

MARIE JOSSEANE ODTOJAN (Plaintiff)
V
THE LAW SOCIETY OF NEW SOUTH WALES (First Defendant)
AND
THE COUNCIL OF THE LAW SOCIETY OF NEW SOUTH WALES (Second Defendant)

PLAINTIFF'S OUTLINE OF SUBMISSIONS

PART A - SUMMARY AND BACKGROUND

A.1 These Proceedings

1. These judicial review proceedings challenge two interrelated decisions of the Law Society of New South Wales (**LSNSW**), made through its Professional Standards Department (**PSD**) Director Ms Valerie Griswold (**Ms Griswold**), purportedly on behalf of the Council of the Law Society of New South Wales (**Council**):
 - a. **Decision 1** (30 May 2025): Refusal of the 2024/2025 Practising Certificate (**PC**) renewal application under s 45 of the *Legal Profession Uniform Law (NSW)* (**Uniform Law**);¹ and
 - b. **Decision 2** (2 June 2025): Consequential appointment of manager under s 334 of the Uniform Law, premised solely on Decision 1.²
2. Both decisions were signed by Ms Griswold, purportedly referring to Council resolutions dated 29 May 2025, and were communicated to the Plaintiff by email on 30 May 2025 (Decision 1) and 2 June 2025 (Decision 2). Notably, a disciplinary record was published under the Plaintiff's name and her legal practice on the Office of the Legal Services Commissioner (**OLSC**) Register of Disciplinary Action, dated 29 May 2025,³ before either decision was issued to the Plaintiff.

A.2 The Plaintiff's Professional Standing

3. The Plaintiff has never been found unfit to practise law by the designated tribunal, the New South Wales Civil and Administrative Tribunal (**NCAT**).⁴ She has no findings of unsatisfactory professional conduct (**UPC**) or professional misconduct (**PM**), no convictions, and has never been subject to disciplinary proceedings.⁵
4. The impugned decisions are the first adverse records ever issued against the Plaintiff which were not based on any proven misconduct or disciplinary outcome. Instead, the Defendants' reasons⁶ relied upon the following:

¹ Affidavit of Marie Jossane Odtojan sworn 26 September 2025 (**Affidavit MJO**) [10a] and Exhibit MJO 1.

² Affidavit MJO [10b] and Exhibit MJO 60.

³ Affidavit MJO [52b] and Exhibit MJO 424; In September 2025, the Defendants republished the disciplinary record in its Law Society Journal, thereby reiterating the impugned materials against the Plaintiff and her legal practice. A copy of the publication can be produced to the Court if required.

⁴ Uniform Law Part 5.4.

⁵ Affidavit MJO 'A.1 Identity and Standing' [4]-[9].

⁶ Exhibits MJO 1-59 & 60-64.

- a. Interlocutory commentary extracted from NSW Court of Appeal (**NSWCA**) judgments concerning the Plaintiff's civil tort proceedings, leave-to-appeal applications which had no finality;⁷
- b. Character assessments of other practitioners' conduct and fitness drawn from those unrelated NCAT cases, selectively quoted and impermissibly transposed onto the Plaintiff, who had no NCAT hearing, with the Defendants stating at [81] that the conclusions in *Sideris (No 2)*⁸ "are equally applicable to the circumstances of the Solicitor here."⁹
- c. Unparticularised allegations of "misconduct," "non-disclosure," "findings and orders", "incorrect or misleading information," "false declaration," and "unfitness," impermissibly determined¹⁰ without Chapter 5 process under the Uniform Law (**Ch 5**), which mandates NCAT determination to the civil standard of proof;¹¹ and
- d. Speculative assertions about the Plaintiff's state of mind, such as *"the Solicitor was aware that her behaviour, and that of Mr Bryl's, had been brought into direct question... Specifically, she knew that..."*¹² and *"it would be unfathomable for the Solicitor to mount any argument that she did not consider... Indeed, by her own admission, the Solicitor appears to accept that these judgments have brought into question her 'good fame and character' as, in the 'Public Notice'... she declared: '[The Law Practice], [the Solicitor] and Mr Bryl have been defamed and framed...'"*¹³ None of these statements purporting to draw conclusions about the Plaintiff's character were grounded in fact or evidence. These allegations, among others recorded in the decisions, including attached materials marked 'Attachment A1' and 'Attachment A2,' were never put to the Plaintiff and were only made known to the Plaintiff upon receipt of the Decision on 30 May 2025.¹⁴

