

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
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	33
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
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
Andersen v J & M Prendl Pty Limited	[2018] NSWWCPCD 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] NSWWCPCD 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
Arquero v Shannons Anti Corrosion Engineers Pty Ltd	[2019] NSWWCPCD 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] NSWWCPCD 18	WCC - DP Wood	Section 11A defence of "reasonable action with respect to transfer, discipline and termination of employment" upheld on appeal	33
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
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 & Pay	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] NSWCCPD 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] NSWCCMA 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] NSWCC 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	25
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
Blackie v Australian Jockey Club	[2019] NSWCC 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
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 Piantentini & 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	46
Brideson by guardian Lynette Brideson and Australian Capital Territory (Compensation)	[2019] AATA 2314	Administrative Appeals Tribunal - DP Humphries	A psychiatric assistance dog is neither “medical treatment” nor “an aid” as defined in the Safety, Rehabilitation and Compensation Act 1988	38
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	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] NSWCCPD 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
Cannavale Constructions Pty Ltd v Joester	[2019] NSWCCMA 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] NSWCCPD 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] NSWWCMA 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] NSWWCPCD 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	[2019] NSWWCPCD 21	WCC - DP Snell	Proof of injury under s 4 (b) (ii) WCA	34
Central Coast Council v Whitten	[2018] NSWWCMA 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
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] NSWWCMA 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
Clarke v State of New South Wales (Greystanes Disability Services)	[2019] NSWWCC 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
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
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] NSWWCC 176	WCC - Arbitrator Carolyn Rimmer	Application for reconsideration of a MAC refused	34
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
Cross v Department of Education & Training	[2018] NSWWCC 275	WCC - Arbitrator Brett Batchelor	Suspension of weekly payments under ss 48 & 48A WIMA	26
CSR Ltd v Ewins	[2019] NSWWCMA 123	WCC - Arbitrator Egan, Dr J Parmegiani & Dr D Andrews	Admission of fresh evidence on appeal	42
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
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

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
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
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	36
Dotlic v CFMEU (NSW Branch) Construction	[2019] NSWWCCMA 143	WCC - Arbitrator Harris, Dr R Crane & Dr B Noll	WIMA 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
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	46
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] NSWWCC 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] NSWWCC 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] NSWWCCPD 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] NSWWCCPD 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 * 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] NSWWCCPD 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] NSWWCC 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] NSWCCPD 53	WCC - President Phillips DCJ	Estoppel - Bouchmouni v Bakhos Matta t/as Western Red Services [2013] NSWCCPD 4 considered; Workers Compensation Legislation Amendment Act 2018; Pt 19L of Sch 6 of the Workers Compensation Act 1987 considered	48
Ewins v CSR Limited	[2018] NSWCC 301	WCC - Arbitrator John Harris	Respondent denied opportunity to arrange a further IME	27
Fabik v State of New South Wales	[2019] NSWCCMA 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] NSWCCPD 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] NSWCCPD 28	WCC - DP Snell	Duty to give reasons and error in fact finding	36
Fard v Sash Transport Pty Ltd	[2019] NSWCCMA 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
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] NSWCC 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] NSWCCMA 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
Fischer v DTD Engineering Pty Limited (No. 2 decision – Recon)	[2019] NSWCC 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
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 Broadpectrum Australia Pty Ltd	[2018] NSWCC 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] NSWCCPD 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] NSWCCMA 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
Fujitsu General Pty Ltd v Mendez	[2019] NSWCCMA 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
Galea v Colourwise Nursery (NSW) Pty Ltd	[2019] NSWCC 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
Gardener v Sauer's Bakehouse Pty Ltd	[2018] NSWCCPD 49	WCC - Snell DP	Challenge to arbitrator's findings of fact fails - COD confirmed	26
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] NSWCCMA 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
Gazi v Canterbury Bankstown City Council	[2018] NSWCC 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
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
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
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
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
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
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
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
Hassett v Secretary, Department of Communities and Justice	[2019] NSWWC 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 Spamill 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
Henderson v Secretary, Department of Education	[2019] NSWWCMA 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
Heyworth v VMWare Australia Pty Limited	[2019] NSWWC 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] NSWWCMA 102	WCC - Arbitrator Dalley, Dr M Gibson & Dr J Ashwell	AMS erred in assessing s 323 WIMA deduction contrary to referral	39
Hi-Tech Express Pty Ltd v Fuimaono	[2019] NSWWCMA 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] NSWWC 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] NSWWC 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
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
Howlader v FRF Holdings Pty Ltd	[2019] NSWWC 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] NSWWC 231	WCC - Arbitrator Anthony Scarcella	Employment was not a substantial contributing factor to a ruptured aneurism and subarachnoid haemorrhage	36
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
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 - Lonergan 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
ICM Services v Dabic	[2019] NSWWCMA 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] NSWWCMA 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
Jahangir v Pronto Pollo Pty Ltd	[2019] NSWWCCMA 19	WCC - Arbitrator Perignon, Dr P Harvey-Sutton & Dr D Dixon	Demonstrable error - AMS failed to consider maximum medical improvement and to give sufficient reasons for 80% deduction - MAC revoked	30
Jamal v Nonabel Concrete Pty Ltd	[2018] NSWWCCPD 42	WCC - Wood DP	Death claim - dependency under s 25 (1) WCA	24
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 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 Country Classic Services Pty Ltd (in liquidation)	[2019] NSWWCCMA 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
Karam v Amaca Pty Ltd (previously called James Hardie and Co Pty Ltd) (in liquidation)	[2019] NSWWCC 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	49
Kathia v The Frank Whiddon Masonic Homes t/as Whiddon Group	[2018] NSWWCCPD 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] NSWWCC 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] NSWWCCMA 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] NSWWCCPD 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] NSWWCC 56	WCC - Arbitrator John Isaksen	Worker - indicia of employment test in Stevens v Brodribb 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] NSWWCC 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 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
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 & Stroisma 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] NSWCCPD 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	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	33
Klvetasch v DK Thompson	[2018] NSWWC 158	WCC - Arbitrator Harris	WCC 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
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] NSWCCPD 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
Lambropoulos v Qantas Airways Limited	[2019] NSWCCPD 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
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] NSWCCPD 52	WCC - Acting 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

