Equity case notes

Case	Facts	Rule
Nature of Equity		
• Equity is associated with fairness, morality, and justice. It evolved to address the deficiencies of common law and was administered in the Court of Chancery before the Judicature Acts of 1873 and 18751. • The Judicature Acts merged the administration of law and equity, allowing courts to apply both principles in their decisions.		
King v Dubrey (2016) donatio mortis causa - Death needs to be impending	Claim by a nephew that his aunt had made a donatio mortis causa (deathbed gift) of her house to him. The aunt had handed him the title deeds and said, "this will be yours when I go". She was unwell and frail but not suffering fatal illness.	The Court of Appeal held that the requirements for a valid donatio mortis causa were not met. The aunt was only contemplating her natural death, not an impending death from a specific cause.
The Relationship Between Law and Equity		
Harris v Digital Pulse Pty Ltd (2003) Fusion fallacy	This case involved two employees, Harris and Eden, who secretly diverted business from their employer, Digital Pulse, to their own company. Digital Pulse sued for breach of contract and fiduciary duty, seeking both compensatory and exemplary (punitive) damages Issue was whether the courts exercising equitable jurisdiction had jurisdiction to award exemplary damages.	Decision is a key case in Australian law that highlights the concept of the fusion fallacy **Key Points of the Decision:** 1. **Exemplary Damages in Equity**: The New South Wales Court of Appeal held that exemplary damages are not available for breaches of fiduciary duty or other equitable obligations. This decision aligns with the traditional view that equity does not award punitive damages, which are typically a remedy at common law. 2. **Fusion Fallacy**: The court's decision reinforced the **fusion fallacy** principle, which argues against blending the doctrines and remedies of common law and equity. The court maintained that despite the administrative fusion of law and equity under the Judicature Acts, their substantive principles remain distinct. Chief Justice Spigelman emphasized that the separation of common law and equity is more pronounced in Australia compared to other jurisdictions like Canada and New Zealand. He argued that introducing punitive damages into equity would be an inappropriate development of the law. **Implications:** • The **Harris v Digital Pulse** case underscores the importance of maintaining the distinctiveness of common law and equity. It illustrates that while courts can administer both legal and equitable remedies, they should not merge their substantive principles. • This decision has significant implications for legal practitioners, who must carefully navigate the boundaries between common law and equity when seeking remedies for their clients.

	Detriment: Shepherd argued that she acted to her detriment by making financial contributions based on the belief that she had an interest in the property.	
Trustees		
Nolan v Collie (2003) Strict compliance with duties	**Trustee Actions**: The case involved trustees who had acted outside their powers. The trustees made certain investments that were not authorized by the trust deed. **Good Faith:** Despite acting outside their powers, the trustees argued that they had acted in good faith and that their actions had benefited the trust. **Breach of Duty:** The court examined whether the trustees' actions constituted a breach of their fiduciary duties and whether they were entitled to indemnity from the trust assets for the expenses incurred.	**Issue:** Whether they were entitled to be indemnified? Hinged on whether mortgage liabilities had been properly incurred. **Decision:** • Strict Compliance: The court emphasized that trustees must strictly comply with their duties. Failure to do so would lead to the conclusion that any costs, expenses, or liabilities incurred were not properly incurred. • Indemnity: The court found that the trustees could be indemnified. The test of indemnity was whether the trustees liabilities were 'improperly incurred' and taken to exclude expenses incurred in bad faith, without power, or in the absence of reasonable care and diligence. While there was a lack of care, actions were not serious enough. • Improperly Incurred Expenses: The case highlighted that expenses incurred by trustees in breach of their duties, even if done in good faith, might not be recoverable if they did not benefit the trust. • Liability: The trustees were held personally liable for the losses incurred due to their unauthorized actions. This case underscores the importance of trustees adhering strictly to their duties and the terms of the trust deed to avoid personal liability
Carter Holt Woodproducts Australia Pty Ltd v Commonwealth (2019) Liabilities incurred	Amerind Pty Ltd, acting solely as a trustee of the Panel Veneer Processing Trust, defaulted on its credit facilities with Bendigo and Adelaide Bank. The bank appointed receivers to recover the debt. Legal Issue: The main issue was whether the surplus funds from the receivership, after paying the bank and receivers, should be considered "property of the company" under section 433 of the Corporations Act, thus giving priority to the Commonwealth's claim for employee entitlements.	Court resolved a longstanding controversy, holding that the interest a corporate trustee has pursuant to its right to be indemnified against trust liabilities is property divisible among the trustee's creditors in its winding-up under the Corporations Act 2001 (Cth). A trustee that incurs liabilities in the execution of its trust has a right to be indemnified against those liabilities from the trust assets.