A.3 Relevant Background

5. The relevant background is set out in the Plaintiff's Affidavit of Marie Jossane Odtojan sworn 26 September 2025 (**Affidavit MJO**),¹⁵ as follows:
 - a. 'Part A. Introduction and Background' [4-17];
 - b. 'Part B. Timeline of Relevant Events' [18-21];
 - c. 'Part C: The Defendants' Conduct' [22-39];
 - d. 'Part D. NSW Court of Appeal Referrals (Odtojan v Ford; Glynn and Condon SC)' [40-46];
 - e. 'Part E. Notice of Motion' [47-50]; and Part D. Prejudice and Irreparable Harm [51-53].
6. The Plaintiff relies the following documents:
 - a. Affidavit MJO and its exhibits (**Exhibit MJO**);

⁷ Affidavit MJO 'D. NSW Court of Appeal Referrals (Odtojan v Ford; Glynn; and Condon SC)' [40]-[46]; Exhibits MJO 4-9, 21-23, 79-90.

⁸ *Council of the Law Society of New South Wales v Sideris (No 2)* [2024] NSWCATOD 121 at [88]; Exhibit MJO 21-23.

⁹ Exhibits MJO 23 [77] & 25 [81].

¹⁰ Exhibits MJO 21-25.

¹¹ *Briginshaw v Briginshaw* [1938] HCA 34; 60 CLR 336; Uniform Law s 297; *Council of the Law Society v Tangsilasat* [2018] NSWCATOD 138 at [29]-[34] and *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015* r 32.

¹² Exhibit MJO 23 [76].

¹³ Exhibit MJO 24 [78].

¹⁴ Exhibits MJO 1-59.

¹⁵ A Schedule 1: 'Summary of Relevant Background' will be handed up to the Court for reference.

- b. The Amended Summons filed 1 July 2025 (**Amended Summons**); and
- c. The Plaintiff's Notice of Motion filed 7 August 2025 (**NOM**).¹⁶

A.4 Notice Of Motion

7. On 14 August 2025, the Registrar ordered that the Plaintiff's NOM be heard with the substantive proceedings and joined the Council as the second Defendant.¹⁷
8. The NOM seeks to strike out the Defendants' Response¹⁸ for disclosing no tenable defence/response and constituting an abuse of process.¹⁹ The Response consists largely of bare denials and repeated assertions that the Defendants "*appropriately followed the proper process as provided for in the Uniform Law,*"²⁰ without identifying any statutory provision or evidentiary basis demonstrating how those powers were lawfully exercised.
9. The Court has inherent supervisory jurisdiction to strike out pleadings or filings that are untenable or constitute an abuse of process.²¹
10. The Defendants' repeated, vague assertion that they "followed proper process" is evasive and conceals, rather than clarifies, the lawful process allegedly undertaken. No evidence has been produced of any minutes, attendance records, deliberations, or resolutions of the Council purportedly held on 29 May 2025, nor any record identifying the actual decision-makers involved. There is also no material supporting the Defendants prior undocumented actions which altered the Plaintiff's practising rights, solicitor's record, and membership, interferences that date back to 2023.²²
11. The Plaintiff's husband, Mr Artem Bryl (**Mr Bryl**), also a legal practitioner practising in the same firm, was subjected to the same undisclosed Law Society process and received identical unfitness decision under s 45 of the Uniform Law (**s 45**).²³ The Defendants' Response discloses no lawful or intelligible defence/response and should be struck out.²⁴ Notwithstanding, the same issues arise in the substantive proceedings.
12. The consolidation of the NOM with the substantive proceedings has limited the Plaintiff's ability to obtain preliminary disclosure and relief. The Defendants continue to rely on vague unsupported assertions about Council's purported resolutions and decision-making process.²⁵
13. The Court should draw adverse inferences²⁶ from the Defendants' failure to produce any contemporaneous record of Council deliberations, resolutions, or decision-making. The Defendants, through their officer Ms Griswold, expressly relied upon purported Council resolutions but produced no

¹⁶ Affidavit MJO 'A.3 This Affidavit' [11]-[12]; [21f] to [21g]; 'Notice of Motion' 13 and Exhibits MJO 390, 396 & 398.

¹⁷ Ibid

¹⁸ Defendants' Response filed 28 July 2025 (**Defendant's Response**); Affidavit MJO [21e-21h and 21j];

¹⁹ *Uniform Civil Procedure Rules 2005 (NSW) (UCPR)* rr 13.4 & 14.28.

²⁰ Defendant's Response [6.1], [7.1], [8.1], [9.1], [10.2], [10.3], [11.1], [12.1], [13.2] & [14.2].

