities	96
ICM Services v Dabic	[2019] NSWWCCMA 146	WCC - Arbitrator Moore, Dr J Garvey & Dr M Burns	AMS erred by not applying a deductible under s 323 WIMA – Trivial internal haemorrhoids assessed as 0% WPI	47
Ifopo v Secretary, Department of Communities and Justice	[2019] NSWWCCMA 154	WCC - Arbitrator Wynyard, Dr J Parmegiani & Dr M Hong	Psychological injury – Ferguson applied – co-morbid condition of obstructive sleep apnoea not relevant to WPI assessment – MAC confirmed	48
Ilic v 2/11 Leonard Ave Pty Ltd (in Liquidation) Illawarra Retirement Trust v Jones	[2018] NSWWCCPD 34	WCC - Keating P	No further entitlement to compensation under s 66 WCA without an increase in the degree of permanent impairment	22
Illawarra Retirement Trust v Jones	[2019] NSWWCCMA 91	WCC - Arbitrator Moore, Dr J Parmegiani & Dr P Morris	Psychological injury – AMS erred in allowing additional 2% WPI for effects of treatment	37
Inghams Enterprises Pty Ltd v Belkoski & Ors	[2018] NSWSC 1233	Supreme Court of NSW - Davies J	Court must be satisfied of the grounds for, and the appropriateness of, proposed orders	22
Inghams Enterprises Pty Ltd v Hickey	[2019] NSWWCCMA	WCC - Arbitrator Rimmer, Dr J Bodel & Dr M Gibson	Whether a further MAC is ultra vires is a matter for a MAP to determine and the issue of a further MAC is not a demonstrable error for the purposes of s 327 (3) WIMA	27
Insurance Australia Group Ltd t/as NRMA Insurance v Keen	[2021] NSWCA 287	Court of Appeal - Leeming JA, Basten JA & Simpson AJA	Judicial review – Assessment of WPI – Adequacy of MA’s reasons – Requirement to distinguish jurisdictional error from error of law on the face of the record – Requirement to state grounds of review with specificity	106
Insurance Australia Limited t/a NRMA Insurance Limited v Mustafa Al-Tabaibeh	[2022] NSWSC 324	Supreme Court of NSW - Harrison AsJ	Judicial Review – MACA – Failure to provide reasons – Finding not based on evidence – Failure to respond to substantial and clearly articulated argument – Psychiatric injury secondary to pain – Resolution of physical injury – Decision of Appeal Panel set aside	112

Insurance Australia Limited t/as NRMA Insurance v Rababeh	[2022] NSWSC 942	Supreme Court of NSW - Harrison AsJ	Judicial Review – MACA - Treatment dispute – Damages for future care and domestic assistance – Whether Certificate is conclusive evidence of the matters certified within it? – Whether the first defendant was totally or partially incapacitated? – Whether the Tribunal provided adequate reasons? – Decision set aside	117
Insurance Australia Ltd v Marsh	[2022] NSWCA 31	Court of Appeal - Basten, Macfarlan & White JJA	Jurisdictional error – s 63(3) MACA – was there a reasonable cause to suspect material error in a medical assessment – did the decision maker exceed their statutory role by declining to refer the matter to a RP – did the primary judge err by referring the matter to a RP rather than a proper officer	111
Iqbal v Hotel Operation Solutions Pty Ltd	[2022] NSWCA 138	Court of Appeal - Brereton & Mitchelmore JJA & Basten AJA	Appeal from determination of Presidential member of the PIC – error-based jurisdiction in reviewing decision of arbitrator – jurisdiction of Court of Appeal – decision in point of law – s 353 WIMA – Appellant bearing burden of proof of employment-related injury cannot invert onus by pleading no evidence of pre-existing injury – appellant bearing burden of proof cannot rely on own evidence to assert no evidence of pre-existing injury - definition of “injury” – “disease” to be given broadest meaning – categorisation of “biological” and “pathological” changes rejected	119
Ironmonger v Gunnedah Shire Council	[2021] NSWPIC 53	PIC - Member Peacock	Death Benefits – Accepted psychological injury resulted in attempted suicide – Respondent argued that treatment provided to the deceased at hospital was so inexcusably bad as to break the chain of causation between the psychological injury and death – Held: the chain of causation was not broken	91
ISS Property Services Pty Ltd v Ayoubi	[2022] NSWPICMP 293	PIC - Member Wynyard, Dr R Pillemer & Dr J Bodel	Medical appeal – whether the MA failed to apply a s 323 WIMA deduction; whether MA had failed to consider surveillance material - whether the MA failed to adequately consider evidence of inconsistent presentation – Held: there was no evidence for a s 323 deduction - the MA made a demonstrable error in not referring to surveillance material it in his reasons – On re-examination by the MP, there was no evidence of an organic basis and the worker’s presentation to both the MA and MP were inconsistent with material in the surveillance reports and early clinical notes - surveillance descriptions and photographs of the worker’s movements thereof showed normal use of the injured right extremity - injuries were at best psychologically based and there was no residual orthopaedic impairment – MAC revoked	118
JA & MA Costa Pty Ltd v Makouk	[2021] NSWPICPD 11	PIC - Deputy President Wood	Whether a “dispute” existed within the meaning of ss 289 & 289A WIMA - Procedural fairness; Chanaa v Zarour [2011] NSWCA 199, Re Minister for Immigration & Multicultural Affairs; Ex parte Lam [2003] HCA 6; 214 CLR 1, Re Refugee Review Tribunal; Ex parte Aala [2000] HCA 57; 204 CLR 82 considered and applied	94
Jafarian v WildFire Interiors Pty Ltd	[2021] NSWPICPD 24	PIC - Acting Deputy President Parker SC	The applicant carried on his own business and was not a worker – Section 352 WIMA - Requirement to show error on appeal	99
Jamal v Nonabel Concrete Pty Ltd	[2018] NSWWCCPD 42	WCC - Wood DP	Death claim - dependency under s 25 (1) WCA	24
Jansen v Colin Smith t/as Col’s Clip Joint	[2021] NSWPIC 24	PIC - Member Burge	Respondent is not required to make weekly payments between the expiration of the second entitlement period and the issue of a MAC certifying that the degree of permanent impairment is not yet ascertainable – there is a temporal element in cl 28C of the Regulation that must be satisfied before the operation of a 39 WCA is vitiated	90
Jarvis v Allianz Australia Insurance Ltd	[2022] NSWSC 161	Supreme Court of NSW - McCallum JA	Jurisdictional error — Decision by Review Panel under MACA 1999 (NSW) — Whether Panel failed to respond to a substantial argument — Whether Panel decided the matter on a basis of which the plaintiff was not given notice — Function of Panel to make a new assessment	110
Jasmin v Cleaners New South Wales Pty Limited (in liquidation)	[2019] NSWWCCMA 160	WCC - Arbitrator Dalley, Dr B Noll & Dr D Crocker	Demonstrable error – Application to admit fresh evidence rejected - AMS erred in concluding that the condition in the lumbar spine did not result from the injury where this was a finding from the Commission – Same assessment made on reassessment – MAC confirmed	50
JELD-WEN Australia Pty Ltd v Chand	[2021] NSWPICMP 140	PIC - Member Sweeney, Dr J Ashwell & Dr R Crane	Medical assessor failed to give reasons for not making a deduction under s 323 WIMA – MAP applied a 10% deductible, but rounding up produced the same result – MAC confirmed despite finding of error	99
Jeld-wen Australia Pty Ltd v Quilao	[2019] NSWWCCPD 110	WCC - Wood DP	Leave to appeal against an interlocutory decision refused	32
Jenkins v Pilditch Commercial Landscapes Pty Ltd	[2019] NSWWCC 72	WCC - Arbitrator Egan	Proposed surgery not reasonably necessary because of workplace injury - Briginshaw applied & no common sense causal relationship established	31

Johnson v Arandale	[2022] NSWPIC 309	PIC - Principal Member Harris	Worker suffered a compensable left wrist injury – Pleadings stated that the parties were residents of different states when the ARD was filed – Held: Matter dismissed due to absence of jurisdiction to determine the dispute under s 75(iv) of the Constitution Act 1900 (Cth)	116
Johnson v Country Classic Services Pty Ltd (in liquidation)	[2019] NSWWCMA 142	WCC - Arbitrator Rimmer, Dr D Dixon & Dr G McGroder	AMS made a demonstrable error, but the MAP confirmed the MAC as its WPI assessment was the same and the review did not lead to a different result – Robinson v Riley [1971] 1 NSWLR 403 applied.	46
Kabic v AAI Limited t/as GIO	[2019] NSWCA 247	Court of Appeal - White JA (Meagher & McCallum JJA agreeing)	Negligence –primary judge erred in assessment of evidence and consequent factual findings including contributory negligence against plaintiff	46
Kallis v Workers Compensation Nominal Insurer (iCare)	[2021] NSWPIC 70	PIC - Member McDonald	Deceased fell and was injured whilst assisting in the installation of replacement equipment at premises owned by a company of which he was a director – Held: Deceased was a volunteer and not a working director under a contract of service & he was neither a worker nor deemed worker of the company that ran the business	93
Karam v Amaca Pty Ltd (previously called James Hardie and Co Pty Ltd) (in liquidation)	[2019] NSWWC 357	WCC - Arbitrator McDonald	Section 39 WCA - Injury to low back in 1993 – worker sought an assessment of whether his WPI was greater than 20% and alleged that weight gain since his injury had resulted in consequential injuries to his thoracic spine and legs – Held: while the back injury had led to weight gain, it did not result in the alleged consequential conditions	49
Kassabian v IPN Medical Centres t/as Sonic Health Group	[2022] NSWPIC 75	PIC - Member Sweeney	Section 11A WCA – Held: While many aspects of the respondents disciplinary procedure was exemplary, prohibiting the worker from communicating with medical practitioners in the practice was not reasonable – award for the worker	111
Kathia v The Frank Whiddon Masonic Homes t/as Whiddon Group	[2018] NSWWCPCD 22	WCC - Keating P	WCC re-states the principles relevant to an application for reconsideration under s 350 WIMA	20
Kato v City of Sydney	[2019] NSWWC 288	WCC - Arbitrator Homan	Arbitrator awards compensation under s 66 WCA without referral to an AMS as there was no evidence to contradict the assessment made by the worker's IME	42
Kearns v All Time Towing	[2019] NSWWCMA 3	WCC - Arbitrator Ross Bell, Dr M Fearnside & Dr S Lahz	AMS opined that the worker was affected by circumstances of the accident and physical impairment and not emotional and behavioural deficits because of his brain injury - correct assessment criteria applied	28
Kekec v Turbo Exhaust Centre Pty Ltd	[2019] NSWWCPCD 51	WCC - DP Snell	Alleged factual error – weight of evidence – judicial notice in the Commission – worker issues and the totality of the relationship – Hollis v Vabu Pty Ltd & Pitcher v Langford applied	47
Kekic v Turbo Exhaust Centre Pty Ltd	[2019] NSWWC 56	WCC - Arbitrator John Isaksen	Worker - indicia of employment test in Stevens v Brodrigg Sawmilling Co Pty Ltd applied - applicant made prior inconsistent statements that he was not injured in the course of employment - applicant used own computer for work and failed to establish any entitlement to payment evidence against the respondent - held: applicant not a worker	30
Kennedy v Icare Workers Insurance & Giddens	[2019] NSWWC 274	WCC - Senior Arbitrator Bamber	Uninsured employer – Arbitrator determines the amount of compensation payable to the worker “in accordance with” the WCA	41
Kenneth Victor Johnson v Inghams Enterprises Pty Ltd	674/18	WCC - Arbitrator Beilby	MAC declared a nullity as a dispute concerning alleged consequential injuries was not determined by an arbitrator before the referral to an AMS	23
Kennewell v ISS Facility Services Australia Limited t/as Sontic Pty Ltd	[2021] NSWWCMA 40	PIC - Arbitrator Bell, Dr J Bodel & Dr M Burns	MAP found evidence of deterioration of the appellant's condition and admitted further relevant information – MAC revoked, and a new MAC issued	89
Kennewell v ISS Facility Services Australia Ltd t/as Sontic Pty Ltd	[2018] NSWWC 216	WCC - Arbitrator Sweeney	Work capacity decision made - Arbitrator awards weekly payments under s 39 WCA	25
Khalil Bilal v Joseph Haidar	2019] NSWWC 312	WCC - Arbitrator Harris	WCC is not a Court of a State and due to s 75 of the Constitution it does not have jurisdiction to hear an action between individuals who are residents of different states – Leave granted to the applicant to substitute the Workers Compensation Nominal Insurer as the respondent	44
Khalil Bilal v Joseph Haidar	[2019] NSWWC 312	WCC - Arbitrator Harris	WCC is not a Court of a State and due to s 75 of the Constitution it does not have jurisdiction to hear an action between individuals who are residents of different states – Leave granted to the applicant to substitute the Workers Compensation Nominal Insurer as the respondent	45
Kiama Municipal Council v Manning	[2022] NSWPCPD 35	PIC - Acting Deputy President Parker SC	Disease injury under ss 4(b)(i) and (ii) WCA – skin cancer – competing medical opinions regarding cause – “main contributing factor” – adequacy of reasons	121
Kiely v Mercy Centre Lavington Ltd	[2018] NSWWCMA 111	WCC - Arbitrator Egan, Dr L Kossoff & Dr B Parsonage	AMS' reasons do not disclose any error or the application for incorrect criteria	26