Byrnes v Kendle (2011) Subjective/objective evidence Duy to manage assets (rent)	Clifford Kendle held legal title to a property and signed an acknowledgment of trust declaring he held a half interest in the property as tenant in common for Joan Byrnes. He leased to son from another relationship but only collected a small amount of rent. Clifford argued he had no real intention to create a trust	**Issue:** objective/subjective evidence to create a trust? Whether trustee has duty to collect rent on trust property and whether there was consent to acquiesce on the part of the beneficiary to the failure to collect rent? **Held:** • endorsed objective test and found a trust was intended. • Clifford failed in duty to collect rent and no evidence Joan had acqusise don the collection of rent.

	beneficiaries. In 2002, he further distributed the trust's assets to separate trusts for each of his children.	**Implications:** This case has significant implications for how discretionary trusts are treated in family law disputes. It established that assets held in discretionary trusts can be included in the pool of assets available for division in a property settlement if one of the parties has control over the trust.
CPT Custodian Pty Ltd v Commissioner of State Revenue (2005) Interests of beneficiaries in unit trusts	The main issue was whether unit holders in unit trusts were considered "owners" of land for the purposes of land tax assessments under Victoria's Land Tax Act.	The High Court ruled that unit holders, even if they held 100% of the units, were not considered owners of the land held by the trust. This decision was based on the interpretation that unit holders only had an interest in the assets of the trust as a whole, rather than any specific ownership interest in the land itself. Unit ownership does not confer an equitable interest in the property. The existence of trust relationship does not automatically vest unit holders with proprietary interests.
Tracing		
Foskett v McKeown (2001) Insurance payout	Involved tracing misappropriated funds used to pay life insurance premiums. Mr. Murphy, a trustee, misappropriated £20,000 of trust money to pay for life insurance premiums. Upon his death, the insurance paid out £1 million to his family. The claimants argued they had a 40% share in the policy monies due to the misappropriated funds.	The House of Lords held that the beneficiaries could trace the funds into the insurance policy and claim a proportionate share of the proceeds. **Held:** The House of Lords held that the claimants were entitled to trace their funds into the insurance payout. They could choose between a proportionate equitable co-ownership interest or an equitable lien.
Caron v Jahani (No 2) (2020) To not apply pari passu method	Courtenay House Pty Ltd operated a Ponzi scheme, and funds were co-mingled in a bank account. After a freezing order, investors continued to deposit money. The liquidators sought directions on distributing the funds.	The court provided guidance on the principles of tracing in bankruptcy. **Held:** The NSW Court of Appeal ruled that the funds should not be distributed pari passu. Instead, a "rolling charge" method was applied, proportionate to the remaining investment.
Declarations – orders stating true nature of law, or the rights, duties and interests of parties seeking discretionary relief		
ACCC v MSY Technology Pty Ltd (2012) contradictor	Can a declaration be made in the absence of a proper contradictor? (someone who has a true interest to oppose the declaration sought British Bank for Foreign Trade).	**Held:** Not bound to refuse to grant declaratory relief in the absence of a proper contractor Declarations should be granted on the basis of utility in the circumstances of the case.
Forster v Jododex Pty Ltd (1972) Mere declaratory relief	Jododex held an exploration license for mining in New South Wales, granted by the Minister for Mines under the Mining Act 1906 (NSW). Forster applied for licenses on the same land, leading to a dispute over the validity and renewal of Jododex's license	**Issue:** Did HCA have equitable jurisdiction to make declarations on matter that had ongoing investigations underway. **Held:** The High Court confirmed that the Supreme Court in Equity had jurisdiction under s. 10 of the Equity Act 1901 (NSW) to make declarations regarding the rights of the parties. Declaratory Orders: The court held that it could make 'mere declarations' to determine the rights between the parties without granting any consequential relief.