²¹ *General Steel Industries Inc v Commissioner for Railways (NSW)* (1964) HCA 69; 112 CLR 125 at 129-130 (Barwick CJ); *Dey v Victorian Railways Commissioners* (1949) 78 CLR 62 at 91 (Dixon J).

²² Affidavit MJO [18b-c, h, j & k], [23-25], [34-37].

²³ Affidavit MJO [7-8], [15-18], [21-25], [28-37], [42] & [52-53].

²⁴ UCPR rr 13.4 & 14.28.

²⁵ Affidavit MJO [22-39].

²⁶ *Jones v Dunkel* (1959) 101 CLR 298.

evidence that any such meetings or resolutions occurred. The absence of such evidence calls into question whether any lawful decision-making process was undertaken and directly affects the proper assessment of the legality of the impugned decisions.

A.5 OLSC Referral to Law Society - Interlocutory NSW Court of Appeal Referrals

14. The OLSC had designated the NSWCA referrals²⁷ to the Defendants (7 July 2023²⁸ and 8 March 2024²⁹) under Ch 5 of the Uniform Law.³⁰ The NSWCA orders provide the following:
- In *Odtojan v Condon* [2023] NSWCA 129 at para 3: *possible breach of rr 5 and 32 of the Solicitors' Conduct Rules*.³¹
 - Referral of papers orders in *Odtojan v Condon* (No 2) [2023] NSWCA 149 at [104]:
The whole of the papers will be referred to the Office of the Legal Services Commissioner... all of the materials be provided, pleading..the transcript of the hearing before Norton DCJ on 16 February 2023, Ms Odtojan's email to her Honour's Associate dated 24 February 2023, the transcript of the hearing in this Court on 31 May 2023, the reasons for judgment of this Court of 9 June 2023 and...the affidavit and submissions dated 27 June 2023.
 - In *Odtojan v Glynn t/as Glynn's Lawyers; Odtojan v Ford* (No 2) [2024] NSWCA 25 at [6]:
We direct the Registrar... to refer the judgments in Odtojan v Glynn and Odtojan v Ford and the papers in these proceedings, including the email of Tuesday, 5 December 2023...to the Office of the Legal Services Commissioner.
15. Despite the express Ch 5 referrals from the NSWCA to the OLSC (and their subsequent referral to the Defendants), no process was ever conducted under Ch 5. This has now been expressly confirmed for the first time by the Defendants in their Response:³²
- There is no statutory requirement for (a) the Council to give consideration to Ch 5 of the Uniform Law when making a decision pursuant to s 45; or (b) a referral to NCAT or finding of misconduct before making such a decision.*
16. The Defendants, specifically, PSD officers Ms Griswold and Ms Haddad, who conducted the internal process, incorporated those interlocutory NSWCA judicial commentaries into their s 45 decision. They then repurposed those unproven commentaries in pre-litigation concerns notices³³ The same judicial commentaries and materials had been previously relied upon as purported authority in earlier NCAT proceedings initiated by the Defendants,³⁴ despite their knowledge that the judgments in question were interlocutory, subject to unresolved referrals, and had not reached finality. At the time, the Plaintiff had not been notified of the Defendant's receipt of those referrals.

²⁷ Affidavit MJO 'D. NSW Court of Appeal Referrals (Odtojan v Ford; Glynn; and Condon SC)' at [40]-[46].

²⁸ Exhibit MJO 79 Annexure A [4] 1.

²⁹ Ibid Annexure A [3] 5.

³⁰ *Legal Profession Uniform Law Application Act 2014* ss 28 & 32.

³¹ Affidavit of Valerie Anne Griswold affirmed 9 October 2025 (**Affidavit VAG**) Exhibit VG 72.

³² Defendant's Response [4.6] 4.

³³ Exhibits MJO 276 & 339.

³⁴ *Council of the Law Society of New South Wales v Sideris* [2024] NSWCATOD 3 at [104].

PART B - STATUTORY FRAMEWORK AND LEGAL PRINCIPLES

B.1 Jurisdiction and Avenue of Review

17. While the Uniform Law confers statutory rights of merits review under s 100 (PC refusals) and s 358 (manager appointments), those provisions govern appeals on the merits, not judicial review. These proceedings are brought under s 69 of the *Supreme Court Act 1970 (NSW)* and invoke the Court's supervisory jurisdiction to review the legality of administrative decisions. The relief sought, certiorari, prohibition, and declarations, concerns jurisdictional error, not the merits of the decisions. The Court's supervisory power is constitutionally entrenched and cannot be excluded or supplanted by statute.³⁵
18. The issues for determination are confined to questions of legality, whether the Defendants acted within jurisdiction, afforded procedural fairness, and exercised statutory powers for a proper purpose and within their lawful limits.