King v Metalcorp Steel Pty Ltd	[2019] NSWWC 229	WCC - Senior Arbitrator Capel	Section 39 WCA, s 319 (g) WIMA & cl 28C of Pt 2A of Sch 8 of the Regulation –worker not entitled to weekly payments after 260 weeks and before maximum medical improvement was found to be not fully ascertainable – Hochbaum, Whitton & Strooisma applied	36
King v Muriniti	[2018] NSWCA 98	Court of Appeal - Basten JA, Gleeson JA & Emmett AJA	The Court ordered a solicitor to indemnify the applicants with respect to costs orders that were made by the Court in dismissing four appeals that had been brought by the solicitor’s client.	19
Kirunda v State of New South Wales (No. 4)	[2018] NSWWCCPD 45	WCC - Snell DP	Appeal against an interlocutory decision made after final orders fails	25
Kitanoski v JB Metropolitan Distributors Pty Limited	[2019] NSWSC 1802	Supreme Court of NSW - Adamson J	Judicial review – whether it was open to the MAP to refuse to re-examine the worker in circumstances where the AMS noted disparities in the history given and effort on examination – whether the MAP was obliged to receive additional reports served by the plaintiff after the decision under review – Alleged denial of procedural fairness	52
Kitchingham v State of New South Wales	[2019] NSWWCMA 38	WCC - Arbitrator Douglas, Dr J Parmegiani & Professor N Glozier	AMS did not err in certifying that the degree of permanent impairment was not fully ascertainable due to insufficient treatment – MAC confirmed	33
Klvetasch v DK Thompson	[2018] NSWWC 158	WCC - Arbitrator Harris	PSC confirms that payment of Long Service Leave entitlements under a Deed of Release is not 'damages' for the purposes of s 151A WCA	24
Kochmanz v Rekani Pty Ltd T/as Entertainment Solutions	[2019] NSWWC 64	WCC - Arbitrator Young	Worker/deemed worker - indicia test in Stevens v Brodribb Sawmilling Company Pty Ltd applied	30
Kohsar v BRI Security (Business Risks International)	[2020] NSWWCMA 169	WCC - Arbitrator McDonald, Dr M Hong & Dr J Parmegiani	Psychological injury – assessment of deductible under s 323 WIMA as a result of a previous MVA upheld	81
Konza v Burkes Transport (Services) Pty Limited	[2022] NSWPIC 133	PIC - Delegate McAdam	WCD – Whether worker could work as a school crossing supervisor – No evidence that he would not pass checks by NSW Police and Working with Children – No medical evidence to support alleged lethargy and lack of concentration –Interim Payment Direction refused	113
Kula Systems Pty Ltd v Workers Compensation Nominal Insurer	[2019] NSWWCCPD 68	WCC - DP Wood	Costs are not 'compensation' for the purposes of satisfying the monetary threshold under s 352 (3) WIMA	53
Labourpower Recruitment Services Pty Limited v Nolland	[2019] NSWSC 512	Supreme Court of NSW - Adamson J	S 105 WIMA does not exclude the jurisdiction of the Local Court of NSW in a claim for recovery of monies paid as workers compensation from a worker	33
Lachley Meats (Forbes) Pty Ltd and M C Meats (Lachley) Pty Ltd trading as Lachley Meats v Merritt	[2019] NSWWCCPD 49	WCC - President Phillips DCJ	Construction of s 39 WCA – RSM Building Services Pty Ltd v Hochbaum & Technical and Further Education Commission t/as TAFE NSW v Whitton applied – No mention of Melides v Meat Carter Pty Limited	43
Lachley Meats (Forbes) Pty Ltd and M C Meats (Lachley) Pty Ltd trading as Lachley Meats v Merritt (No 2)	[2020] NSWWCCPD 67	WCC - Deputy President Snell	Construction of s 39 WCA - Reconsideration under s 350 (3) WIMA – Application of Court of Appeal’s decisions in Hochbaum & Whitton	81
Lambropoulos v Qantas Airways Limited	[2019] NSWWCCPD 17	WCC - DP Wood	Application for assessment by an AMS to determine a threshold dispute under s 39 WCA - Monetary threshold required by s 352 (3) WIMA not satisfied – no right of appeal against Arbitrator’s decisions regarding liability and admissibility of evidence	33
Lancaster v Foxtel Management Pty Limited	[2021] NSWSC 745	Supreme Court of NSW - Adamson J	Judicial review – MAP’s decision set aside – Inadequate reasons for declining the plaintiff’s request for re-examination by a member of the MAP	96
Lancaster v Foxtel Management Pty Ltd	[2022] NSWSC 929	Supreme Court of NSW - Basten AJ	Judicial review of decision of a Medical Panel – Summons dismissed	117
Lang v Core Community Services Pty Ltd t/as Our Lady of the Rosary Catholic Parish, Fairfield	[2019] NSWWC 3	WCC - Arbitrator Beilby	AMS not informed of prior award under s 66 WCA before MAC issued - matter remitted to AMS for reconsideration, but arbitrator declined to direct "mathematical recalibration" of s 323 deductible	27
Lang v Davcote Pty Ltd	[2019] NSWWC 275	WCC - Arbitrator Douglas	Arbitrator finds a MAC issued by an AMS was a nullity	41
Le Twins Pty Limited v Luo	[2019] NSWWCCPD 52	WCC - Adcting Deputy President Parker SC	Causation – assessment of WPI – Two distinct injuries occurred and combined assessment not permitted – neither individual assessment satisfied the threshold under s 66 (1) WCA – award for the respondent entered	48
Lecopoulos v Draft FCB Sydney Pty Ltd (deregistered)	[2019] NSWWCMA 173	WCC - Arbitrator Harris, Dr M Gibson & Dr B Noll	Section 323 WIMA – AMS failed to consider whether 1/10 deduction was at odds with the available evidence and failed to provide adequate reasons – MAC revoked	51
Lee v Bunnings Group Limited	[2021] NSWPICMP 203	PIC - Member McDonald, Dr M Burns & A/Prof C Grainge	Injury at work in 2010 resulted in an award under ss 66 & 67 WCA – Further s 66 claim for alleged deterioration - choice of Medical Assessor (MA) - diagnosis by MA different to injury as pleaded - assessment by analogy - MAC confirmed.	104
Lee v Fletcher International Exports Pty Ltd	[2022] NSWPIC 271	PIC - Member Whiffin	Whether the PIC would be exercising federal jurisdiction if it determined the dispute – Held: Federal jurisdiction would not be exercised as the respondent is neither a State nor a resident of a State	116
Lend Lease Project Management & Construction (Australia) Pty Limited v Usher	[2020] NSWWCMA 16	WCC - Arbitrator Wynyard, Dr R Pillemer & Dr M Gibson	Demonstrable errors regarding s 68A WCA & s 323 WIMA – Failure to properly apply s 323 WIMA regarding post-2002 injury – Deduction at odds with available evidence – MAC revoked	54

Leo Burnett Pty Ltd v Odgers	[2021] NSWPICMP 237	PIC - Member Wynyard, Dr M Burns & Dr B Stephenson	Complex Regional Pain Syndrome – MA failed to identify signs of pseudomotor/oedema in contravention of Table 17.1 & assessing WPI for the hand was impermissible - MA failed to apply s 323 deductible and a 10% deduction applied – MAC revoked and worker assessed on range of motion measurements (less the hand) taken by MA.	107
Lewin v Secretary, Department of Communities and Justice	[2019] NSWWCMA 163	WCC - Arbitrator Wynyard, Dr M Burns & Dr B Noll	Referral to AMS following Arbitral decision regarding consequential conditions – AMS contradicted Arbitrator’s findings in MAC – MAC revoked & s 323 WIMA deductible applied	50
Lifestyle Solutions (Aust) Ltd v Van den Berg	[2021] NSWPICMP 184	PIC - Member Wynyard, Dr N Glozier & Dr M Hong	AMS failed to disclose his path of reasoning – Re-examination conducted – MAC revoked	103
Lindsay v IMB Ltd	[2019] NSWWCPCD 7	WCC -DP Snell	Psychological injury - application of State Transit Authority of New South	31
Lindsay v ISS Property Services Pty Limited	[2019] NSWWC 269	WCC - Arbitrator Bell	Industrial deafness – hearing aids - worker failed to discharge his onus of proving noisy employment on relevant principles from Dawson v Dawson, Lobley and Makita	40
Lions v Prysmian Australia Pty Ltd	[2019] NSWWC 213	WCC - Arbitrator Sweeney	Worker did not establish an entitlement to weekly payments	36
Lismore City Council v Elliot	[2019] NSWWCMA 137	WCC - Arbitrator Harris, Dr D Dixon & Dr B Noll	No estoppel in a changing situation – AMS did not err by applying a deduction of 1/10 under s 323 WIMA contrary to the terms of a prior Complying Agreement	44
Lismore City Council v Elliot	[2019] NSWWCMA 137	WCC - Arbitrator Harris	No estoppel in a changing situation – AMS did not err by applying a deduction of 1/10 under s 323 WIMA contrary to the terms of a prior Complying Agreement	45
Livers v Legal Services Commissioner	[2018] NSWCA 319	Court of Appeal - Gleeson JA, Barrett AJA & Simpson AJA	Procedural fairness - NCAT determined an allegation that was not pleaded and deprived the solicitor of an opportunity for a successful outcome	27
Livers v Legal Services Commissioner	[2020] NSWCA 317	Court of Appeal - Ward CJ in Eq, White & McCallum JJA	Professional misconduct - Court upheld Solicitor's appeal against a protective order made by NCAT	85
Ljubisavljevic v Workers Compensation Commission of New South Wales	[2019] NSWSC 1358	Supreme Court of NSW - McCallum J	Judicial review – request for re-examination by MAP – MAP not bound to examine worker – COD entered before application for review of MAP’s decision – Arbitrator refused to rescind COD –MAP did not fail to engage with plaintiff’s arguments	44
Ljubisavljevic v Workers Compensation Commission of New South Wales	[2019] NSWSC 1358	Supreme Court of NSW - McCallum J	Judicial review – request for re-examination by MAP – MAP not bound to examine worker – COD entered before application for review of MAP’s decision – Arbitrator refused to rescind COD –MAP did not fail to engage with plaintiff’s arguments	45
Lopez v Lionel Veliz t/as Top Lift Scaffolding	[2021] NSWWCMA 29	PIC - Arbitrator Harris, Dr D Dixon & Dr B Noll	Table 4.2 of the Guidelines requires the presence of radiculopathy at the time of the AMS’ examination – AMS did not err in applying a 1/10 deduction under s 323 WIMA – AMS erred by giving insufficient reasons for describing the surgical scarring as “well-healed” – MAC revoked & fresh MAC issued	88
Ly v Jitt Offset Pty Ltd	[2021] NSWPCPD 2	WCC - Deputy President Wood	Principles applicable to the acceptance or rejection of expert evidence that is not rebutted by contrary medical opinion – Strinic v Sing [2009] NSWCA 15; Wiki v Atlantis Relocations (NSW) Pty Ltd [2004] NSWCA 174 considered and applied	90
Lympike Pty Ltd v Wehbe	[2019] NSWWC 158	WCC - Arbitrator Wright	Application for assessment by an AMS dismissed because there was no medical dispute under s 321 WIMA	34
Macarthur Group Training Ltd v Tahere	[2019] NSWWCPCD 46	WCC - Wood DP	Aggravation of a disease under s 4 (b) (ii) WCA - Rail Services Australia v Dimovski & Australian Conveyor Engineering Pty Ltd v Mecha Engineering Pty Ltd discussed and applied	42
Maguire v Lis-Con Services Pty Ltd	2020] NSWSC 3 – Campbell J	Supreme Court of NSW - Campbell J	Jurisdictional error – constructive failure to exercise jurisdiction	53
Mahal v The State of New South Wales (No. 2)	[2018] NSWWCPCD 38	WCC - Snell DP	WCC declines applications for recusal and reconsideration of a previous Presidential decision	23
Mahal v State of New South Wales (No 5)	[2019] NSWWCPCD 42	WCC - President Phillips DCJ	President refuses appellant’s applications: (1) to admit fresh evidence on appeal; (2) for reconsideration; (3) to re-open the matter; and (4) to state a case to the Supreme Court of NSW	41
Mahal v State of New South Wales (No 6)	[2019] NSWWCPCD 43	WCC - President Phillips DCJ	Application to extend time for an application to refer a question of law to the President is refused	41
Mahal v The State of NSW (No. 3)	[2018] NSWWCPCD 30	WCC - Snell AP	Parking Patrol Officer is not a Police Officer within the meaning of Sch 6 Pt 19H cl 25 WCA	21
Mahdavi-Aghdam v Imad’s Locksmith and Shoe repairs Pty Ltd	[2019] NSWWC 371	WCC - Arbitrator Burge	Was the applicant a worker – Did he suffer a consequential injury to his lumbar spine due to altered gait – Held: applicant was a worker, but he did not suffer a consequential injury to his lumbar spine	51
Maitland City Council v McInnes	[2021] NSWPCPD 22	PIC - Deputy President Snell	Sections 254 & 261 WIMA – “Special circumstances”	98