Hobart International Airport Pty Ltd v Clarence City Council [2022] Third parties	The Commonwealth leased its airports, including Hobart International Airport, to private operators. These leases required operators to pay local councils an amount equivalent to council rates, despite the land being	The High Court provided guidance on the proper method of valuation. **Held:** The court issued a declaration regarding the proper interpretation of the zoning regulations and their application to the airport **Federal Court:** Initially dismissed the councils' claim for lack of standing, as they were not parties to the lease agreements.

	Commonwealth property and thus exempt from such taxes. Disagreement arose over the calculation of the taxable land area. The councils, not being parties to the leases, sought declarations on the proper interpretation of the lease terms.	**Full Federal Court:** Reversed the decision, stating that the doctrine of privity does not prevent third parties from seeking declaratory relief. **High Court of Australia**: Affirmed that non-parties to a contract could seek a declaration regarding the meaning of a term in the contract. This decision was significant as it allowed entities affected by a contract's terms, but not party to it, to seek judicial clarification.
Sankey v Whitlam (1978) Seek to balance public interest with confidentiality Criminal proceedings	During the 1975 election campaign following the dismissal of the Whitlam government, Danny Sankey, a Sydney solicitor, initiated a private prosecution against Whitlam and others related to their involvement in the "loans affair," alleging unlawful conduct. Sankey subpoenaed Executive Council and Loan Council documents, which the Fraser government claimed were confidential and subject to "crown privilege".	The High Court of Australia had the power to inspect the documents and declared they could be released, balancing public interest and confidentiality concerns.
Specific performance – where damages are an inadequate remedy		
Beswick v Beswick (1968) Specific performance instead of common law damages	Peter Beswick transferred his coal business to his nephew, who agreed to pay Peter a weekly sum during his lifetime and, after his death, to pay his widow. After Peter's death, the nephew stopped payments.	**Issue:** were common law damages insufficient therefore allowing for specific performance? **Decision:** The court granted specific performance, ordering the nephew to pay the widow as per the agreement. The widow could enforce the contract as the administratrix of Peter's estate, not in her personal capacity.
Falcke v Grey (1859) Unique goods	Falcke agreed to buy two valuable china jars from Grey. Grey later sold to someone else for a higher price and refused to sell.	**Decision:** The court said specific performance could be granted due to the uniqueness of the goods however in this instance was not granted as the price paid indicated he was ignorant of the value.
C H Giles & Co Ltd v Morris (1972) Personal services	A contract for the sale of shares included a clause requiring the seller to remain as managing director.	The court held that specific performance was not appropriate for personal service contracts (essentially amounts to slavery) and noted difficulty in supervising such orders.
Co-operative Insurance Society Ltd v Argyll Stores (Holdings) Ltd (1998) Court supervision	Argyll Stores closed a supermarket in breach of a lease requiring them to keep it open.	The House of Lords refused specific performance, stating that it would be oppressive to compel the operation of a business at a loss plus need for ongoing court supervision and risk of repeated litigation.
Mehmet v Benson (1965) Ready, willing and able	Mehmet purchase property from Benson in instalments with settlement delayed until final payment. Later had issues meeting obligations and went bankrupt. Benson wanted to rescind.	**Issue:** in order to seek specific performance, was Mehmet ready, willing and able to perform the contract? **Decision:** Yes, was ready, etc at the time of hearing. The fact that he wasn't previously did not matter. Also real property is unique so specific performance is relevant remedy.
Injunctions		
Australian Broadcasting Corp v Lenah Game Meats Pty Ltd (2001) Trespass	Lenah Game Meats sought an injunction to prevent the ABC from broadcasting footage of its possum meat processing, which was obtained unlawfully by animal rights activists.	**Decision:** The High Court denied the injunction, ruling that the footage's unlawful acquisition did not justify restraining its broadcast. The court did not recognize a general right to privacy for corporations.

Plaintiff's right and availability of injunctive relief		The High Court ruled on the balance between privacy and freedom of expression.