B.2 Statutory Context and Source of Power

19. The OLSC delegated two referrals³⁶ to the Defendants under the Ch 5 disciplinary scheme of the Uniform Law. However, the impugned decisions were made under s 45 of Part 3.3 (Administrative - PC) and s 334 of Part 6.4 (Appointment of Manager), without invoking any Ch 5 process.
20. The exercise of powers under the Uniform Law must be consistent with its object and purpose, and comply with procedural fairness, and engage the Ch 5 framework where issues of conduct or fitness arise. Where administrative and disciplinary powers overlap, the specific disciplinary machinery in Ch 5 prevails in relation to a practitioner's conduct.³⁷
21. The OLSC provides that court referral is a source of information,³⁸ which, once formalised in writing, becomes a disciplinary complaint under the Uniform Law and must be dealt in accordance with Ch 5.³⁹
22. Determining conduct allegations under Ch 5 requires a two-stage process:⁴⁰
 - a. Determine whether conduct amounts to UPC or PM;⁴¹ and
 - b. If UPC and/or PM is found, determine protective orders including fitness.⁴²

B.3 Determination of Unfitness

23. Section 297 of the Uniform Law establishes PM as a jurisdictional precondition to any finding or opinion that the lawyer is not a fit and proper person to engage in legal practice (**unfitness**).

³⁵ UCPR r 59; *Kirk v Industrial Relations Commission of New South Wales* (2010) 239 CLR 531; **Craig v South Australia** (1995) 184 CLR 163.

³⁶ [14]-[16].

³⁷ Uniform Law ss 260, 266-300; Exhibits MJO 435-474; *Tangsilasat* at [29]-[34].

³⁸ MJO 97 [11], MJO 435; Uniform Law s 266.

³⁹ Uniform Law, ss 266-267 & 407; See Ch 5 complaints process resources Exhibits MJO 435-441 & 468-474.

⁴⁰ *Ibid.* *Council of the Law Society of New South Wales v Tangsilasat (No 2)* [2020] NSWCATOD 88; *Sideris (No 2)* at [88]; *The Council of the Law Society of NSW v Grubisa* [2025] NSWCATOD 127.

⁴¹ Uniform Law ss 296-302.

⁴² n 40; Uniform Law s 297.

24. Allegations of misconduct must be determined by NCAT.⁴³ In *Tangsilsat*, the Law Society properly initiated NCAT proceedings, where conduct and non-disclosure allegations were particularised and determined. Protective orders concerning the practitioner's fitness were considered only at the second stage, following findings of UPC and PM.
25. In *Sideris (No 2)*, NCAT stated at [88]:
- Having determined that his conduct constituted professional misconduct under s 297(1)(a) of the Uniform Law on both Grounds 1 and 2, it was unnecessary for us to decide whether the conduct in question also fell within s 297(1)(b) of the Uniform Law, i.e. whether the conduct in question justifies a finding that the lawyer is not a fit and proper person to engage in legal practice (at [190]).*
26. Unfitness determinations are protective, not punitive. Such orders presuppose proven misconduct and procedural fairness.⁴⁴ While a finding of PM does not necessarily result in an unfitness determination, a finding of unfitness cannot precede a finding of PM.⁴⁵
27. The onus of proving misconduct rests with the regulator⁴⁶ who must act fairly, as a model litigant, and exercise investigative and disciplinary powers bona fide, not oppressively or for improper purposes.⁴⁷

B.4 Jurisdictional Error and Supervisory Control

28. A jurisdictional error arises where a decision-maker misconceives or exceeds its statutory power or denies procedural fairness (*Craig; Kirk*).
29. A regulator acts without jurisdiction if it exercises a statutory power for a purpose not authorised by law: *Minister for Immigration and Multicultural Affairs v Yusuf* [2001] HCA 30, where McHugh, Gummow and Hayne JJ observed:
- [80] ...identifying a wrong issue, asking a wrong question, ignoring relevant material or relying on irrelevant material in a way that affects the exercise of power is to make an error of law. Further, doing so results in the decision-maker exceeding the authority or powers given by the relevant statute. In other words, if an error of those types is made, the decision-maker did not have authority to make the decision that was made; he or she did not have jurisdiction to make it...*

B.5 Denial of Procedural Fairness and Natural Justice

30. Procedural fairness is a fundamental condition of the lawful exercise of statutory power. It encompasses two obligations: (a) the hearing rule, the right to be heard; and (b) the bias rule, the right to an impartial decision-maker. A breach of either constitutes an error of law and amounts to jurisdictional error.⁴⁸
31. A decision-maker must disclose adverse or new material it intends to rely upon and afford the affected person an opportunity to respond. Procedural fairness is implied in every administrative decision which affects a person's rights, interests, reputation, livelihood, or legitimate expectations.⁴⁹

⁴³ n 39 & 40; Uniform Law Part 5.4. *Tangsilsat* at [15]-[21]; [32]-[33].