Malouf v Pandora Jewellery Pty Ltd	[2021] NSWPIC 265	PIC - Member Sweeney	Section 11A WCA – Complaint that the worker used racist and offensive language at morning tea – Employer prohibited the worker from communicating with other employees who were present while it investigated the complaint – Held: While its actions were exemplary in many respects, the employer’s actions were not reasonable as they deprived the worker of the opportunity to put his case at the highest	98
Mammone v Insurance Australia Limited t/as NRMA	[2021] NSWPIC 501	PIC - Member Williams	Claims Assessment – Claim for damages submitted to the insurer on the same day as the claim was referred to the PIC under Div 7.6 of the MAIA for assessment - No particulars or evidence provided when claim was lodged – No offer of settlement made or invitation to engage in settlement discussions – Held: Claimant did not use her best endeavours to settle the claim before referring it for assessment – Proceedings dismissed under s 54 of the PIC Act	107
Mani v Australian Pharmaceutical Industries Ltd	[2021] NSWWCC 63	PIC - Senior Arbitrator Capel	Worker entitled to one further assessment of permanent impairment by an AMS in accordance with Pt 2A of Sch 8 of the 2016 Regulation	89
Mani v Westpac Banking Corporation	[2019] NSWWCC 77	WCC - Arbitrator Paul Sweeney	Section 11A WCA – injury not wholly or predominantly caused by reasonable action in respect of discipline, performance appraisal or termination	32
Marciano v State of New South Wales (Ambulance Service of NSW)	[2022] NSWPICMP 26	PIC - Member Moore, Dr M Hong & Dr P Morris	MA erred in assessing impairment under PIRS by failing to consider Ballas v Department of Education (State of NSW) – MAC revoked	111
Marinic v RPC Interiors Management Pty Ltd	[2019] NSWWCCPD 110	WCC - Snell DP	Arbitrator erred in finding that a deceased worker was not a worker or a deemed worker	32
Marinic v RPC Interiors Management Pty Ltd	[2018] NSWWCC 281	WCC - Arbitrator Cameron Burge	Death Claim - Deceased was neither a worker nor a deemed worker	26
Marion Ewins v CSR Limited	[2019] NSWWCC 48	WCC - Arbitrator John Harris	Arbitrator refuses insurer's recusal application based upon apprehended bias	29
Marks v Secretary, Department of Communities and Justice	[2021] NSWSC 306	Supreme Court of NSW - Simpson AJ	Jurisdictional error – subordinate legislation – scope of empowering provisions – whether the guidelines are inconsistent with the primary legislation – whether the guidelines are beyond power	95
Marmara v Transdev NSW South Pty Ltd	[2022] NSWPIC 84	PIC - Senior Member Haddock	Psychological injury – dispute under s 60 WCA – s 11A WCA defence rejected	111
Marsh v Insurance Group Limited t/as NRMA Insurance Limited (No 2)	[2021] NSWSC 619	Supreme Court of NSW - Simpson AJ	Jurisdictional error – error of law on the face of the record – Section 69 (3) MACA 1999 – power requiring decision maker to consider whether there was reasonable cause to suspect material error in medical assessment –decision maker exceeded statutory role by determining asserted error on the merits	95
Marshall v Skilled Group Ltd	[2018] NSWWCCPD 44	WCC - Wood DP	WCC declines applications to extend time to appeal and to adduce fresh evidence	25
Martin v Insurance Australia Group Services	[2019] NSWWCCR 3	WCC - Delegate McAdam	Cl 28C of Sch 8 of the Regulation - Employer entitled to seek reconsideration of MAC as to whether the degree of permanent impairment is fully ascertainable	37
Martin v McLean Care Ltd t/as H N Memorial Retirement Village	[2019] NSWWCCMA 31	WCC - Arbitrator Marshal Douglas, Dr D Crocker & Dr B Stephenson	Demonstrable error - AMS not obliged to explain a difference of medical opinion	31
Martinez v Paraplegic & Quadriplegic Association of NSW	[2019] NSWWCCMA 111	WCC - Arbitrator Moore, Dr T Mastroianni & Dr B Noll	MAP satisfied that there was ample evidence of prior injuries to the right shoulder and that a deduction is required even though the pre- existing condition was previously asymptomatic - Vitaz applied	41
Martinovic v Workers Compensation Commission of New South Wales & Ors	[2019] NSWSC 1532	Supreme Court of NSW - N Adams J	Procedural fairness and jurisdictional error – decisions of Arbitrator and MAP quashed and matter remitted to WCC for determination by a different MAP	49
Marzifar v Allianz Australia Insurance Limited	[2021] NSWPIC 323	PIC - Member Williams	Claimant wholly at fault for accident – no exceptional circumstances established	102
Mascaro v Inner West Council	[2018] NSWWCCPD 29	WCC - Snell AP	The evaluative judgment of reasonableness in the context of s 11A WCA	21
Matilda Cruises Pty Ltd v Sweeny	[2018] NSWWCCPD 37	WCC - Snell DP	The nature of referral for assessment of the degree of permanent impairment under cl 11 & Pt 2A of Sch 2 of the Workers Compensation Regulation 2016	23
Mayo Private Hospital v Radnidge	[2022] NSWPICMP 28	PIC - Member Rimmer, Dr M Hong & Dr P Morris	Psychological injury – MA failed to refer to GP’s clinical notes which diagnosed anxiety & depression & indicates anti-depressant medication was prescribed 6 weeks prior to injury – Held: a 1/10 deduction is applicable under s 323 WIMA – MAC revoked & fresh MAC issued	111
McHughes v Brewarrina Local Aboriginal Land Council	[2018] NSWWCC 209	WCC - Senior Arbitrator Glenn Capel	Psychological injury and perception - decision in Attorney-General's Department v K followed	24
McKell v Woolworths Limited	[2019] NSWWCC 379	WCC - Arbitrator Batchelor	Section 11A WCA – Employer’s actions in relation to performance appraisal were not reasonable	52
McLaughlin v Employers Mutual NSW Limited	[2021] NSWSC 198	Supreme Court of NSW - Cavanagh J	Workers compensation insurer does not owe a duty of care to an injured worker	89
Megson v Staging Connections Group Ltd	[2019] NSWWCCPD 2	WCC - DP Snell	Alleged factual error - weight of evidence and test of causation	28

Melides v Meat Carter Pty Limited	[2019] NSWWCC 81	WCC - Arbitrator Anthony Scarcella	Worker with highest needs - the entitlement to weekly payments under s38A WCA commences on the date of the MAC and not on the date of the injury	31
Melides v Meat Carter Pty Limited	[2019] NSWWCCPD 48	WCC - Parker SC ADP	Construction of s 38A WCA – Hee v State Transit Authority of New South Wales applied – RSM Building Services Pty Limited v Hochbaum [2019] NSWWCCPD 15 distinguished	42
Mercy Connect Limited v Kiely	[2018] NSWSC 1421	Supreme Court of NSW - Harrison AsJ	Jurisdictional error on multiple grounds	24
Messent v Comdain Corporate Pty Ltd	[2022] NSWPIC 24	PIC - Senior Member Capel	Worker’s solicitors withdrew from proceedings - claim ill-conceived and matter not ready to proceed to a conciliation conference/arbitration due to absence of crucial evidence - worker had insufficient knowledge and capacity to act as an unrepresented litigant - worker’s conduct inappropriate - proceedings dismissed for want of due dispatch.	108
MetLife Insurance Limited v MX	[2019] NSWCA 228	Court of Appeal - Meagher, Gleeson & Payne JJA	TPD claim - whether insurer took into account irrelevant consideration and/or breached its contractual duty and/or acted reasonably and fairly	43
Metlife Insurance Ltd v Hellesey	[2018] NSWCA 307	Court of Appeal - McColl JA, Meagher JA & White JA	Life insurance - benefit conditional upon insurer's satisfaction as to claimant's total and permanent disablement - Insurer has overlapping obligations requiring it to act reasonably and fairly in considering questions under the policy and determining whether it was so satisfied	26
Michelle Gai Weston t/as Northmead Beauty Therapy (ABN 83824751583) v Szency	[2019] NSWWCCPD 38	WCC - President Phillips DCJ	Application of Paric v John Holland (Constructions) Pty Ltd, Mason v Demasi & Nguyen v Cosmopolitan Homes	37
Midcoast Council v Cheers	[2022] NSWPICPD 26	PIC - Deputy President Wood	Submissions made after the time period for doing so was closed – Member’s duty to provide reasons – Failure to consider submissions made – COD revoked & matter remitted for re-determination	117
Mifsud v Pitador Excavations Pty Limited t/as JD Concrete Pty Ltd	[2022] NSWSC 1010	Supreme Court of NSW - Campbell J	Jurisdictional error - judicial review of decision of appeal panel – where appeal panel confirmed MAC determining 13% WPI - whether the appeal panel asked itself the wrong question by confining itself to the precise grammatical meaning of the terms of the referral – Summons dismissed with costs	118
Mikhail v Universal Anodisers Pty Ltd	[2019] NSWWCC 346	WCC - Arbitrator Wright	Application for reconsideration of COD under s 350 (3) WIMA refused – Substantial merits not established on the available evidence	48
Miller v Secretary, Department of Communities and Justice (No 9	[2021] NSWPICPD 29	PIC - Deputy President Snell	Application of estoppel on the basis of Port of Melbourne Authority v Anshun Pty Ltd	101
Miller v State of New South Wales	[2018] NSWCA 152	Court of Appeal - McColl JA, Meagher JA & Leeming JA	Worker's death due to pre-existing asthma condition that was not aggravated by work	21
Mirarchi v CPA Australia Pty Ltd	[2017] NSWSC	Supreme Court of NSW - Adamson J	Jurisdictional error - AMS determined causation and excluded certain body parts from an assessment where there was no liability dispute	22
Moelker v State of New South Wales (Ambulance Service of New South Wales)	[2021] NSWPICMP 202	PIC - Member Perrignon, Dr J Parmegiani & Dr M Hong	Psychological injury – Whether Medical Assessor (MA) erred in assessing a impairments PIRS categories – Held: MAC revoked & a new MAC issued.	104
Monahan v R. H Anicich & A J Deegan & Others T/as Sparke Helmore Lawyers	[2019] NSWWCC 265	WCC - Arbitrator Homan	Psychological injury - Arbitrator awards compensation under s 66 WCA without referral to an AMS	40
Mondelez v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union known as the Australian Manufacturing Workers Union (AMWU)	[2019] FCAFC 138	Federal Court of Australia - Bromberg, Rangiah & O’Callaghan JJ	Meaning of the word “day” in the calculation of the entitlement to paid personal/carer’s leave under s 96 (1) of the Fair Work Act 2009 (Cth)	41
Mooney v White	[2021] NSWPIC 423	PIC - Member Batchelor	Applicant alleged that he was a full-time live-in caretaker on a rural property – Respondent disputed that there was a contract of service and that the injury arose out of or in the course of employment – Applicant could not remember what happened to him on the night he was injured, but 2.5 years later he asserted that he was dealing with work issues - Held: There was a contract of service, but the Applicant’s reconstruction was speculation and he did not discharge his onus of proof – Award for the respondent entered	104
Mooney v White	[2022] NSWPICPD 13	PIC - Deputy President Snell	Injury in the course of or arising out of employment – failure to respond to a substantial, clearly articulated argument relying upon established facts	113
Moran v Remondis Australia Pty Limited	[2021] NSWPIC 448	PIC - Member Wynyard	Psychological injury wholly and predominantly caused by transfer - Applicant’s expert’s opinion not established as assumptions not proven - Applicant’s credit in question - Award for the respondent entered.	105
Morcos v Deosa Enterprises Pty Limited	[2020] NSWWCCPD 73	WCC - Acting Deputy President Parker SC	Section 32A WCA – no current work capacity	83
Morris v Woolworths Group Limited	[2022] NSWPICPD 30	PIC - President Phillips DCJ	Section 4(b) WCA - failure to discharge the onus of proof to establish injury – Department of Education and Training v Ireland [2008] NSWWCCPD 134 applied – approach to contemporaneous documents - Onassis and Calogeropoulos v Vergottis [1968] 2 Lloyd’s Rep 403 and ET-China.com International Holdings Ltd v Cheung [2021] NSWCA 24 considered	119