Redland Bricks Ltd v Morris (1970) Mandatory injunctions (do something)	Redland Bricks' quarrying activities caused subsidence on Morris's land. Morris sought an injunction to prevent further quarrying.	**Principles:** 1. Plaintiff must show that there is a very strong probability on the facts that grave damage will accrue to the plaintiff in the future 2. Plaintiff must show damages at common law would be inadequate 3. Cost to defendant of preventing future occurrences needs to be taken into account, so if they acted wantonly or unreasonably the injunction will be granted even if the cost of remedial work is out of proportion to the actual gain flowing to the plaintiff from such expenditure being incurred. *Not if they acted reasonably, hardship to defendant must therefore be weighed up against loss to plantiff. a. The defendant knowledge of the wrongful nature of their act, whether they hastened the completion of the wrongful act so as to steal a march on the court, hardship causes to the plaintiff if injunction is refused, hardship caused to defendant if it was granted, and extent of plaintiff injuries that can be compensated with damages {Jessica Estates v Lennard). 4. The injunction must be clearly worded, so the defendant knows exactly in fact what he must do
Australian Broadcasting Corporation v O'Neill (2006) Interlocutory injunctions (temporary)	Involved the broadcast of potentially defamatory material. O'Neill sought an injunction to prevent the ABC from broadcasting a program alleging his involvement in criminal activities.	**Issue:** were IJ's, generally used to restrain wrongs, were applicable to restrain publication of allegedly defamatory materials. **Decision:** The Court highlighted that interlocutory injunctions in defamation cases should be granted cautiously, especially when the defendant pleads justification and intends to support it with evidence. The decision reinforced the principle that free speech should not be unduly restrained unless it is clear that the publication is untrue and harmful. Emphasizing the importance of freedom of speech and the public interest in the broadcast
European Bank Ltd v Evans (2010) undertaking as to damages	Sum of money paid as part of a judgment and a pending appeal meant loss of interest and currency exchange fees. HCA considered the nature and extent of a "usual undertaking as to damages". In doing so, it overturned the decision of the NSW Court of Appeal to reinstate the trial judge's finding that the receiver was liable for substantial losses suffered by a third party deprived of the funds which were at the heart of the dispute.	**Decision:** The test espoused by the High Court was that, in determining the appropriate damages under an undertaking, a court should (at [16]), "look to the purpose which the undertaking as to damages is to serve and … identify the causal connection or standard of causal connection which is most appropriate to that purpose". In that context the court must determine (at [29]): What is the loss that is alleged? 1. Did that loss flow directly from the order which was the subject of the undertaking?; and 2. Could the loss sustained have been foreseen at the time of that order? (Foreseeability in this sense means that "a *loss of the kind* actually sustained *could have been* foreseen" at the time.) The Court found that the losses caused by EBL's inability to exchange the US$ into EU€ satisfied that test and so were damages compensable pursuant to the undertaking.

Warner Bros Pictures Inc v Nelson (1937) Negative contractual stipulations	The contract included a negative stipulation preventing Davis from working for any other company without Warner Bros.' consent. Warner Bros sought an injunction to prevent actress Bette Davis (Nelson) from working for another studio in breach of her contract.	**Held**: The court granted an injunction to prevent the breach of the covenant but limited to three years. • Specific Performance Not Ordered: The court did not order specific performance, as it would force Davis to work for Warner Bros., which was deemed inappropriate for personal service contracts. • Damages: The court found that damages were difficult to quantify in this case, making the injunction the most suitable remedy
Australian Conservation Foundation Inc v Commonwealth (1980) Interest/standing criteria	The ACF sought an injunction to stop the Commonwealth from approving a development project without proper environmental assessment.	**Decision:** The court denied the injunction, ruling that the ACF did not have standing as it was not directly affected by the decision. The court ruled on the criteria for standing in public interest litigation. • Standing Criteria: The court emphasized that to have standing, a party must show that the decision affects them more than it affects the general public. • Special Interest Requirement: The court ruled that the ACF did not demonstrate a special interest in the matter beyond that of any other member of the public. The interest must be more than a mere emotional or intellectual concern. • Public Rights: The court noted that enforcing public rights is typically the responsibility of the Attorney-General, who can bring actions on behalf of the public.
Gouriet v Union of Post Office Workers (1978)	Union placed a one week ban on delivering mail to South Africa. Gouriet, as director of national freedom Association, applied to AG to be able to act as plaintiff (denied) and then brought an injunction to prevent the boycott.	**Issue:** Could a private individual seek an injunction against the **Held:** Denied the injunction. Held that private individuals could not enforce public duties unless they had a specific interest.