⁴⁴ *Tangsilsat, Sideris, Grubisa*.

⁴⁵ Uniform Law s 297; *Tangsilsat* [32]-[33]; *Sideris* [61]-[62]; [173], [190], [195]; *Tangsilsat (No 2)*; *Sideris (No 2)*.

⁴⁶ *Southern Law Society v Westbrook* (1910) 10 CLR 609 at 626 per Isaacs J, at 627 per Higgins J.

⁴⁷ *Rogerson v Law Society (NT)* (1993) 88 NTR 1 at 10 per Asche CJ; *Legal Services Commissioner v Adamakis* [2013] VCAT 1970 at [31].

⁴⁸ *Kioa v West* (1985) 159 CLR 550; *Annetts v McCann* (1990) 170 CLR 596; *Ainsworth v Criminal Justice Commission* (1992) 175 CLR 564; *Plaintiff S157/2002 v Commonwealth* (2003) 211 CLR 476.

⁴⁹ *Kioa*; *Annetts*; *Ainsworth*; *FAI Insurances Ltd v Winneke* (1982) 151 CLR 342; 41 ALR 1; *Minister for Immigration v SZQHH* (2012) FCR 223 at [79]; *Fletcher v Federal Commissioner of Taxation* (1988) 19 FCR 442; *Comcare v Wuth*

32. A denial of procedural fairness renders the decision void. *Minister for Immigration and Multicultural Affairs v Bharadwaj* (2002) 209 CLR 597 614-5.
33. Bias, whether actual or apprehended, undermines the integrity of the decision-making process. The test is whether a fair-minded observer might reasonably apprehend a lack of impartiality.⁵⁰ Conduct suggesting predetermination or self-interest vitiates jurisdiction.⁵¹
34. Where procedural fairness is denied, the Court has no discretion to withhold relief. Once breach is established, the decision must be quashed.⁵² These principles apply with equal force to administrative regulators exercising statutory powers under the Uniform Law.
35. In *Ridge v Baldwin* [1964] AC 40, the House of Lords held that the decision to dismiss Mr Ridge from his position as police Chief Constable was null and void as he was not given an opportunity to be heard in his defence. Lord Reid referred to *Cooper v Board of Works for the Wandsworth District* (1863) 143 ER 414 and other cases and said (**emphasis added**):
- <70>...deprivation of membership of a professional or social body. In *Wood v Woad* (1874) Lr 9 Ex 190 the committee purported to expel a member of a mutual insurance society without hearing him, and it was held that their action was void, and so he was still a member. Kelly CB said of audi alteram partem: 'This rule is not confined to the conduct of strictly legal tribunals, but is applicable to every tribunal or body of persons invested with authority to adjudicate upon matters involving civil consequences to individuals.' ... Then there are the club cases, *Fisher v Keane*⁵³ and *Dawkin* <71> v *Antrobus* (1879) 17 Ch D 615, CA. In the former, Jessel MR said of the committee: '**They ought not, as I understand it, according to the ordinary rules by which justice should be administered by committees of clubs, or by any other body of persons who decide upon the conduct of others, to blast a man's reputation for ever - perhaps to ruin his prospects for life, without giving him an opportunity of either defending or palliating his conduct.**'...
36. Failure to notify or to decide within a reasonable time can amount to constructive refusal.⁵⁴ The excessive and unexplained administrative delay constitutes a denial of natural justice and amounts to jurisdictional error, because it invalidates the decision-making process.⁵⁵

B.6 Legal Unreasonableness, Bad Faith and Improper Purpose

37. The High Court considered legal unreasonableness as a decision lacking any "evident and intelligible justification."⁵⁶
38. As French CJ stated in *Minister for Immigration and Citizenship v Li* [2013] HCA 18 at [64]-[65]:
- In *Sharp v Wakefield*, it was said that when something is to be done within the discretion of an authority, it is to be done according to the rules of reason and justice. That is what is meant by "according to law". It is to be legal and regular, not arbitrary, vague and fanciful. The discretion must be "exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself.
39. Predetermination, bias, bad faith, conspicuous inequality or discrimination renders a decision as legally

[2018] 260 FCR 89; *Stowers v Minister for Immigration and Border Protection* (2018) 265 FCR 177; *Jarratt v Commissioner of Police (NSW)* (2005) 224 CLR 44.