Moston v Goldenfields Water County Council	[2019] NSWWCC 282	WCC - Arbitrator Burge	Psychological injury - Arbitrator allows surveillance reports to be included in the referral to the AMS	42
Muriniti v King; Newell v Hemmings	[2019] NSWCA 232	Court of Appeal (Payne & McCallum JJA & Simpson AJA)	Leave to appeal against personal costs orders refused – Registrar ordered to refer the papers to the Legal Services Commissioner with a recommendation to investigate whether the conduct of the applicants & L C Muriniti & Associates amounts to either unsatisfactory professional conduct or professional misconduct	44
Muriniti v King; Newell v Hemmings	[2019] NSWCA 232	Court of Appeal	Leave to appeal against personal costs orders refused – Registrar ordered to refer the papers to the Legal Services Commissioner with a recommendation to investigate whether the conduct of the applicants & L C Muriniti & Associates amounts to either unsatisfactory professional conduct or professional misconduct	45
Muriniti; Newell v Lawcover Insurance Pty Ltd	[2018] NSWCA 134	Court of Appeal - Beazley P	The Court dismissed the appellants' adjournment application where their Special Leave application to the High Court against the decision in King v Muriniti [2018] NSWCA 98 has not yet been determined	20
Myer Pty Limited v El Bayeh	[2020] NSWWCCMA 1	WCC - Arbitrator Wynyard, Dr M Burns & Dr R Fitzsimons – Arbitrator Bell, Dr G McGroder & Dr J Bodel	Demonstrable error on face of the MAC – Roads and Maritime Services v Rodger Wilson; NSW Police Force v Registrar of the Workers Compensation Commission discussed	53
Nader v A O Family Trust	[2019] NSWWCC 331	WCC - Arbitrator Homan	Worker failed to discharge his onus of proving that he suffered further injuries pursuant to s 4 (a) WCA	47
Naem v Ram Dubey	[2019] NSWWCC 353	WCC - Arbitrator Burge	Whether worker was an employee of the respondent – insufficient evidence to satisfy onus of proof that the worker was an employee of the respondent	49
Naidu v State of New South Wales	[2019] NSWWCCPD 59	WCC - DP Snell	Application to extend time under rule 16.2 (5) of the WCC Rules 2011 refused	51
Narrabri Shire Council v Bourke	[2019] NSWWCCMA 21	WCC - Arbitrator Moore, Prof. N Glozier & Dr P Morris	Psychological injury - significant prior history of psychiatric conditions - s 323 WIMA deductible inadequate - MAP applied a 50% deductible	30
Narromine Shire Council v Sladek	[2019] NSWWCCMA 30	WCC - Arbitrator Harris, Dr D Crocker & Dr D Dixon	"Fully ascertainable" is not limited to the meaning of "maximum medical improvement" - the AMS erred in finding that permanent impairment was not fully ascertainable because of the possibility of future surgery	31
National Transport Insurance Limited v Chapman	[2019] NSWWCCPD 54	WCC - Deputy President Wood	Sections 4, 105 and 287-289 WIMA – WCC has no jurisdiction to determine a dispute between a claimant and an insurer where the insurer is not a licensed insurer for the purposes of WIMA	49
Negi v Nass Consulting Pty Ltd	[2021] NSWPICPD 8	PIC - Deputy President Wood	Application for extension of time to appeal – admission of additional evidence on appeal – whether exceptional circumstances exist and whether failure to admit new evidence would cause substantial injustice – consideration of objective evidence when witness evidence is unreliable	94
Negi v Nass Consulting Pty Ltd (No 2)	[2021] NSWPICPD 9	PIC - Deputy President Wood	Admission of additional evidence on appeal – whether exceptional circumstances exist and whether failure to admit new evidence would cause substantial injustice	94
Nesci v Secretary, Department of Industry	[2020] NSWWCCMA 6	WCC - Arbitrator Batchelor, A-Prof M Fearnside & Dr B Noll	AMS properly examined body systems and recorded his findings that resulted in correct assessments of 0% WPI – No demonstrable error despite AMS' failure to refer to the opinions of the qualified specialists – MAC confirmed	54
Nguyen v Pasarela Pty Ltd	Nguyen v Pasarela Pty Ltd	Supreme Court of NSW - Adamson J	Error of law on the face of the record – whether AMS failed to properly explain path of reasoning – whether MAP erred in finding no error in the AMS' application of the Guidelines	82
Nguyen v Pasarela Pty Ltd	M1-2738/196	WCC - Arbitrator Egan, Professor Nicholas Glozier & Dr Julian Parmegiani	Apportionment of permanent impairment for effects of later injury	21
Nicol v Macquarie University	[2018] NSWSC 530	Supreme Court of NSW - Harrison AsJ	Jurisdictional error by MAP in respect of apportionment - matter remitted to WCC for re-determination by a differently constituted MAP	20
Nicol v Macquarie University	[2018] NSWSC 530	Supreme Court of NSW - Harrison AsJ	Jurisdictional error by MAP in respect of apportionment - matter remitted to WCC for re-determination by a differently constituted MAP	20
Nikolovski v McDonalds Australia Limited	[2021] NSWPIC 55	PIC - Member Young	Mixed psychological and arguably unrelated frontal lobe pathology – Parties disagreed regarding the speciality of the Medical Assessor – Held: the effect of WIMA and Procedural Direction PIC 6 as well as SIRA Guidelines is that a Member has power to remit a matter to the President for referral to a Medical Assessor, but where the parties cannot agree on the appropriate assessor or his/her speciality it is the President who chooses the assessor.	91
Nizamdeen v University of New South Wales	[2022] NSWPIC 17	PIC - Member Isaksen	Worker was arrested at work on terrorist charges and was remanded in custody for a month before it was found that he was set up by a co-worker – Held: the worker did not sustain an injury arising out of or in the course of his employment	107
Nonconformist Pty Ltd v Fisher	[2021] NSWPICPD 26	PIC - Deputy President Wood	Epidemiological evidence and the question of causation – Principles applicable to establishing error in accordance with s 352 (5) WIMA	100

Norton v Anambah Constructions Pty Ltd	[2019] NSWWCMA 121	WCC - Arbitrator Wynyard, Dr D Dixon & Dr B Noll	Demonstrable error due to AMS' failure to give proper reasons, but MAP has no power to correct errors that are not the subject of the appeal where the MAC is confirmed	42
O'Brien v L & M Pittari Transport Pty Limited	[2020] NSWWC 16	WCC - Arbitrator Scarcella	Intramedullary lengthening nail is an artificial aid within the meaning of s 59A (6) WCA – Pacific National Pty Limited v Baldacchino applied	54
O'Grady v Interactive Community Care Pty Ltd	[2021] NSWPICMP 119	PIC - Member Moore, Dr J Parmegiani & Dr M Hong	Schizophrenia is a biological condition and does not occur as a result of life events	98
Obeid v AAI Ltd t/as AAMI	[2022] NSWPICMP 76	PIC - Principal Member Harris, Dr D Dixon & Dr G Stubbs	MAI Act 2017 - MRP has no power to determine a claim for medical expenses not incurred and not provided	113
Oberon Council v Barton	[2018] NSWWCMA 100	WCC - Arbitrator Gerard Egan, Dr L Kossof & Dr J Parmegiani	Psychological injury - PIRS class descriptors are 'examples only' and AMS must consider the circumstances of each case and exercise own clinical judgment	24
Odzic v Watt Export Pty Ltd	[2019] NSWWC 42	WCC - Arbitrator Michael Perry	Worker not disentitled to weekly compensation by reason of the former s 52A (4) WCA where there was a significant deterioration in his condition since the previous award of the Compensation Court (in 1999) and WCC (in 2010) - WCC has jurisdiction to determine the ARD	29
Oeding-Erdel v Allianz Australia Insurance Limited	[2021] NSWSC 1264	Supreme Court of NSW - McCallum JA	Judicial review – Proper officer of SIRA refused an application for review of a medical assessment – Proper officer fell into jurisdictional error by misconstruing the nature of the jurisdiction committed to her under s 63(3) of the MACA	103
OneSteel Reinforcing Pty Ltd t/as Liberty OneSteel Reinforcing v Dang	[2022] NSWPICPD 32	PIC - Deputy President Wood	Anshun Estoppel - reasonableness – raising a new issue on appeal – factual error	120
Ooi v NEC Business Solutions Ltd (No 2)	[2020] NSWWCPCD 68	WCC - Deputy President Snell	Reconsideration under s 350 (3) WIMA refused	81
Oudicho v CIC Allianz Insurance Limited	[2022] NSWPIC 152	PIC - Member Ford	For the purposes of ss 3.11 & 3.28 of the MAIA, the MVA was caused wholly by the fault of the injured person	114
Ozcan v Macarthur Disability Services	[2019] NSWWC 310	WCC - Arbitrator Wynyard	Claim for aggregation of 3 injuries assessed by AMS on the basis that the first injury materially contributed to the later 2 injuries – AMS directed to apportion between the 3 injuries – Argument rejected & award for the respondent entered	45
Ozcan v Macarthur Disability Services Ltd	[2021] NSWCA 56	Court of Appeal - Macfarlan & McCallum JJA & Simpson AJA	Section 66 WCA – whether WPI resulting from multiple injuries should be aggregated – Held: all injuries “resulted from” and “arose out of” the first incident – Appeal against decision of a presidential member in point of law – Presidential member erred in construing ss 322 (2) and (3) WIMA	91
Pacific National Pty Ltd v Baldacchino	[2018] NSWCA 281	Court of Appeal - Macfarlan JA, Payne JA & Simpson AJA	Court confirms that a total knee replacement is an 'artificial aid' within the meaning of s 59A (6) (a) WCA	25
Page v Workers Compensation Nominal Insurer	[2021] NSWPIC 445	PIC - Member Isaksen	Section 9AA WCA - Worker not entitled to benefits under WCA merely by being injured while working in NSW - Worker failed to establish that she usually works or is usually based in NSW in her employment with the first respondent – First respondent's principal place of business was in Queensland	105
Palasty v Lendlease Building Pty Limited	[2021] NSWPICPD 19	PIC - Acting Deputy President Parker SC	Appellant failed to prove employment was main contributing factor - No challenge to Arbitrator's factual findings - Requirement for the appellant to demonstrate error of fact and law or discretion per Raulston v Toll Pty Limited [2011] NSWWCPCD 25; 10 DDRCR 156; Northern NSW Local Health Network v Heggie [2013] NSWCA 255; 12 DDCR 95; application of State Transit Authority of New South Wales v Chemler [2007] NSWCA 249; 5 DDCR 286 and Attorney General's Department v K [2010] NSWWCPCD 76; Application of Federal Broom Co Pty Limited v Semlitch [1964] HCA 34; 110 CLR 626 on the question of causation	97
Pan v Hygrade Trade Services Pty Ltd	[2019] NSWWCMA 9	WCC - Arbitrator McDonald, Dr G McGroder & Dr B Noll	Demonstrable error - AMS did not set out path of reasoning that led to him disregarding complaints of right lower extremity impairment when assessing lumbar spine, but the assessment rating was appropriate	29
Papadellis v Tyree Industries Pty Ltd	[2019] NSWWC 372	WCC - Senior Arbitrator Capel	Estoppel by conduct – An employer (who paid for lumbar surgery) is not estopped from disputing that the worker suffered injury to the lumbar spine	51
Papera v Equity Transport Group Pty Ltd	[2022] NSWPIC 421	PIC - Member Rimmer	Worker made a claim under s 66 WCA in respect of the left upper extremity and scarring – respondent argued that she was not entitled to make a further claim as that would contravene s 66(1A) WCA and 322A WIMA – Held: the worker had amended her claim made in 2020 and this claim was not a second claim and that it was in the interests of justice to exercise the discretion under s328(1A) WIMA to refer the matter for further assessment.	120

Parker v Warrumbungle Shire Council	[2022] NSWPIC 160	PIC - Senior Member Haddock	Worker sought declaration that he was not required to attend an earning capacity assessment under s 44A WCA where liability was disputed – Held: No dispute before the PIC and it lacks jurisdiction to make the declaration sought	114
Parsons v Corrective Services NSW	[2018] NSWWCC 227	WCC - Arbitrator Philip Young	Provision of an assistance dog and costs of maintaining the dog are reasonably necessary medical and related treatment expenses under s 60 WCA	24
Parsons v Dell Australia Pty Ltd	[2019] NSWWCC 210	WCC - Senior Arbitrator Glenn Capel	Application for reconsideration of COD refused	35
Parsons v Dell Australia Pty Ltd	[2020] NSWWCCPD 2	WCC - DP Wood	The exercise of discretion to reconsider a COD – factors to consider – Samuel v Sebel Furniture Ltd applied - No error of discretion	54
Pascoe v Mechita Pty Ltd	[2019] NSWSC 454	Supreme Court - Button J	Denial of procedural fairness - MAP considered material without giving the worker notice of it	32
Patel v Philip Leong Stores Pty Ltd	[2021] NSWPIC 493	PIC - Delegate Gamble	Work capacity dispute – physical injury and secondary psychological condition – suitable employment under s 32A WCA – WCD set aside	106
Paterson v Paterson Panel Workz Pty Ltd	[2018] NSWWCCPD 27	WCC - Keating P	WCC lacks power to make an order under s 53 WCA after the end of the second entitlement period in the absence of an award for weekly payments	21
Patrick Stevedore Holdings Pty Ltd v Viera	[2019] NSWWCCPD 12	WCC - Wood DP	The principles that apply to disturbing factual findings - Raulston v Toll Pty Ltd & Najdovski v Crnojilovic applied - Section 50 WCA - NSW Police Service v Azimi applied	32
PDF Food Services Pty Ltd v McLennan	M1-003568/17	WCC - Arbitrator Dalley, Dr D Crocker & Dr B Noll	Demonstrable error in the calculation of a deductible under s 323 WIMA	22
Pearson v Carey's Freight Lines (Tamworth) Pty Ltd	[2019] NSWWCCMA 104	WCC - Arbitrator Wynyard, Dr J Parmegiani & Dr N Glozier	Fresh evidence rejected on appeal because it was of no probative value	40
Peel v AAMI	[2021] NSWPIC 495	PIC - Member Medland	Assessment of damages and liability under Part 4 of MAIA 2017 – Insured driver breached duty of care and no finding of contributory negligence made against claimant – Damages awarded and costs penalty of 25% applied for unreasonable denial of liability.	107
Penrith Rugby League Club Ltd v Jenkins	[2018] NSWWCCMA 106	WCC - Arbitrator Rimmer, Dr M McGlynn & Dr D Crocker	Demonstrable error established but no change in WPI assessment and MAC confirmed	25
Penrith Rugby League Club Ltd v Van Poppel	[2018] NSWWCCPD 55	WCC - AP Snell	Arbitrator erred in the construction of s 17 (1) (a) WCA in a hearing loss claim	28
Peric v State of New South Wales (NSW Health Pathology)	[2019] NSWWCC 332	WCC - Arbitrator Dalley	Extent of a worker's capacity was disputed at hearing - Request for reconsideration of a decision granted where the decision was based upon an incorrect assumption that the parties had agreed to the length of incapacity	47
Perry v George Weston Foods Limited	[2021] NSWSC 359	Supreme Court of NSW - Rothman J	Jurisdictional error and error of law on the face of the record – PIRS – wrong classification – irrelevant consideration – failure to disclose part of reasoning.	91
Petreski v The Ors Group Pty Ltd	[2019] NSWDC 417	District Court of NSW - Abadee DCJ	Statement of Claim struck out as being materially different to the draft pleading attached to the Pre-Filing Statement	41
Pirie v State of New South Wales (NSW Police Force)	[2022] NSWPICPD 4	PIC - Acting Deputy President Parker SC	Leave to appeal an interlocutory decision refused – Reg 44 of the Workers Compensation Regulation 2016 – Employer relied on reports from 2 orthopaedic surgeons - Worker refused to attend a re-examination by the first expert and he agreed to be examined by the second medical expert	108
Powell v Gotcha Pty Ltd	[2020] NSWWCC 389	WCC - Arbitrator Sweeney	Claim under s 66 WCA – Worker returned to live in UK within a week of making her claim – Respondent's application to strike out application refused – Worker's application for Arbitrator to determine impairment declined – Matter remitted to Registrar for referral to an AMS	81
Prakash v Novartis Australia	[2019] NSWWCCMA 69	WCC - Arbitrator Richard Perrignon, Dr P Harvey-Sutton & Dr J B Stephenson	MAP upheld AMS' decision to apply a 50% deductible for pre-existing impairment as he complied with the 3-step test in Cole v Wenaline	35
Prince v Seven Network (Operations) Limited	[2019] NSWWCC 313	WCC - Arbitrator Burge	The Applicant (a contestant on a reality TV show) suffered a psychological injury due to deteriorating relationships within the alleged workplace and the way that the respondent portrayed her on social media - Held: the applicant was a worker (and/or a deemed worker) and her employment was both the main contributing factor and substantial contributing factor to the injury.	44
Procedural review decision no. 2118	WIRO - 15 October 2018	Wayne Cooper - Director, Work Capacity Decisions	WIRO lacks prerogative powers and is unable to interfere with an insurer's decision under s 38 (3) WCA	25
Proctor v Paragon Risk Management Pty Limited	[2021] NSWPIC 382	PIC - Member Haddock	Further lumbar decompression and fusion surgery is reasonably necessary	102
Puntigam v Tyzebet Pty Ltd	[2019] NSWWCCMA 169	WCC - Arbitrator Rimmer, Dr D Dixon & Dr M Burns	Demonstrable error in MAC – AMS applied a deduction of 10/10 under s 323 WIMA for an injury that was previously determined by the Commission – MAC revoked	51