Legal Services Commissioner v Livers	[2019] NSWCATOD 180	NCAT	Solicitor guilty of professional misconduct for altering the date of an audiogram, creating a false statement and preparing a misleading ILARS application	50
Legal Services Commissioner v Livers (No. 1)	[2017] NSWCATOD 117	NCAT - K O'Connor ADCJ, J Currie & B Thomson	Solicitor found guilty of professional misconduct for making false and misleading statements in an ILARS application	23
Legal Services Commissioner v Livers (No. 2)	[2018] NSWCATOD 152	NCAT - O'Meally ADCJ, J Currie & B Thomson	Solicitor struck off	23
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
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, Loblely 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
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
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
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
Mani v Westpac Banking Corporation	[2019] NSWWC 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

Marinic v RPC Interiors Management Pty Ltd	[2019] NSWWCPCD 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
Marshall v Skilled Group Ltd	[2018] NSWWCPCD 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
Mascaro v Inner West Council	[2018] NSWWCPCD 29	WCC - Snell AP	The evaluative judgment of reasonableness in the context of s 11A WCA	21
Matilda Cruises Pty Ltd v Sweeny	[2018] NSWWCPCD 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
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
Megson v Staging Connections Group Ltd	[2019] NSWWCPCD 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] NSWWCPCD 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] NSWWCPCD 15 distinguished	42
Mercy Connect Limited v Kiely	[2018] NSWSC 1421	Supreme Court of NSW - Harrison AsJ	Jurisdictional error on multiple grounds	24
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 Hellessey	[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] NSWWCPCD 38	WCC - President Phillips DCJ	Application of Paric v John Holland (Constructions) Pty Ltd, Mason v Demasi & Nguyen v Cosmopolitan Homes	37
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 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
Monahan v R. H Anicich & A J Deegan & Others T/as Sparke Helmore Lawyers	[2019] NSWCC 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
Moston v Goldenfields Water County Council	[2019] NSWCC 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	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
Nader v A O Family Trust	[2019] NSWCC 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] NSWCC 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] NSWCCPD 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] NSWCCMA 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] NSWCCMA 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] NSWCCPD 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
Nicol v Macquarie University	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
Norton v Anambah Constructions Pty Ltd	[2019] NSWCCMA 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
Oberon Council v Barton	[2018] NSWCCMA 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] NSWCC 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

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
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
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
Parsons v Corrective Services NSW	[2018] NSWWC 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] NSWWC 210	WCC - Senior Arbitrator Glenn Capel	Application for reconsideration of COD refused	35
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
Paterson v Paterson Panel Workz Pty Ltd	[2018] NSWWCPCD 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] NSWWCPCD 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] NSWWCMA 104	WCC - Arbitrator Wynyard, Dr J Parmegiani & Dr N Glozier	Fresh evidence rejected on appeal because it was of no probative value	40
Penrith Rugby League Club Ltd v Jenkins	[2018] NSWWCMA 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] NSWWCPCD 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] NSWWC 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
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
Prakash v Novartis Australia	[2019] NSWWCMA 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] NSWWC 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