Freezing and search orders		
Jackson v Sterling Industries Ltd (1987) Jurisdictional basis	Sterling bought two pubs from Jackson and bough action against the vendor re profitability and misleading statements under TPA. Jackson began divesting assets.	**Issue:** whether a freezing order could be sought requiring the defendant to provide security as a condition of being allowed to defend an action. **Decision:** The High Court of Australia upheld the jurisdiction to issue freezing orders to prevent the abuse of process of the court but providing security was beyond the scope of an order's legitimate purpose.
Cardile v LED Builders Pty Ltd (1999) Requirements for freezing order	Cardiles were shareholders in a company that was used by LED builders. Cardiles received dividends and incorporated a new company. LED sought an account of profits following judgement and applied for freeing orders against Cardiles and their companies. Involved the enforcement of FO generally and specifically against third parties.	**Issue:** could a FO be granted against a 3rd party that has been shown to have no interest in the assets of the judgement debtor? **HELD:** the High Court found in favour of Cardiles as the FO were too broad. Outlined that to secure a freezing order, the applicant must show: 1. A prima facie cause of action against the defendant. 2. A danger that the defendant will dispose of assets, making it difficult to satisfy a judgment. 3. The affairs of the judgment debtor and a third party are closely intermingled, allowing recourse to the third party's assets

Anton Piller KG v Manufacturing Process (1975) Requirements for search order	Case involved engine design, IP and trade secrets. AP sought to enter MPs premises to inspect, copy or remove documents.	Established the principles for issuing search orders (originally known as Anton Piller orders). **Decision:** The court held that a search order can be issued if: 1. There is an extremely strong prima facie case. 2. The potential or actual damage to the applicant is very serious. 3. There is clear evidence that the defendant possesses incriminating documents or items. 4. There is a real possibility that the defendant might destroy such material before an inter partes application can be made
Long v Specifier Publications (1998) Plaintiff obligation in executing a SO	Long was a solicitor acting for parties in the purchase of a publishing house. Litigation ensued after the breakdown of the transaction. SO – Publication wanted Long to adhere to conditions in carrying out the SO i.e. inventory of materials taken, maintain control/possession etc.	• **Duty of Candour:** The plaintiff must fully disclose all relevant facts to the court when applying for the search order. This includes any potential defenses the defendant might have. • **Supervision:** The search must be conducted under the supervision of an independent solicitor to ensure fairness and compliance with the court's order. • **Non-Interference:** The plaintiff must not interfere with the defendant's business operations more than necessary to execute the order. • **Respect for Privacy:** The search order does not permit forcible entry. If the defendant resists, the search party must leave the premises. • **Compliance with Undertakings:** The plaintiff must comply with any undertakings given to the court, such as returning seized items if they are not relevant to the case.
Monetary orders		
Re Dawson (dec'd) (1966) Assessment of equitable compensation	This case involved a trustee who misappropriated trust funds. The issue was whether the trustee should repay the amount taken, including adjustments for exchange rate fluctuations and interest.	**Legal Principle:** The court held that equitable compensation aims to restore the trust to the position it would have been in had the breach not occurred. The trustee was required to repay the amount taken, adjusted for exchange rate fluctuations and interest.
Wentworth v Woollahra Municipal Council (1982) Power to award damages (over injunctions etc)	The plaintiff sought damages after the council failed to enforce building regulations, leading to a neighbor's construction that affected her property.	**Decision:** The High Court of Australia held that equitable damages could be awarded in lieu of an injunction. This case reinforced the principle that equitable remedies are flexible and can be tailored to achieve justice. Outlined the criteria for granting monetary orders, specifically equitable damages, in lieu of an injunction: • **Inadequacy of Injunction:** The court must determine that an injunction is not an adequate remedy for the harm suffered by the plaintiff. • **Complete Justice:** The court aims to do complete justice between the parties. This involves considering whether monetary compensation can adequately address the harm and restore the plaintiff to the position they would have been in had the breach not occurred. • **Discretionary Power:** The court exercises its discretionary power to award damages, ensuring that the remedy is fair and just in the circumstances.