Purday v State of New South Wales (NSW Rural Fire Service)	[2019] NSWWC 324	WCC - Arbitrator Sweeney	An Adjustment disorder resulting from physical injury was also materially contributed to by a return to work program and is therefore a primary psychological injury for the purposes of s 65A WCA	46
Purtell v Workers Compensation Nominal Insurer (iCare) & Others	[2020] NSWWC 393	WCC - Arbitrator Edwards	Section 9AA WCA – industrial deafness – the state in which the worker usually worked could not be identified – worker worked out of 2 bases (one in NSW & the other in Victoria) and neither could be said to be the place where he was usually based – employer’s principal place of business was in Victoria – Held: employment not connected with NSW	81
Queanbeyan Racing Club Ltd v Burton	[2021] NSWCA 304	Court of Appeal - Basten, Leeming & McCallum JJA	Judicial review – jurisdictional error – extent of functions and powers of MRP – procedural unfairness – scope of procedural fairness determined by reference to statutory scheme – no opportunity given to address MRP on definition of medical condition – medical experts’ function is to form opinion as to medical condition – MRP restricted to determining whether error in applicant’s grounds of appeal – no expansion of MRP’s functions	106
Radanovic v Corporate Interfirm Pty Ltd	[2020] NSWWC 404	WCC - Senior Arbitrator Bamber as delegate of the Registrar	Application to correct an alleged obvious error in a MAC under s 325 (3) WIMA refused	82
Rahman v Al-Maharmeh	[2021] NSWCA 31	Court of Appeal - Meagher, Leeming & Brereton JJA	MACA 1999 - Time limits - Leave to appeal against interlocutory decision	90
Rail Corporation NSW v Aravanopoulos	[2019] NSWWC 65	WCC - DP Snell	Section 11A WCA – reasonable action with respect to discipline – duty to afford procedural fairness	53
Raina v CIC Allianz Insurance Limited	[2021] NSWSC 13	Supreme Court of NSW - Campbell J	Jurisdictional error – procedural fairness - “appropriateness” of medical assessors - unfair for MRP to refer to medical literature not provided to the plaintiff	86
Rainbow Legal Group Limited v Carrabs	[2019] NSWWC 58	WCC - President Phillips DCJ	Findings of fact were available on the evidence – Davis v Council of the City of Wagga Wagga [2004] NSWCA 34 – COD confirmed	50
Ramsey v Trustees of the Roman Catholic Church for the Diocese of Parramatta	[2019] NSWWC 102	WCC - Arbitrator Harris	Arbitrator determines dispute as to work capacity under s32A WCA and awards weekly payments under ss 36 & 37 WCA	32
Rasimoglou v Décor Painting Pty Ltd	[2019] NSWWCMA 96	WCC - Arbitrator McDonald, Dr D crocker & Dr B Noll	MAP confirms the application of a 1/3 deductible under s 323 WIMA	37
Ratewave Pty Ltd t/as Manly Pacific Hotel Sydney v Radek	[2021] NSWWCMA 6	WCC - Arbitrator Peacock, Prof N Glozier & Dr P Morris	Demonstrable error – AMS is required to make an independent assessment having due regard to other evidence before them and not relying solely on a worker’s self-report	85
Raynam v Baxter Healthcare Pty Ltd	M1-1004/18	WCC - Arbitrator Perrignon, Dr P Harvey-Sutton & Dr B Stephenson	Before making any deduction under s 323 WIMA an AMS must first identify a previous injury or pre-existing condition or abnormality	22
Razmovski v UGL Rail Services	M1-001615/18	WCC - Delegate Gamble	No ground of appeal under s 327 (3) WIMA established	24
RCR Stelform (VRBT) Pty Ltd v Palmer	[2019] NSWWC 6	WCC - DP Snell	Principles relevant to raising a new issue on appeal - whether actual earn	31
Reln (Manufacturing) Pty Ltd v Smith	[2018] NSWWC 51	WCC - Wood DP	Material facts were overlooked or given too little weight	26
Reln (Manufacturing) Pty Ltd v Smith	WCC 2482/19	Registrar’s Delegate - Arbitrator Egan	Calculation of PIawe – vehicle provided for performance of work only is not a “non-pecuniary benefit” for the purposes of s 44F WCA	36
Renew God’s Program Pty Ltd v Kim	[2019] NSWWC 45	WCC - Snell DP	Section 9B WCA - Duty to give reasons	42
Ritson v State of New South Wales	[2021] NSWPIC 409	PIC - Member Harris	Multiple injuries suffered in 2006 (including injury to the right thumb) – A Deed executed in 2011 provided for payment of substantial damages to the worker and it referred to the right thumb injury – In 2021, the worker incurred medical expenses totalling \$825 for treatment to his right thumb but the respondent denied liability under s 151A WCA – Worker is a resident of Queensland – Held: the matter was between a State and a resident of another State within the meaning of s 75(iv) of the Constitution and the PIC lacks jurisdiction.	103
Riva NSW Pty Ltd (ACN 113 881 815) v Mark A Fraser & Christopher P Clancy t/as Fraser Clancy Lawyers (ABN 27 526 211 743)	[2019] NSWDC 348	District Court - Judge Wilson SC	Plaintiff ordered to payment costs on an indemnity basis plus interest - Plaintiff misled the Court, knowingly swore a false affidavit and conducted vexatious litigation – Individuals behind the Plaintiff referred to ASIC and ODPP for investigation and/or prosecution – Plaintiff’s legal representatives referred for disciplinary action	37
Roddenby v Bunnings Group Limited	[2021] NSWPIC 213	PIC - Member Young	Issue estoppel; Consent Orders in prior proceedings in 2019 regarding award for the respondent for costs of lower back surgery; worker later claimed compensation under s66 WCA for the lower back injury after surgery; respondent argued that the Consent Orders estopped the worker from making that claim; Held- Worker not estopped from making the claim	97
Romeo v Vangarde Pty Ltd	[2020] NSWWC 71	WCC - Deputy President Wood	Factors to take into account when determining whether to allow a reconsideration of a decision – Samuel v Sebel Furniture Ltd [2006] NSWWC 141 applied	83

Ross v State of New South Wales	[2020] NSWWCMA 3	WCC - Arbitrator Moore, Dr R Crane & Dr J B Stephenson	Injury to left knee – prior knee replacement – Arbitrator held that this was work-related - AMS applied a 50% deductible for the previous replacement and a further 50% deductible based upon his own view regarding causation - MAP found error and revoked the MAC	53
RSM Building Services Pty Ltd v Hochbaum	[2019] NSWWCPCD 15	WCC - President Phillips DCJ	Interpretation of s 39 WCA – Worker not entitled to back-payment of weekly compensation between the date payments ceased and the date of the assessment of more than 20% WPI – Decision in Kennewell distinguished on its facts	32
Ryan v Gault	[2019] NSWWCMA 118	WCC - Arbitrator Douglas, Dr R Crane & Dr M Gibson	MAP finds demonstrable error as AMS did not set out the path of reason for assessment of scarring, but re-assessed the scarring as 0% - MAC revoked and WPI assessment was reduced from 13% to 11%	41
S L Hill and Associates Pty Ltd (De-registered) v Hill	[2019] NSWWCPCD 37	WCC - DP Wood	Death claim – arising out of or in the course of employment – determination of appeal against re-determination following remitter	37
Saade v Sydney Night Patrol Inquiry Co Pty Ltd t/as SNP Security	[2021] NSWPIC 53	PIC - Member Haddock	Work capacity – injury to left ankle and heel, consequential injury to lumbar spine and secondary psychological condition – Worker fit for sedentary work as a result of physical injuries, but he has no current work capacity as a result of his psychological injury	91
SAI Global Ltd v Sefin	[2019] NSWWCMA 132	WCC - Senior Arbitrator Capel, Dr R Pillemer & Dr M Burns	Demonstrable error – worker failed to disclose prior injury to AMS – Degenerative changes indicated in pre-injury CT scan justify deductible under s 323 WIMA	43
Sara v G & S Sara Pty Ltd	[2021] NSWPIC 286	PIC - Member Harris	Section 19B WCA – The deceased contracted COVID-19 and died whilst working in New York – The respondent provided dental technician services in Australia and the USA and paid the wages of its Australian employees – Held: The virus was probably contracted during the period of travel to the USA, which included passing through customs at San Francisco – There was no evidence that the deceased’s employment was transferred to a US company – Therefore, the virus was contracted in the course of employment	99
Sarcasmo v AAI Limited t/as GIO	[2021] NSWPIC 337	PIC - Member Williams	ACCIDENTS - Miscellaneous assessment – Held: insured driver was keeping a proper lookout and did not breach the duty of care owed and the accident was not caused by the fault of the insured driver - Accident caused wholly by the fault of the claimant.	100
Sarheed v C1 Formwork Group Pty Limited	[2021] NSWPICPD 7	PIC - President Judge Phillips DCJ	Section 352 (6) WIMA – Leave to adduce fresh evidence refused	94
SAS Trustee Corporation v Miles	[2018] HCA 55	High Court of Australia - Kiefel CJ, Bell, Gageler, Nettle & Edelman JJ	"Incapacity for work outside the police force" in s 10 (1A) (b) (ii) of the Police Regulation (Superannuation) Act 1906 (MSW) means "incapacity for work outside the police force from a specified infirmity of body or mind determined to have been caused by being hurt on duty when a member of the police force	25
Savage v That’s Power Pty Ltd t/as Powertruss	[2019] NSWWCMA 174	WCC - Arbitrator Bell, Dr M Gibson & Dr M Burns	Demonstrable error – AMS erred by applying a deductible under s 323 WIMA comprising “apportionment” of 10% WPI based on DRE Lumbar Category III adopted from previous surgery – Held: correct deductible is 1/10 under s 323 (2) WIMA – Cole v Wenaline Pty Ltd, Fire & Rescue NSW v Clinen & Vitaz v Westform (NSW) Pty Limited applied	51
SB v XFPL	[2022] NSWPICPD 7	PIC - Deputy President Snell	Death benefits claim under ss 25 & 26 WCA – Injury arising out of employment (s 4 WCA)	111
Sbrana v Toll Holdings Pty Ltd t/as Toll Priority	[2018] NSWWC 256	WCC - Arbitrator McDonald	Risk of poor outcome does not mean that treatment is not reasonably necessary	25
Schembri v Blacktown City Council	[2019] NSWWC 358	WCC - Arbitrator McDonald	Consequential condition – Kooragang Cement v Bates & Kumar v Royal Comfort Bedding discussed – Arbitrator not satisfied that disputed right shoulder injury was a consequence of the accepted left shoulder injury	50
Schrader v Forestry Corporation of NSW	[2019] NSWWCMA 83	WCC - Arbitrator Douglas, Dr R Mellick & Dr J Dixon Hughes	AMS applied incorrect assessment criteria in assessing permanent loss of efficient use of the sexual organs under the Table of Disabilities	36
Scone Race Club Limited v Cottom	[2021] NSWPICPD 33	PIC - Deputy President Wood	Section 352 WIMA – Leave to appeal an interlocutory decision – s 352(6) WIMA – additional evidence admitted on appeal – s 329 WIMA – referral of matter for further assessment or reconsideration – procedural fairness – decision should be based on the issues litigated in the matter – a party must have an opportunity to deal with matters adverse to their interests	103
Scone Race Club Ltd v Cottom	[2019] NSWCA 260	Court of Appeal	Employer did not breach its duty of care to the worker – Court refuses worker’s application for leave to raise an argument by a notice of contention	48
Searle v House With no Steps	[2018] NSWWCMA 44	Arbitrator Brett Batchelor, Dr D Dixon & Prof M Fearnside	AMS fell into demonstrable error by focussing upon the contribution of a pre-existing spondylolisthesis to the need for spinal fusion surgery rather than its contribution to the degree of permanent impairment.	19