⁵⁰ *British American Tobacco Australia Services Ltd v Laurie* (2011) 242 CLR 283 at 331.

⁵¹ *Re Refugee Review Tribunal; Ex Parte Aala* (2000) 204 CLR 82, 153-4.

⁵² *Stead v State Government Insurance Commission* (1986) 161 CLR 141 at 145-6; *Re Minister for Immigration and Ethnic Affairs; Ex Parte Lam* (2003) 214 CLR 1 at [37]; 13-14.

⁵³ *Fisher v Keane* (1879) 11 Ch D 353 at 362-3.

⁵⁴ *Minister for Immigration and Multicultural Affairs v Bhardwaj* [2002] HCA 11; FCAFC 138.

⁵⁵ *NAIS v Minister for Immigration* (2005) 228 CLR 470.

⁵⁶ *Li* at [76]; *House v The King* (1936) 55 CLR 499.

unreasonable, irrational or invalid.⁵⁷ The exercise of statutory power in bad faith constitutes an abuse of power.⁵⁸

40. Bad faith can be demonstrated by recklessness,⁵⁹ deliberate disregard of relevant facts, selective reliance on irrelevant matters, or the application of a wrongful legal analysis to achieve a predetermined outcome.⁶⁰
41. An act purportedly done under delegated authority is invalid if its true purpose lies outside the scope of the empowering statute, regardless of whether the decision appears lawful on its face.⁶¹
42. Where conduct reveals a closed mind or a pre-determined outcome, the decision is *ultra vires*.
43. A decision may also be legally unreasonable where the decision-maker gives disproportionate weight to irrelevant considerations or fails to account for material factors, thereby acting beyond the bounds of rationality recognised by the High Court in *Li*.
44. Misuse of professional privilege to advance unsubstantiated allegations causing ruinous consequences constitutes a gross abuse of statutory power.⁶²

PART C - GROUNDS OF REVIEW

C.1 Scope of the Dispute

45. It is not disputed that the Defendants have powers under s 45⁶³ and must have regard to r 13(1).⁶⁴ However, the issue before the Court is not whether those powers exist, but whether they were lawfully exercised in the absence of any jurisdictional precondition justifying a determination of unfitness. The central question is whether the Defendants, or their delegate, Ms Griswold, could lawfully exercise s 45 when that provision confers no jurisdiction to make findings of fact or misconduct, both of which are necessary preconditions to any conclusion of unfitness.
46. The Defendants' own reasons for Decision 1 at [75] confirm:
- There is no dispute that, at the time of submitting the 2024/25 renewal application, there were no disciplinary findings of professional misconduct or disciplinary action commenced against the solicitor under the Uniform Law which the solicitor was required to disclose under any of the provisions of r 13...*
47. Despite the above concession, at [76]-[77] the Defendants proceeded to conclude that "*the Solicitor provided incorrect or misleading information and a false Declaration in her 2024/2025 Renewal Application.*"
48. The Defendants' reasons fail to satisfy UCPR r 59.3(1)(a)-(c): they identify no findings on material

⁵⁷ *British American Tobacco; Li; Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 370.

Sunshine Coast Broadcasters Ltd v Duncan (1988) 15 ALD 535, 83 ALR 121.

⁵⁸ *Minister for Immigration and Multicultural Affairs v SBAN* [2002] FCAFC 431; *SBAU v Minister for Immigration and Multicultural Affairs* (2002) 70 ALD 72.

⁵⁹ *SBAN*

⁶⁰ *SBAU*

⁶¹ *Municipal Council of Sydney v Campbell* [1925] AC 338; *R v Toohey; Ex Parte Northern Land Council* (1981) 151 CLR 170; 38 ALR 439.

⁶² *Clyne v New South Wales Bar Association* (1960) 104 CLR 186 at 200-201.

⁶³ Uniform Law.

⁶⁴ *Legal Profession Uniform General Rules 2015 (Uniform General Rules)*.

questions of fact, refer to no evidence relied upon, and give no explanation for the decision. While the Defendants may assert that reasons were provided, they are not particularised or supported by any fact-finding process, nor could they be, as s 45 confers no power to determine facts or findings of misconduct, which are matters reserved exclusively to NCAT under Ch 5. Ms Griswold's subsequently produced "Memo to Council"⁶⁵ appears to have been created to compensate for that deficiency, but it cannot retrospectively cure a decision made without lawful authority or process.

