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# Update Summary

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**UPDATE 335**

**OCTOBER 2024**

**VICTORIAN COURTS**

**G Nash KC**

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Updated commentary has been provided by **Gerard Nash**:

## Victorian Civil and Administrative Tribunal Act 1998

New:

- **Power of Registrar**, has been inserted, at [VCAT.32.20]
- **VCAT ancillary orders**, has been inserted, at [VCAT122.20]

## Civil Procedure Act 2010

Updated:

- The power to grant summary judgement under section 63 is additional to, and does derogate, from any other power of summary disposal. See *Parwan Investments Pty Ltd v Hooper* [2024] VSCA 86, at [CPA63.20].

## Evidence Act 2008

Updated:

- Lipreading was not an “inherently precise science”. See *Lehrmann v. Network Ten Pty Ltd (Expert Evidence) (No2)* [2023] FCA 1647, at [EA.79.20].
- The owner of a motor vehicle, seeking damages from the driver of the other vehicle could not rely on the conviction of the other driver for careless driving as evidence of negligence. See *Hollington v F Hewthorn & Co Ltd* [1943] KB 587, at [EA.91.20].
- Trial judges should not ordinarily direct a jury that they may not treat evidence of uncharged acts as tendency evidence. See *R v Bauer* [2018] HCA 40, at [EA.97.20].
- The voluntary confidential disclosure of information to ASIC for the purpose of facilitating an ASIC investigation. See *Australian Securities and Investments Commission v Naumi Ltd* [2024] FCA 349, at [EA.122.20].
- The public interest in the disclosure of evidence of the identity of any of 13 confidential sources had not been demonstrated to be substantial. See *Al Muderis v Nine Network Australia Pty Ltd* [2023] FCA 1623, at [EA.126K.20].
- Lee J exercised his general discretion not to exclude the evidence of a lipreader. See *Lehrmann v Network Ten Pty Ltd (No 2)* (2023) FCA 1647, at [EA.135.20].

New:

- **Capacity to cross-examine**, has been inserted, at [EA44.20]
- **Use of Summary**, has been inserted, at [EA 50.20]
- **Not every step need be taken**, has been inserted, at [EA65.40]
- **Source of Hearsay**, has been inserted, at [EA 75.20]

- Tendency extends to nature of dress, has been inserted, at [EA 97.40]
- Dangers of misuse, has been inserted, at [EA 97.70].

### Limitation of Actions Act 1958

#### New:

- Acknowledgement of debt, has been inserted, at [LAA24.30]
- Abuse of process still relevant, has been inserted, at [LAA 27P.20]
- Just and reasonable to set aside, has been inserted, at [LAA27QC.20].

### Magistrates' Court Act 1989

#### Updated:

- All the relevant circumstances of the case could properly be considered in applying the *Ebnert* test. See *Kitoko v Sydney Local Health District* [2024] NSWCA 49, at [MCA4.340].
- Justice should both be done and be seen to be done. See *Charisteas v Charisteas* [2021] HCA 29; (2021) 273 CLR 389, at [MCA4.360].
- In the absence of such prompt action, the right to complain of that bias or procedural fairness may be treated as waived. See *Vakauta v Kelly* (1989) 167 CLR 568; [1989] HCA 44, at [MCA4.360].

#### New:

- Self-represented litigants, has been inserted, at [MCA131.90].