Secretary, Department of Communities and Justice v Galea	[2021] NSWWCCPD 1	WCC - Deputy President Snell	Injury arising out of employment – application of Badawi v Nexon Asia Pacific Pty Limited trading as Commander Australia Pty Limited [2009] NSWCA 324 – ss 9A (2) and 9B) WCA – Application of Renew God’s Program Pty Ltd v Kim [2019] NSWWCCPD 45	85
Secretary, Department of Communities and Justice v Topic	[2020] NSWSC 1824	Supreme Court of NSW - Adamson J	Decision of Registrar’s delegate to refuse to refer an appeal to a MAP was not affected by jurisdictional error	83
Secretary, Department of Education v BB	[2021] NSWPICPD 21	PIC - Deputy President Wood	Section 11A WCA – requirement for medical opinion where several potentially causative events may have contributed to the psychological injury – Hamad v Q Catering Limited [2017] NSWWCCPD 6 discussed and applied – application of s 34 WCA – the maximum statutory cap on weekly payments	97
Secretary, Department of Education v O’Sullivan	[2021] NSWPICMP 211	PIC - Member Peacock, Dr J Parmegiani & Dr D Andrews	Psychological injury – Pre-existing psychological condition – Finding that pre-existing condition has not contributed to the level of permanent impairment was available on the evidence – MAC confirmed	105
Secretary, Department of Education v Sadler	[2021] NSWPICPD 25	PIC - Deputy President Snell	Weight of evidence in the PIC – Application of Onesteel Reinforcing Pty Ltd v Sutton [2012] NSWCA 282 - Failure to examine all of the material relevant to the particular issue – application of Waterways Authority v Fitzgibbon [2005] HCA 57; 79 ALJR 1816	99
Secretary, Department of Industry v Nesci	[2019] NSWWCCMA 172	WCC - Arbitrator Douglas, Dr J Parmegiani & Dr P Morris	Psychological injury – Employer argued AMS erred by not adopting correct approach to disregard secondary psychological injury – Discussion of Mercy Connect Limited v Kiely – MAC confirmed	51
Secretary, Ministry of Health v Dawson	[2019] NSWWCCPD 30	WCC - DP Snell	Voluntary ambulance worker within the meaning of cl 16 of sch 1 WIMA – meaning of “in cooperation with the Health Administration Corporation”	36
Secretary, New South Wales Department of Education v Johnson	[2019] NSWCA 321	Court of Appeal - Macfarlan JA, Emmett AJA & Simpson AJA	Causal relationship between injury and incapacity – the extent to which the permanent impairment is the result of the first injury as distinct from the second injury	54
Shakiri v Bluescope Steel Limited	[2020] NSWWCCMA 12	WCC - Arbitrator Wynyard, Dr P Harvey-Sutton & Dr J Ashwell	Grounds of appeal based on unproven factual assumptions and further grounds based on mis-reading of AMS’ findings – Appeal rejected	53
Shankar v Ceva Logistics (Australia) Pty Limited	[2021] NSWPICPD 18	PIC - Acting Deputy President Parker SC	Assessment of permanent impairment – whether a Member can decline to refer a body part for assessment by a medical assessor	96
Sharney Kay Lees by her Tutor Diane Carol Wood v Caltex Australia Petroleum Pty Ltd	2623/18	WCC - Arbitrator McDonald	Adult child of deceased was partially dependent upon him due to a reasonable expectation of support from him at a future time	22
Shoalhaven City Council v Booth	[2019] NSWWCCPD 47	WCC - ADP King SC	Psychological injury – Employer’s actions were not reasonable within the meaning of s 11A WCA	43
Simmons v Dora Creek and District Workers Co-operative Club Ltd	[2019] NSWWCCMA 7	WCC - Arbitrator Dalley, Dr J Ashwell & Dr P Harvey-Sutton	Multiple injuries - AMS' deduction of 10% under s 323 WIMA upheld	28
Simon v Master Windows Pty Ltd	[2018] NSWWCC 242	WCC - Arbitrator Perrignon	Consent awards and notations contained in a COD do not estop a worker from claiming compensation for further permanent impairment or alleging deterioration since the award was made	25
Singh v B & E poultry Holdings Pty Ltd	[2018] NSWWCCPD 52	WCC - Snell DP	Worker not entitled to obtain a further MAC where ARD was discontinued before a COD was issued	27
Singh v Redi-Strip Australia Pty Limited	[2019] NSWWCC 90	WCC - Arbitrator Sweeney	Injury - absence of treatment over a long time is inconsistent with the persistence of symptoms - no corroboration of the occurrence of the injury with contemporaneous documents	31
Single v Workers Compensation Nominal Insurer	[2018] NSWDDT 9	Dust Diseases Tribunal - Russell SC DCJ	Plaintiff not entitled to double compensation - the injured party should receive compensation which would put them in the same position they would have been in had the tort not been committed	26
Skates v Hills Industries Ltd	[2021] NSWCA 142	Court of Appeal - Basten, Leeming & McCallum JJA	Referral of medical dispute to approved medical officer – whether approved medical officer is confined to an assessment of the body parts and systems specified by the Registrar in the Referral	97
Skewes v SP Allen Pty Limited	[2021] NSWPICMP 198	PIC - Member Moore, Dr B Noll & Dr M Burns	Medical assessor erred in the preparation of the Table annexed to the MAC – MAC revoked	103
Slade v Peter James Rogers t/as The Little Green Truck Mid North Coast	[2020] NSWWCC 6	WCC - Arbitrator Egan	Alleged consequential condition – what degree of precision in medical histories of expert examiners is required?	53
Sleiman v Gadalla Pty Ltd	[2021] NSWSC 86	Supreme Court of NSW - Harrison AsJ	Review of decision of Delegate of the Registrar – Delegate did not exceed the “gatekeeper” role under s 327 WIMA by dismissing the appeal on the basis of jurisdiction – No appeal lies from the MAC of a MAP to another MAP under s 327 – No appeal lies under s 327 (3)(a) after the issue of a COD – The appeal was not a “threshold dispute”	87
Sleiman v Gadalla Pty Ltd	[2021] NSWCA 236	Court of Appeal - Gleeson, Leeming & Payne JJA	A further appeal from a decision of a MAP on grounds of deterioration should have been treated as an application for reconsideration	101
Smith v Blacktown City Council	[2019] NSWWCC 335	WCC - Arbitrator Isaksen	Aggravation of a pre-existing disease in the cervical spine materially contributed to the need for spinal fusion surgery	47

Smith v G James Extrusion Co Pty Ltd	[2018] NSWWCMA 56	WCC - Arbitrator Sweeney, Dr Henley Harrison & Dr J Scoppa	AMS erred in applying a time-weighted apportionment under s 323 WIMA for noise-induced hearing loss arising from prior employment outside NSW	20
Smith v Westrac Pty Ltd	[2019] NSWWCC 73	WCC - Arbitrator Young	Psychological condition and subsequent heart attack - Connair Pty Ltd v Fredericksen followed - Did work have the inherent tendency to cause heart condition? - Section 9B WCA did not apply and the worker could claim for heart attack	30
Sohailee v City Projects & Developments Pty Ltd	[2019] NSWSC 1452	Supreme Court of NSW - Cavanagh J	Amended Statement of Claim not materially different from that in the pre-filing statement – Application to strike out Amended Statement of Claim dismissed	47
Somyaying v AAI Limited t/as GIO	[2021] NSWSC 1466	Supreme Court of NSW - Harrison AsJ	Failure to respond to a substantial and clearly articulated argument – Duty to provide reasons – Jurisdictional error – Error on the face of the record – Denial of procedural fairness – Decision of Review Panel set aside	105
Southern Meats Pty Ltd v Tucker	[2021] NSWWCPCD 2	WCC - Deputy President Wood	Rejection of uncontradicted expert evidence - whether error to prefer the evidence of a treating surgeon over the evidence of a medico-legal expert - lack of complaints of symptoms prior to cessation of employment	86
Spears and Spears v Chapple and Chapple	[2019] NSWWCC 83	WCC - Arbitrator Egan	Death claim - death occurred during a house-sitting arrangement - no contract of service found between deceased and respondents - deceased not a worker	31
Specialist Diagnostic Services Pty Ltd t/as Laverty Pathology v Naqi	[2020] NSWSC 1791	Supreme Court of NSW - Schmidt AJ	Review of decisions of the delegate of the Registrar and MAP – Held: The decisions did not reveal jurisdictional error – No failure to respond to any substantial and clearly articulated argument resulting in a constructive failure to exercise jurisdiction – No obligation for Registrar to provide reasons	83
State of New South Wales (Hunter New England Local Health District) v Fred	[2021] NSWPICMP 40	PIC - Member Rimmer, Dr D Andrews & Prof N Glozier	Psychological injury – AMS failed to make a deduction for a pre-existing condition and failed to provide adequate reasons – Deductible of 1/10 applied under s 323 WIMA	92
State of New South Wales (NSW Police Force) v Nguyen	[2021] NSWPICPD 34	PIC - Deputy President Snell	Leave to rely on fresh evidence under s 352(6) WIMA – Alleged factual error – Causation	103
State of New South Wales v Abdul	[2018] NSWWCPCD 41	WCC - Wood DP	Distinction between final and interlocutory decisions - indexation of benefits and calculation of PIAWE after the first 52 weeks	24
State of New South Wales v Ali	[2018] NSWSC 1733	Supreme Court of NSW - Harrison AsJ	Meaning of "additional further information" in s 327 (3) (b) WIMA	26
State of New South Wales v Barrett	[2019] NSWWCPCD 56	WCC - Deputy President Snell	Death claim – drawing of inferences – weight of evidence – dealing with competing expert evidence – procedural fairness and warning parties of an Arbitrator’s proposed course	49
State of New South Wales v Dunn	[2019] NSWWCMA 156	WCC - Arbitrator Rimmer, Dr M Burns & Dr J B Stanhenson	Section 323 WIMA – Failure to consider whether any impairment arose from a previous injury was an error	48
State of New South Wales v Worland	[2019] NSWWCMA 98	WCC - Arbitrator Harris, Dr B Noll & Dr D Dixon WCC - DP Snell	Subsequent non-work injury does not prevent compensation for workplace injury	39 54
State of NSW (HealthShare NSW) v Morrison Stefanac v Secretary, Department of Family and Community Services	[2020] NSWWCPCD 1 [2019] NSWWCCR 4	WCC - Arbitrator Egan (as Delegate of the Registrar)	Arbitrator erred in fact finding – COD revoked and matter remitted for redetermination by a different Arbitrator Work Capacity Decision – worker has current work capacity of 40 hours per week in suitable employment – worker’s wishes to work at a location closer to her family does not alter the application of s 32A – Worker’s capacity to earn is most	37
Strooisma v Coastwide Fabrications and Erections Pty Ltd	[2019] NSWWCC 173	WCC - Arbitrator Sweeney	Cl 28C of Pt 2A of Sch 8 of the 2016 Regulation does not entitle a worker to weekly compensation before the date on which an AMS certified that he had not reached maximum medical improvement – Hochbaum applied	34
Summers v Sydney International Container Terminals Pty Limited t/as Hutchison Ports	[2021] NSWPICPD 35	PIC - President Phillips DCJ	Section 60 WCA - Whether proposed surgery is reasonably necessary as a result of injury - Diab v NRMA Ltd [2014] NSWWCPCD 72 considered and applied	104
Sutherland v D E Maintenance Pty Ltd	[2019] NSWWCPCD 39	WCC - DP Snell	Fresh or additional evidence under s 352 (6) WIMA – Factual error & application of Raulston v Toll Pty Ltd	38
Sweetman v Coffey & the Workers Compensation Nominal Insurer	[2018] NSWWCC 253	WCC - Arbitrator Grahame Coffey	Applicant not a worker or deemed worker at the date of injury	25
Sydney Catholic Schools Limited v Bridgefoot	[2021] NSWPICPD 17	PIC - President Phillips DCJ	Section 294 WIMA – Adequacy of reasons – Ex-tempore reasons – addendum to oral reasons added at the end of their delivery	96
Sydney Metro Taxis Fleet No 1 Pty Ltd v Khan	[2019] NSWWCMA 124	WCC - Arbitrator Douglas, Dr I Weschler & Dr M Delaney	Injury to one eye – AMS did not err in assessing impairment of both eyes because the correct approach required a deduction for the extent to which a pre-existing condition contributed to permanent impairment	42