C.2 Thematic Grounds for Review

49. The Plaintiff advances twelve inter-related grounds in the Amended Summons (**AS Grounds**). Each identifies a distinct legal error while also overlapping factually and thematically. For clarity, they are grouped by theme. If any single ground is established, the s 45 decision is infected by legal error and must be quashed and set aside, together with the consequential manager appointment. As the Defendants had no lawful power to invoke s 45 or make any finding of unfitness, there was no jurisdictional foundation to refuse the Plaintiff's practising certificate, and no lawful basis for the subsequent manager appointment.

C.2.1 Theme 1 - Jurisdictional Error and Misuse of Statutory Power (AS Grounds 1, 3, 12)

50. **Issue:** *Whether the Defendants lawfully invoked section 45 powers to determine conduct and fitness allegations in the absence of any findings of Professional Misconduct, Chapter 5 process or jurisdictional preconditions?*
51. **Principles:** See Part B, namely B.2, B.3 & B.4. S 297 of the Uniform Law establishes PM as a jurisdictional precondition before making an unfitness decision.
52. **Application to Facts:** See AS Grounds 1, 3 & 12 and Affidavit MJO and [3]-[4], [55] & [58] herein. Section 45 confers no jurisdiction to determine facts or findings of misconduct, hence had no power to render Plaintiff unfit without PM findings under Ch 5 process; no Council resolution substantiated; usurped NCAT jurisdiction. The Decisions had no lawful foundation. As the Defendants had no lawful power to invoke s 45 or make any finding of unfitness, there was no jurisdictional basis to refuse the Plaintiff's PC, and no lawful foundation for the consequential manager appointment.

C.2.2 Theme 2 - Denial of Procedural Fairness (Bias & Hearing rule) (AS Grounds 2, 4, 6 & 8)

53. **Issue:** *Whether the Defendants afforded procedural fairness before forming a view of unfitness?*
54. **Principles:** See Part B, namely B.5 & B.6. Natural justice requires disclosure of adverse material and an opportunity to respond.⁶⁶
55. **Application to Facts:** See AS Grounds 2, 4, 6 and 8, Affidavit MJO and [3]-[4], [52] & [58] herein. The Defendants conducted an undisclosed internal process with no meaningful engagement or notice of any lawful procedure or timeframe, maintaining eight months of silence following the Plaintiff's initial correspondence. No notice or due process were provided regarding adverse actions taken against the

⁶⁵ Affidavit VAG [8]-[9].

⁶⁶ *Kioa; Annetts; Ainsworth.*

Plaintiff's practising rights, solicitor's record, or membership, all of which were altered without explanation.⁶⁷ The Director's 'Memo to Council' pre-recorded "unfitness" and "appointment of manager" outcomes before any purported Council meeting.⁶⁸ The Plaintiff's materials and exculpatory evidence, including reports since 2016, were disregarded.⁶⁹ Allegations were unsubstantiated, and attachments relied upon in the decision were never provided for response. The decisions solely relied upon untested judicial commentary, from which the Defendants, through Ms Griswold, drew speculative and adverse conclusions about the Plaintiff's character and conduct. Such reasoning was not grounded in law, findings of fact, or evidence, and concerned matters that, under the Uniform Law, could only be determined by NCAT through a Chapter 5 process.

C.2.3 Theme 3 - Legal Unreasonableness, Bad Faith & Improper Purpose (AS Grounds 5, 7, 9-11)

56. **Issue** *Whether the Defendants' or their delegates exercised power and gave reasons for their decisions in a manner that was legally unreasonable or otherwise affected by bad faith or improper purpose, having regard to the protective objects of the Uniform Law and the limits of their statutory functions?*
57. **Principles:** See Part B, namely B.6. A decision tainted by bias, bad faith or predetermination is legally unreasonable and invalid.
58. **Application to Facts:** See AS Grounds 5, 7, 9-11, Affidavit MJO and [3]-[4], [52] & [55] herein. The Defendants exhibited hostility by using inflammatory and adversarial language, including aspersions on the Plaintiff's character, while evading the procedural requirements and safeguards of Ch 5. They speculated about the Plaintiff's state of mind and motives. The Director's 'Memo to Council' pre-recorded the resolutions of the Council before any Council meeting.⁷⁰ Ch 5 referrals reframed as Ch 3 administrative matters. The sequence of retaliatory defamation notices,⁷¹ together with unsubstantiated allegations of "false declarations" (2017/18–2024/25) and "breach of Rules 5 and 32," later abandoned, and relying on materials attached to the decision never provided to the Plaintiff, as well as the Defendant's disregard of the NSWCA referrals made to the OLSC and subsequently assigned to them under Ch 5, collectively demonstrate bias, bad faith, and predetermination. These actions usurped NCAT's jurisdiction and interfered with the administration of justice.