		• **Substitution for Equitable Relief:** Equitable damages can be awarded in substitution for specific performance or an injunction, particularly when these remedies are impractical or would cause undue hardship.
Johnson v Agnew (1980) Damages when SP is not met	Johnson sold property to Agnew, who failed to complete the purchase. Johnson obtained an order for specific performance, which Agnew did not comply with. The property was eventually sold by mortgagees for less than the agreed price.	**Issue:** can damages be awarded when if SP is not possible, if so on what basis are damages assessed. **Held:** when specific performance is not complied with, the innocent party can seek damages. The damages are assessed based on the loss suffered due to the breach, placing the innocent party in the position they would have been in had the contract been performed.
Break Fast Investments Pty Ltd v PCH Melbourne Pty Ltd (2007) Damages v injunction – disproportionate hardship	Adjoining commercial properties. The defendant's building cladding encroached into the plaintiff's airspace. The plaintiff sought an injunction for its removal.	**Issue:** had trial judge erred in refusing to award damages instead of mandatory injunction? **Held:** Upheld trial decision. Damages only appropriate when there has been disproportionate hardship constituting oppression of the trespasser can be demonstrated.
Lawrence v Fen Tigers Ltd (2014) Damages v injunction	The plaintiffs sought an injunction to stop the defendants from operating a motor racing track that caused noise nuisance.	**Legal Principle:** The UK Supreme Court held that damages could be awarded in lieu of an injunction if it was deemed more appropriate. This case underscored the principle that equitable remedies should be flexible and consider the broader impact on both parties. Things to consider include: • **Injury to the Plaintiff's Legal Rights:** The court assesses the extent of the injury to the plaintiff's legal rights and whether damages would be a sufficient remedy. • **Conduct of the Parties:** The behavior of both parties, including any attempts to mitigate the nuisance, is considered. • **Public Interest:** The court may consider the broader public interest and the potential impact of granting an injunction. • **Adequacy of Damages:** If damages can adequately compensate the plaintiff and an injunction would be oppressive to the defendant, damages may be awarded instead.
Ancient Order of Foresters in Victoria Friendly Society Ltd v Lifeplan Australia Society Ltd (2018)	This case involved a breach of fiduciary duty where confidential information was misused.	**Decision:** The High Court of Australia awarded equitable compensation, emphasizing that the remedy aims to restore the plaintiff to the position they would have been in but for the breach. The decision reinforced the importance of equitable compensation in addressing breaches of fiduciary duty. the High Court of Australia provided significant guidance on the criteria for granting monetary orders, specifically focusing on the principles governing the causal link required for the imposition and calculation of an account of profits. • **Causal Connection:** emphasized the necessity of a sufficient causal connection between the breach of fiduciary duty and the profits made by the knowing participant.

		3. **Reliance**: The plaintiff must have acted or abstained from acting in reliance on this assumption or expectation. 4. **Detriment**: The plaintiff must have suffered or will suffer detriment as a result of their reliance on the assumption or expectation. 5. **Unconscionability**: It must be unconscionable for the defendant to depart from the assumption or expectation.
Commonwealth v Verwayen (1990) Nature of EE	Concerned the Commonwealth's liability for injuries sustained by a naval officer where the Commonwealth initially admitted liability but later sought to deny it.	**Held:** Affirmed Waltons. Commonwealth was estopped from denying liability due to its previous conduct. The court emphasized that estoppel can arise from conduct that leads another party to assume a particular legal position, and it would be unconscionable to allow the Commonwealth to change its stance.
Crown Melbourne Ltd v Cosmopolitan Hotel (Vic) (2016) Certainty of the representation and EE	Crown Melbourne assured Cosmopolitan Hotel that they would be "looked after" regarding lease renewals if they undertook refurbishments. Crown later refused to renew the leases.	**Held:** The High Court found that the statement "looked after" was too vague to constitute a binding promise. The court held that for promissory estoppel to apply, the representation must be clear and unambiguous.
Sidhu v Van Dyke (2014) ***Reliance and EE***	Sidhu promised Van Dyke that she would receive a property (Oaks Cottage) if she made improvements and did not seek a property settlement in her divorce. Van Dyke relied on this promise to her detriment.	**Held:** The High Court held that Sidhu was estopped from denying his promise. The court emphasized that detrimental reliance on a clear and unequivocal promise can give rise to equitable estoppel. Onus of proof of reliance is with the relying party. Representor must have also failed to act to avoid loss if the expectation use dto enduce relying party goes unfilled.