Sydney Trains v Batshon	[2021] NSWCA 143	Court of Appeal - Leeming, White & McCallum JJA	MAP refused application to re-examine the worker - Primary judge held that the request was not considered by the MAP – MAP considered the application - Adequacy of MAP’s reasons - Whether there was a denial of procedural fairness by the primary judge - Whether any denial could be material in light of the right of appeal by way of rehearing - Consideration of differences in assessment regimes under workers compensation and motor accident legislation	97
Taumololo v Industrial Galvanizers Corporation Pty Ltd	[2018] NSWWCC 243	WCC - Arbitrator Catherine McDonald	No evidence that insurer made a work capacity decision - Arbitrator declines to award weekly payments under s 39 WCA	25
Taylor v J & D Stephens Pty Ltd	[2018] NSWCA 267	Court of Appeal - McColl AP, Payne JA & Simpson AJA	Deputy President constructively failed to exercise jurisdiction under s 351 WIMA & denied the appellant procedural fairness	25
Taylor v Woolworths Limited	[2019] NSWWCC 247	WCC - Arbitrator Homan	Worker injured while playing a practical joke on a colleague was not acting properly within the scope of her employment and her conduct was not ancillary to her employment	37
Technical and Further Education Commission t/as TAFE NSW v Whitton	[2019] NSWWCCPD 27	WCC - President Phillips DCJ	Construction of s 39 WCA - RSM Building Services Pty Ltd v Hochbaum applied	35
Temelkov v Sydney Trains	[2019] NSWWCCMA 86	WCC - Arbitrator Edwards, Professor N Glozier & Dr M Hong	Impairment apportioned between injury referred to the MAC and later events – 50% apportionment was not against the weight of the evidence	36
Thadsanamoorthy v Teys Australia Southern Pty Limited	[2019] NSWWCCPD 61	WCC - ADP Parker SC	Sections 281 & 282 WIMA – requirement for worker to submit to a medical examination at the request of the employer – worker resides overseas and is unable to obtain a visa to enter Australia – No discretion – Wattyl Australia Pty Limited v McArthur [2008] NSWCA 326 discussed and applied	52
The Australian Jockey Club t/as The Australian Turf Club v Agnew	[2019] NSWWCCMA 113	WCC - Arbitrator Bell, Dr T Mastroianni & Dr R Pillemer	AMS erred in attributing scarring to a subsequent injury	41
The Secretary, Department of Education v Hurley	[2019] NSWWCCMA 164	WCC - Arbitrator Peacock, Dr J Parmegiani & Dr D Andrews	Psychological injury – MAP found no error in ratings under PIRS but revoked MAC in order to correct obvious errors	50
Theoret v Aces Incorporated	[2021] NSWCA 3	Court of Appeal - Leeming JA, McCallum JA & Garling J	Statutory interpretation- entitlement to weekly payments arose before, but was not determined until after 2012 amendments to WCA came into force – s 82A entitles the appellant to have PIAWE indexed historically from the time she first became eligible to receive weekly payments	87
Theoret v Aces Incorporated	[2019] NSWWCC 359	WCC - Arbitrator Harris	Interpretation of s 82A WCA - Dispute regarding commencement date for indexation of weekly payments – Held: indexation commenced on 1 April 2013, pursuant to an Order published by the Authority under s 82A (4) WCA	50
Thompson v State of New South Wales	[2018] NSWWCCPD 25	WCC - Wood DP	Extension of time to appeal refused - no exceptional circumstances established	21
Thoms v Workers Compensation Nominal Insurer (iCare) & others	[2020] NSWWCC 420	WCC - Arbitrator Homan	Worker failed to discharge onus of proving that he was a worker or deemed worker	84
Thornton v Coles Supermarkets Australia Pty Ltd	[2022] NSWPIC 74	PIC - Member Perry	Respondent sought to dispute liability after s 66 dispute was referred to a MA – Member refused to grant leave under s 298A(4) WIMA - Mateus v Zodune Pty Ltd t/as Tempo Cleaning Services applied	111
Threlfo v JA Crockett Pty Ltd	[2019] NSWWCC 245	WCC - Arbitrator Peacock	Lack of contemporaneous support for allegation of injury – alleged injury not reported to GP and treating neurosurgeon – injury not established on the balance of probabilities	37
Tierney v Evalast Fencing Pty Ltd (Deregistered) & Ors	[2019] NSWWCC 375	WCC - Senior Arbitrator Bamber	Section 20 WCA - Worker employed by uninsured first respondent, but third respondent held liable as principal to pay the compensation awarded to the worker – Stevens V Brodribb Sawmilling Co Pty Ltd, On Call Interpreters and Translators Agency Pty Ltd v Commissioner of Taxation (No 3) and Hollis v Vabu Pty Ltd considered	51
Todic v State of New South Wales	[2019] NSWWCC 326	WCC - Arbitrator Homan	Real events that were perceived as hostile caused a psychological injury – Townsend v Commissioner of Police distinguished – Attorney-General’s Department v K discussed	46
Toll Holdings Limited v Doodson	[2019] NSWWCCPD 62	WCC - DP Wood	Whether proposed treatment is reasonably necessary – Rose v Health Commission (NSW) & Diab v NRMA Ltd discussed – Requirement to establish an error of fact, law or discretion under s 352 (5) WIMA	52
Toll Transport Limited v Smith	[2021] NSWWCCPD 7	WCC - Deputy President Wood	Whether the incapacity for work resulted from the pleaded injury – Kooragang Cement Pty Limited v Bates (1994) 35 NSWLR 452 considered; alleged error of fact – Minister for Immigration and Citizenship v SZMDS [2010] HCA 16; 240 CLR 611; Shellharbour City Council v Rigby [2006] NSWCA 308, Fox v Percy [2003] HCA 22; 214 CLR 118 applied	87
Toll Transport Pty Ltd v Eftimovski	[2022] NSWPICPD 24	PIC - Deputy President Wood	Calculation of PIAWE as defined by sch 3, cl 2 WCA	114

Toprak v IAG Limited trading as NRMA Insurance	[2021] NSWPIC 365	PIC - Member McTegg	Common law claim for damages – 61 year-old pedestrian suffered multiple physical injuries and psychological injury – significant pre-existing lumbar spine condition, diabetes and psychological injury – damages assessed for non-economic loss & past economic loss, but not for future economic loss	102
Torres v State of New South Wales	[2018] NSWWCC 277	WCC - Arbitrator Perry	Section 11A defence succeeds - reasonable action with respect to transfer, discipline and termination of employment	26
Traynor v AMP Services Pty Limited	[2019] NSWWCC 251	WCC - Arbitrator Bell	Arbitrator awards worker s 60 expenses for deep vein thrombosis following a period of 4 days of sedentary work	40
Trieu v Georges Apparel Pty Limited	[2019] NSWWCCMA 128	WCC - Arbitrator Dalley, Dr T Mastroianni & Dr R Pillemer	Demonstrable error – Injury to left shoulder - AMS wrongly determined that the right shoulder was normal and incorrectly used it as a baseline for assessment	43
Trustees of the Roman Catholic Church for the Diocese of Parramatta v Stewart	[2021] NSWPICPD 5	PIC - Deputy President Snell	Section 4 (b) (ii) WCA – Requirement of ‘main contributing factor’	92
Turner v Truss-T-Frame Timbers Pty Ltd	[2021] NSWSC 1088	Supreme Court of NSW - Schmidt AJ	Judicial review – Demonstrable error – Failure to consider assessment criteria for Complex Regional Pain Syndrome – MAC revoked	100
Tziallis v Elephant Boy Trading Co Pty Ltd	[2019] NSWWCCMA 108	WCC - Arbitrator McDonald, Dr D Crocker & Dr M Fearnside	Appeal against MAC by worker dismissed – Appellant relied upon a decision that was based upon the Motor Accidents Authority Guidelines	40
Uddin v Barakah International Pty Ltd	[unreported – 4050/19]	Delegate Bamber	Work Capacity Dispute – Delegate declines to make Interim Payment Direction	43
University of New South Wales v Labit	[2021] NSWPICPD 32	PIC - Deputy President Snell	Pleadings on ‘injury’ – Section 42(3) of the PIC Act 2020 - Dealing with disputed expert evidence – Hume v Walton [2005] NSWCA 148, [69] - Duty to give reasons	102
University of New South Wales v Lee	[2021] NSWPICPD 4	PIC - Deputy President Snell	Section 119 WIMA – Suspension of weekly benefits due to alleged non-compliance with Guidelines – Alleged factual error – Alleged procedural unfairness	91
Usher v Coffs Harbour City Council	[2022] NSWPICPD 9	PIC - Deputy President Wood	Principles applicable to disturbing a primary decision maker’s factual determination – causation – whether injury materially contributed to the need for surgery	112
Van Nguyen v Pasarela Pty Ltd (External Administration)	[2019] NSWWCC 297	WCC - Arbitrator Burge	Alleged consequential injury to the right shoulder - Whether res judicata, issue estoppel or Anshun estoppel apply – Whether referral to an AMS is barred by s 66 (1A) WCA – Held: there is no res judicata, issue estoppel or Anshun estoppel and s 66 (1A) does not apply	43
Van Poppel v Penrith Rugby League Club Ltd	[2018] NSWWCC 165	WCC - Arbitrator John Isaksen	Fixing the date of injury for a hearing loss claim where the worker is not employed in noisy employment when the claim is made	21
Van Vliet v Landscape Enterprises Pty Ltd	[2022] NSWPIC 14	PIC - Member Sweeney	Section 11A WCA – Reasonable action with respect to dismissal	107
Vannini v Worldwide Demolitions Pty Ltd	[2018] NSWSC 324	Court of Appeal - Macfarlan JA, Gleeson JA & Barrett AJA	Primary judge did not err in finding that there was no jurisdictional error - Appellant ordered to pay the defendant's costs	28
Vasilic v Boral Transport Limited	[2019] NSWWCCMA 129	WCC - Arbitrator Rimmer, Dr J Ashwell & Dr M Gibson	MAP declines to reconsider its decision - The Guidelines do not require an AMS to reference the relevant differentiators when allocating a worker to a DRE category	43
Vecchie v Ricegrowers Ltd	[2021] NSWWCC 18	WCC - Arbitrator Wynyard	Work capacity decision – application for review dismissed and WCD confirmed	86
Veenstra v State of New South Wales	[2018] NSWWCC 278	WCC - Arbitrator Harris	Where different methods of combining assessments are proposed by the parties, which impacts on a threshold, the AMS has exclusive jurisdiction in the application of AMA5 and Guidelines	26
Velevski v Glad Cleaning Services Pty Ltd	[2021] NSWPICMP 136	PIC - Member Wynyard, Dr M Gibson & Dr J Ashwell	Fresh evidence from appellant’s daughter rejected as lacking in probative value – Further medico-legal report rejected as offending public policy – Medical Assessor not required to follow an opinion from a medico-legal expert – Failure to discuss a particular diagnosis does not lead to an inference that the medical assessor failed to consider it	98
Veljanoski v Core Civil Comm Pty Ltd	[2019] NSWWCCMA 17	WCC - Arbitrator Peacock, Dr D Crocker & Dr M Burns	Cardiovascular system - Assessment of s 323 WIMA deductible where underlying Coronary Artery Disease contributed to the need for a heart transplant	29
Vinod v Boral Shared Business Services Pty Ltd	[2019] NSWWCC 254	WCC - Arbitrator Burge	Section 11A defence established – reasonable action with respect to transfer, discipline and/or performance appraisal	39
Vishal Meta Bay of India v Han	[2019] NSWWCCMA 115	WCC - Arbitrator Egan, Dr P Morris & Professor N Glozier	AMS did not fail to consider relevant material – Social media report is irrelevant to the AMS’ task – MAP satisfied that the report would not have had any effect on the AMS’ clinical judgment	41
Vostek Industries Pty Ltd v White	[2018] NSWWCCPD 47	WCC - Keating P	The text of s 38A (1) WCA, as enacted, "makes no reference either expressly or impliedly to a worker's earnings". Hee applied.	25
Wahhab v Insurance Australia Ltd	[2021] NSWSC 521	Supreme Court of NSW - Basten J	Judicial review of decision of principal claims assessor under Motor Accidents Compensation Act 1999 (NSW) not to refer claim for assessment – No extant claim that could be referred for an assessment – existence of an extant claim is a jurisdictional fact - no legal error identified	94