Puntigam v Tyzabet Pty Ltd	[2019] NSWWCMA 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] NSWWCC 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
Rainbow Legal Group Limited v Carrabs	[2019] NSWWCCPD 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] NSWWCC 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
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] NSWWCCPD 6	WCC - DP Snell	Principles relevant to raising a new issue on appeal - whether actual earn	31
Reln (Manufacturing) Pty Ltd v Smith	[2018] NSWWCCPD 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] NSWWCCPD 45	WCC - Snell DP	Section 9B WCA - Duty to give reasons	42
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
RSM Building Services Pty Ltd v Hochbaum	[2019] NSWWCCPD 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] NSWWCCPD 37	WCC - DP Wood	Death claim – arising out of or in the course of employment – determination of appeal against re-determination following remitter	37
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
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

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 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 Industry v Nesci	[2019] NSWWCMA 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] NSWWCPCD 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
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] NSWWCPCD 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] NSWWCMA 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] NSWWC 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] NSWWCPCD 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] NSWWC 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
Smith v Blacktown City Council	[2019] NSWWC 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] NSWWC 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

Spears and Spears v Chapple and Chapple	[2019] NSWWC 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
State of New South Wales v Abdul	[2018] NSWCCPD 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] NSWCCPD 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] NSWCCMA 156	WCC - Arbitrator Rimmer, Dr M Burns & Dr J B Stephenson	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] NSWCCMA 98	WCC - Arbitrator Harris, Dr B Noll & Dr D Dixon	Subsequent non-work injury does not prevent compensation for workplace injury	39
Stefanac v Secretary, Department of Family and Community Services	[2019] NSWCCR 4	WCC - Arbitrator Egan (as Delegate of the Registrar)	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 likely to be at or near PIAWE – worker not entitled to weekly payments under s 37 WCA	37
Strooisma v Coastwide Fabrications and Erections Pty Ltd	[2019] NSWCC 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
Sutherland v D E Maintenance Pty Ltd	[2019] NSWCCPD 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] NSWCC 253	WCC - Arbitrator Grahame Coffey	Applicant not a worker or deemed worker at the date of injury	25
Sydney Metro Taxis Fleet No 1 Pty Ltd v Khan	[2019] NSWCCMA 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
Taumololo v Industrial Galvanizers Corporation Pty Ltd	[2018] NSWCC 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] NSWCC 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] NSWCCPD 27	WCC - President Phillips DCJ	Construction of s 39 WCA - RSM Building Services Pty Ltd v Hochbaum applied	35
Temelkov v Sydney Trains	[2019] NSWCCMA 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] NSWCCPD 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 – Watty 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] NSWWCMA 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] NSWWCMA 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	[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] NSWWCPCD 25	WCC - Wood DP	Extension of time to appeal refused - no exceptional circumstances established	21
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] NSWWCPCD 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
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] NSWWCMA 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
Tziallis v Elephant Boy Trading Co Pty Ltd	[2019] NSWWCMA 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
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
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] NSWWCMA 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

Veenstra v State of New South Wales	[2018] NSWWC 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
Veljanoski v Core Civil Comm Pty Ltd	[2019] NSWCCMA 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] NSWWC 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] NSWCCMA 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] NSWCCPD 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". See applied.	25
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] NSWCCMA 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 Tutola Pty Ltd (Deregistered)	[2019] NSWWC 6	WCC - Arbitrator Young	Section 38A WCA - reasoning in Vostek Industries Pty Ltd v White is binding upon arbitrators	28
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] NSWCCPD 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
Wentworth Community Housing Limited v Brennan	[2019] NSWCCMA 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] NSWCCMA 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] NSWCCPD 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] NSWCCPD 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] NSWCCPD 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] NSWCCPD 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
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	21
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
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
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
Workers Compensation Nominal Insurer v Athena Malakourtis as executrix of the Estate of the late Steven Malakourtis	[2018] NSWCCPD 53	WCC - Keating P	WCC refuses to strike out a Pre-Filing Statement despite significant delay	27
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
Yates v NSW Rural Fire Service Association Incorporated	[2019] NSWWC 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] NSWCCPD 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] NSWWCMA 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
Zhou v Ming Guang Lin t/as Gobig Building Services	[2019] NSWWC 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