Giumelli v Giumelli (1999) Relief based on EE	Robert Giumelli worked on his family's orchard based on promises that he would receive a portion of the property. When the family reneged, he sought enforcement of the promise.	**Decision:** The High Court held that Robert was entitled to relief based on equitable estoppel. The court highlighted that the remedy should be proportionate to the detriment suffered and may involve monetary compensation or specific performance. Relief is based on the expectation that is generated by the promise or representation. Monetary relief as granted.
Delaforce v Simpson-Cook (2010) relief	Delaforce claimed an interest in a property based on promises made by Simpson-Cook. Delaforce had made significant contributions to the property in reliance on these promises. The case centered on whether a man's promise to give a property to his ex-wife upon his death created a proprietary estoppel.	**Held:** promise did give rise to a proprietary estoppel. The ex-wife had relied on the promise to her detriment, and it would be unconscionable for the man to renege on his promise. Transfer of property was granted. The court emphasized the need for clear and unequivocal representations and the resulting detriment to the promisee.
Confidential information		
Prince Albert v Strange (1849) Origins of breach of confidence	Prince Albert and Queen Victoria created private etchings, which were surreptitiously copied and intended for public exhibition by Strange.	**Decision:** The court granted an injunction based on breach of confidence, emphasizing the protection of private information even without a contractual relationship. The court granted an injunction to prevent further publication. Broad notion of trust, confidence and contract.
Morison v Moat (1851) *origins*	Moat, a former employee, attempted to use a secret formula for medicine developed by Morison.	**Decision:** The court granted an injunction to protect the confidential information. Based on both property and conscious.

Moorgate Tobacco Co Ltd v Philip Morris Ltd (No 2) (1984) Consciousness	Involved the misuse of confidential information in the tobacco industry. Moorgate Tobacco sought to prevent Philip Morris from using the "KENT" and "MICRONITE" trademarks.	**Held:** The High Court of Australia emphasized that breach of confidence is based on an obligation of conscience, rejecting a general tort of unfair competition. The court provided guidance on the protection of confidential information. Consciousness is key
Coco v A N Clark (Engineers) (1969) *Elements of modern action*	Coco shared confidential information about a moped design with Clark, who then used the information to develop their own product.	The court granted an injunction to protect the information. The court established three elements for breach of confidence: 1. the information must be **confidential**, 2. it must have been imparted in circumstances importing an **obligation of confidence**, and 3. there must be **unauthorized use** of the information.
Wilson v Ferguson (2015) Personal information	Involved the unauthorized sharing of intimate images.Ferguson posted explicit images of Wilson on Facebook without her consent.	**Held:** The court awarded damages for breach of confidence, recognizing the misuse of private information and the emotional distress caused. The court granted an injunction to prevent further distribution. Personal information can include: • medical records, sexual orientation, privately produced artworks etc
Australian Football League v Age Company (2006) public domain	The Age Company published confidential information about the AFL's drug testing program.	**Held:** court granted an injunction to prevent further publication, emphasizing the importance of maintaining confidentiality in sensitive matters. Does not have to enter the public domain
Del Casale v Artedomus (Aust) (2007) Trade secrets/commercial confidence	Directors left and promised not to compete or devolve sensitive information. Later used info to find a supplier of the special stone.	**Issue:** was info about the source of the stone a trade secret? **Held:** The court granted a permanent injunction to protect the information and an account of profits.
Commonwealth v John Fairfax & Sons (1980) confidential government information can be published if it serves the public interest	The case involved the Commonwealth of Australia seeking an injunction to prevent John Fairfax & Sons Ltd from publishing extracts from a book containing confidential government documents. These documents included sensitive information about Australia's strategic military defense, particularly related to the East Timor crisis. The Commonwealth argued that the publication would harm national security and international relations.	The High Court of Australia held that the government could not restrain the publication of information unless it could prove that the publication would harm the public interest. The court emphasized the importance of freedom of the press and the public's right to be informed about government activities. The principle established is that confidential government information can be published if it serves the public interest and does not pose a significant threat to national security. Gov info is a special category due to public interest.