Wales v State of NSW (NSW Police Force)	[2019] NSWWC 257	WCC - Arbitrator McDonald	Application for reconsideration of medical assessment for alleged demonstrable error in relation to assessment of PIRS categories – mistake by worker’s legal representatives in not appealing a MAC is not a ground to set aside the COD – reconsideration refused	39
Walker v Bega Cheese	[2019] NSWWCMA 10	WCC - Arbitrator Peacock, Dr D Dixon & Dr R Fitzsimons	WPI assessment based on range of motion - AMS did not err in failing to diagnose Chronic Regional Pain Syndrome	29
Waters v Alcheringa Park Thoroughbred Pty Ltd	[2020] NSWWCMA 2	WCC - Arbitrator Wynyard, Dr M Burns & Dr R Fitzsimons	Traumatic brain injury – AMS failed to identify the Guidelines that he applied and failed to give adequate reasons – MAP re-examined the worker – MAC confirmed	53
Waters v Tutola Pty Ltd (Deregistered)	[2019] NSWWC 6	WCC - Arbitrator Young	Section 38A WCA - reasoning in Vostek Industies Pty Ltd v White is binding upon arbitrators	28
Watson v Murrays Australia Pty Ltd	[2021] NSWWC 9	WCC - Arbitrator Burge	Entitlement to weekly payments during the second entitlement period – A worker who returned to work for not less than 15 hours per week, but was later stood down due to COVID-19, did not satisfy s 37 (2) WCA and weekly payments are to be calculated under s 37 (3) WCA	85
Watson v Woolgoolga Returned Services Club Ltd	[2018] NSWWC 280	WCC - Arbitrator Harris	Application to an arbitrator for reconsideration of a decision by a delegate of the Registrar is futile while a Certificate of Determination remains in place	26
Weate v Racing NSW	[2019] NSWWC 397	WCC - Arbitrator Batchelor	Section 39 WCA – Application for assessment by an AMS – No dispute that maximum medical improvement not reached – Held: Worker did not make a claim for compensation and there is no medical dispute – Application dismissed	52
Webb v Secretary, Department of Education	[2019] NSWWC 119	WCC - Arbitrator Burge	Psychological condition caused by alleged bullying & harassment at work & physical injuries resulting from a suicide attempt – workplace injury resulted from worker’s perception of actual evidence – Attorney-General’s Department v K applied	33
Webb v State of New South Wales	[2019] NSWWCPCD 50	WCC - Wood DP	Section 11A WCA - The fact that there was a potential for action with respect to discipline is not sufficient to establish that the employer’s action could be categorised as disciplinary	43
Webber v Racing NSW	[2020] NSWWC 24	WCC - Arbitrator Perry	Section 38 WCA - cessation of weekly payments under an award in 2015 – respondent estopped from relying on aspects of earlier findings and from raising an issue as to whether it was correctly named as respondent – no valid work capacity decision made – worker entitled to weekly payments	53
Wei v Hungry Panda Au Pty Ltd & Ors	[2022] NSWPIC 264	PIC - Principal Member Bamber	Gig Economy – First Respondent conceded that the deceased was employed by it as a food delivery driver	116
Wentworth Community Housing Limited v Brennan	[2019] NSWWCMA 77	WCC - Arbitrator McDonald, Dr L Kossoff & Dr J Parmegiani	MAC revoked because the AMS failed to consider relevant material	35
Wentworth Community Housing Limited v Brennan	[2019] NSWSC 152	Supreme Court - Harrison AsJ	Jurisdictional error - Judicial review of Registrar’s decision - Decision set aside because the Registrar failed to consider a submission that the AMS had either not considered, or overlooked evidence	30
Wesfarmers Group t/as Coles v Briggs	[2019] NSWWCMA 64	WCC - Arbitrator Wynyard, Dr B Noll & Dr J B Stephenson	MAP set aside an assessment of permanent impairment of the ribs by analogy to the thoracic spine because "the ribs" was not referred for assessment by the AMS	35
Westpac Banking Corporation v Dinning	[2019] NSWWCPCD 33	WCC - DP Wood	Weekly payments claim discontinued - No right of appeal where threshold under s 352 WIMA is not satisfied No right of appeal where threshold under s 352 WIMA is not satisfied	37
Westpac Banking Corporation v Hungerford	[2018] NSWWCPCD 50	WCC - Keating P	Claim under s 66 WCA for a disease injury under s 16 WCA - deemed date of injury is the date of the claim under s 66 WCA and not the date of onset of incapacity	27
Westpac Banking Corporation v Hungerford	[2018] NSWWCPCD 50	WCC - Keating P	Section 16 (1) (a) WCA and claim for compensation under s 66 WCA - deemed date of injury is the date that the s 66 claim is made	26
Westpac Banking Corporation v Mani	[2019] NSWWCPCD 41	WCC - Wood DP	Section 11A (1) WCA – factors to be considered in assessing whether action with respect to discipline was reasonable – s 11A defence failed	40
Westpac Banking Corporation v Perry	[2019] NSWWCMA 139	Arbitrator Wynyard, Dr J Parmegiani & Dr P Morris	Challenge to AMS’ assessments in 3 PIRS categories – Ferguson applied & ground dismissed as “cavilling with ratings” – Employer estopped from denying liability and there was no evidence of a subsequent “novus actus” – Appeal dismissed	44
Westpac Banking Corporation v Perry	[2019] NSWWCMA 139	WCC - Arbitrator Wynyard, Dr J Parmegiani & Dr P Morris	Challenge to AMS’ assessments in 3 PIRS categories – Ferguson applied & ground dismissed as “cavilling with ratings” – Employer estopped from denying liability and there was no evidence of a subsequent “novus actus” – Appeal dismissed	45
Whelan v Stowe Australia Pty Ltd	[2021] NSWPICPD 36	PIC - Deputy President Wood	Acceptance of evidence in the absence of cross-examination – alleged factual error	105
White v Redding	[2019] NSWCA 152	Court of Appeal - Macfarlan JA, Gleeson JA & White JA	Nature of appellant review of an assessment of severity of non-economic loss under s 16 of the Civil Liability Act 2002	35

White v Vostek Industries Pty Ltd	[2018] NSWWC 161	WCC - Arbitrator Glenn Capel	Statutory interpretation of s 38A (1) WCA - weekly payments to worker with highest needs may exceed the entitlement that is calculated against PIAWE	21
Whittle v State of New South Wales (Hunter New England Local Health District)	[2021] NSWPIC 319	PIC - Member Sweeney	Section 11A (1) WCA – Nurse suffered a psychological injury when suspended from work following complaints of misconduct by other staff – Held that the evidence required to establish reasonableness depends on the circumstances of the case and provision of all relevant primary material before a factual investigation is not a prerequisite to proof of reasonableness – Held that the injury was predominantly caused by reasonable action in respect of discipline	100
Whitton v Secretary, Department of Education	[2019] NSWWC 27	WCC - Arbitrator Josephine Bamber	Section 39 WCA - 20% WPI threshold satisfied after weekly payments ceased - Kennewell applied - worker entitled to weekly payments during disputed period	28
Wiegold v Allianz Australia Insurance Limited	[2021] NSWPIC 512	PIC - Member Cassidy	Damages claim - claimant witnessed death of colleague run down by bus driven by fellow trainee bus driver - claimant developed PTSD and alcohol misuse disorder - claim made under pure mental harm provisions of Civil Liability Act 2002 – No dispute as to liability	107
Williams v Cubbyhouse Childcare NSW Pty Ltd	[2022] NSWPCPD 36	PIC - Deputy President Snell	Psychological injury - error in applying s 789FD of the Fair Work Act 2009 (Cth) in the application of s 11A(1) WCA	121
Williams v Metcash Trading Ltd	[2019] NSWCA 94	Court of Appeal - Meagher JA, White JA & Simpson AJA	Contributory negligence – whether there was error in finding of contributory negligence in circumstances where the worker was required to adopt a system of work – whether primary judge erred	33
Windley v Workers Compensation Nominal Insurer	[2021] NSWSC 1125	Supreme Court of NSW - Harrison AsJ	Judicial review – Demonstrable error – Error of law on the face of the record	100
Withers v Shellharbour City Council	[2020] NSWWC 402	WCC - Arbitrator Harris	Surgeon not reasonably necessary as a result of workplace injury – treating surgeon’s opinion lacked a fair climate because he did not discuss and explain to what extent the stump deteriorated due to the injury – Hancock v East Coast Timber Products Pty Ltd and Paric v John Holland (Constructions) Pty Ltd applied	82
Wood v Woolworths Limited	[2019] NSWWC 266	WCC - Arbitrator Homan	Psychological injury - Arbitrator not satisfied that there was a fair climate to accept the worker’s medical evidence – award for the respondent entered	40
Woolstar Pty Ltd v Lando	[2022] NSWSC 241	Supreme Court of NSW - Simpson AJ	Jurisdictional error – MP declined to make a deduction under s 323 WIMA for a disease injury to the hip – whether MP exceeded its jurisdiction by making a liability finding and departed from the findings of an Arbitrator.	112
Workers Compensation Nominal Insurer v Athena Malakourti as executrix of the Estate of the late Steven Malakourti	[2018] NSWCCPD 53	WCC - Keating P	WCC refuses to strike out a Pre-Filing Statement despite significant delay	27
Workers Compensation Nominal Insurer v Dures	[2021] NSWCCPD 9	PIC - President Judge Phillips DCJ	Application to strike out Pre-Filing Statement dismissed because the worker commenced District Court proceedings after the application was filed – The worker and his legal representatives failed to comply with numerous directions issued by the Registrar’s Delegates and failed to respond to many enquiries (telephone and email) by the Commission – The Commission expects parties and their legal representatives to comply with directions and promptly respond to enquiries made by the Commission	88
Workers Compensation Nominal Insurer v Elias Bader t/as Genuine Kitchens (No 5)	[2020] NSWCCPD 72	WCC - President Phillips DCJ	Section 151AA WCA - Credibility	83
Workers Compensation Nominal Insurer v Kula Systems Pty Ltd	[2019] NSWCCPD 67	WCC - DP Wood	Monetary threshold required by s 352 (3) WIMA – Application of Programmed Maintenance Services Limited v Barter [2005] NSWCCPD 42 & Junsay v The Uncle Toby’s Company Ltd [2009] NSWCCPD 71	53
Workers Compensation Nominal Insurer v Republic of Lebanon	[2018] NSWSC 857	Supreme Court of NSW - Fagan J	Foreign state ordered to indemnify the Nominal Insurer with respect to workers compensation payments made under ULIS to a worker employed at its Sydney Consulate	20
Xenicas v ARB Corporation Limited	[2020] NSWWC 413	WCC - Arbitrator Edwards	Jurisdiction of the Commission to refer worker for assessment of permanent impairment - Consent orders are not a determination of the Commission under Part 4 WCA – Worker not estopped by s 322 (1) WIMA as the purpose of the assessment was to determine whether he met the definition of “worker with highest needs” under s 32A WCA	84
Yang v Industrie Clothing Pty Limited	[2022] NSWPCPD 10	PIC - Acting Deputy President Parker SC	Weight of the evidence – evidence of clinical notes – Mason v Demasi [2009] NSWCA 227 considered and applied	112
Yarrowonga & Border Golf Club Ltd v Williamson	[2021] NSWPCPD 37	PIC - Acting Deputy President Parker SC	Work capacity – adequacy of reasons – whether Arbitrator failed to provide adequate reasons – Held that the Arbitrator provided adequate reasons	105

Yates v Flavorjen Pty Ltd	[2022] NSWSC 388	Supreme Court of NSW - Harrison AsJ	Judicial review – parties agreed to terms of referral to AMS – MAP held that the AMS erred by going beyond the terms of the referral – whether referral entitled AMS to assess permanent impairment for body parts not specifically referred – Summons dismissed	113
Yates v NSW Rural Fire Service Association Incorporated	[2019] NSWWCC 385	WCC - Arbitrator Dalley	MVA in 2009 – s 66 claim for multiple injuries including alleged injury to the brain – Cerebral aneurysm suffered approx. 6 months after MVA – whether the alleged brain injury led to the subsequent ruptured aneurysm and intracranial bleeding? – Held: loss of consciousness established a brain injury and its consequences are matters of “medical causation” and should be decided by an AMS – Bindah v Carter Hold Harvey Wood Products Australia Pty Ltd applied.	52
Yildiz v Fullview Plastics Pty Ltd	[2019] NSWWCCPD 24	WCC - President Phillips DCJ	No entitlement to compensation under s 67 WCA where the only claim for lump sum compensation made before 19 June 2012 was resolved by complying agreement – a resolved claim cannot be amended in order to preserve rights to benefits under the former s 67 WCA	34
Yoogalu Pty Limited v Divko	[2019] NSWWCCMA 6	WCC - Arbitrator Catherine McDonald, Dr P Harvey-Sutton & Dr B Noll	Section 323 WIMA - AMS erred by not considering evidence of pre-existing impairment	28
Younan v Inner West Council	[2021] NSWPICPD 16	PIC - Acting Deputy President King SC	Section 11A (1) WCA – reasonable action with respect to performance appraisal, transfer and discipline	96
Young Ho Bae v Kids OT Pty Ltd	[2021] NSWWCC 62	PIC - Senior Arbitrator Bamber	Employer’s application to rescind the COD issued by Arbitrator Wright on 30/10/2020 under ss 350 and 329 (1A) WIMA is declined – Employer’s application to reconsider the decision of the MAP dated 5/08/2020 is declined – Held: the employer’s additional evidence was unlikely on the balance of probabilities to cause a different outcome in the MAP’s decision	89
Young v Vietnam Veterans Keith Payne VC Hostel Limited	[2020] NSWWCCPD 66	WCC - Deputy President Wood	Proposed surgery is not reasonably necessary - Factual determination – principles applicable on appeal	81
Young v Woolworths Group Limited	[2021] NSWPICMP 52	PIC - Member Wynyard, Dr G McGroder & Dr J Bodel	Appeal against MAC failed – Held: 6 grounds of appeal rejected as being without merit; challenge to AMS’ qualifications are specious; AMS gave reasons	93
Zhou v Ming Guang Lin t/as Gobig Building Services	[2019] NSWWCC 60	WCC - Arbitrator John Wynyard	Worker or deemed worker - equipment was largely provided by the respondent, the applicant was required to attend the respondent's premises to be transported to the worksite and there was no evidence that he was running a contracting business	29
Ziraki v The Australian Islamic House Liverpool Area	[2019] NSWSC 1158	Supreme Court of NSW - Harrison AsJ	Jurisdictional error – Alleged failure to respond to substantial and clearly articulated arguments and to set out lawful reasons –MAP not required to re-examine the plaintiff	43