C.3 Collective Conclusion of Grounds

59. As demonstrated in the foregoing thematic grounds and their application to the facts, the Plaintiff submits that the Defendants have breached procedural fairness, acted *ultra vires*, and exercised powers in bad faith and for improper purposes, contrary to the Uniform Law and its statutory objects. The impugned decisions, being infected by jurisdictional error and made without lawful authority, cannot stand. They must be quashed and declared invalid and no legal effect (void *ab initio*).

⁶⁷ Affidavit MJO [18], [22-25] & [27-46].

⁶⁸ n 65

⁶⁹ Affidavit MJO [18b-d, h, j & k], [28] & [34-39].

⁷⁰ n 65

⁷¹ Exhibits MJO 276, 339, 423 & 453-456.

PART D. CONCLUSION

60. As Lee J observed in *Transport Workers' Union of Australia v Qantas Airways Limited (Penalty)* [2025] FCA 971 at [118]:

... work is more than a way to make a living; it is a form of continuing participation in society. To deprive someone of work illegally is to deprive a person of an aspect of their human dignity...


61. After fifteen years of unblemished practice, the Plaintiff was removed from the legal profession without offence, breach, or hearing, on the basis of untested allegations never particularised or proven.⁷² The Defendants, bearing the statutory onus under s 297, failed to establish any conduct justifying unfitness and, instead, they reframed the Chapter 5 disciplinary process into a Chapter 3 administrative procedure to misuse s 45 powers.
62. The Plaintiff was denied procedural fairness, given no notice, no hearing, and left in eight months of silence, while her practising rights and professional status were covertly interfered with and effectively erased before any decision was issued.⁷³ This grave injustice calls for the Court's supervisory intervention to prevent such unlawful decisions from standing.
63. This case is of public importance. It exposes the danger of regulators exercising unfettered power on unsubstantiated allegations to remove a practitioner from practice, depriving her of livelihood without due process or Chapter 5 safeguards. Such conduct undermines the protective purpose and statutory integrity of the Uniform Law, circumvents NCAT's jurisdiction, and erodes the rule of law.
64. The Defendants, experienced officers of the Court familiar with Chapter 5 processes, deliberately bypassed those safeguards. Their conduct cannot credibly be seen as error or oversight; it reflects a calculated abuse of power in retaliation for the Plaintiff's exercise and protection of her legal rights, liberty, and livelihood, including her right to report misconduct and/or suspected offences,⁷⁴ seek due process, and defend her professional standing.
65. The injustice was compounded when the same process was applied to the Plaintiff's husband, Mr Bryl. The identical use of s 45 reveals a coordinated course of conduct that destroyed the livelihoods of two lawyers and their legal practice, actions that could not have occurred without the knowledge or acquiescence of multiple Law Society officers and Council members. The Defendants' invented category of "alleged prior misconduct," not recognised under the established Uniform Law and case authorities, further demonstrates how unlawful narratives were institutionalised to justify outcomes the statute does not permit.
66. If any of the grounds are established, the impugned decisions must be set aside for want of jurisdiction, having been made *ultra vires*, in bad faith and for improper purpose contrary to the Uniform Law and common law principles.

⁷² Exhibits MJO 21-25 & 60.

⁷³ Affidavit MJO 4-14.

⁷⁴ Affidavit MJO [18c & k], [28]-[53].

67. Accordingly, the Plaintiff seeks the following relief as set out in the Amended Summons:
- a. *Certiorari* An order to quash and set aside the decisions of 30 May 2025 and 2 June 2025.
 - b. *Declarations* to the following effect:
 - i. That both decisions are invalid and of no legal effect (void *ab initio*).
 - ii. That, upon the impugned decisions being quashed, the Plaintiff remains a continuing legal practitioner for the purpose of any practising certificate renewal application under the *Legal Profession Uniform Law (NSW)*, such renewal to be assessed as a continuation of her prior practising certificate, and to be determined *bona fide* and according to law.
 - iii. A declaration that upon the quashing of the decision dated 2 June 2025 (purporting to appoint a manager under s 334 of the Uniform Law), the Plaintiff is restored to lawful management and control of her legal practice as it stood immediately prior to that decision.
 - c. *Prohibition* An order restraining the Defendants, its officers, employees, and agents from acting upon or giving effect to the impugned decisions and restoring the Plaintiff to the position she lawfully held prior to the impugned decisions.
 - d. Such further or other orders or declarations as the Honourable Court deem fit.


Marie Odtojan
Plaintiff
Date: 4 November 2025