

# Perry Herzfeld

## Professional details

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**Admitted to practice:** 26 April 2006

**Signed Bar Roll:** 19 November 2009

**Qualifications:** BSc LLB (Hons) (Melb) LLM (Melb)

**Previous legal positions:** Associate to the Honourable Justice Susan Crennan AC,  
High Court of Australia (2008–9)

Allens Arthur Robinson, Articled Clerk (2005–6),  
Lawyer (2006–8)

Reporter for the *Commonwealth Law Reports* (2010–16)

## Contact details

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SYDNEY NSW 2000  
02 9232 7609

**Melbourne clerk:** John Dever (List D)  
Owen Dixon Chambers  
205 William Street  
MELBOURNE VIC 3000  
03 9225 7999

## Education

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**Post-graduate:** LLM (Melb)

**Graduate:** BSc LLB (Hons) (Melb)

Placed second on the Final Law Honours List (Spero Wilson Memorial Scholarship);

Harrison Moore Exhibition for Advanced Constitutional Law (placed first in subject)

Full Faculty Scholarship from the Faculty of Law

## Recent publications

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*Practice & Procedure High Court and Federal Court of Australia* (LexisNexis) — High Court volume

*Statutory Interpretation Principles* (2014, Thomson Reuters)

(with Thomas Prince)

*Interpretation and Use of Legal Sources* (2013, Thomson Reuters)

(with Thomas Prince and Stephen Tully)

## Recent cases

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### Unled

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### Appeals

*Forster v Minister for Immigration and Border Protection* [2018] FCAFC 125 — administrative law, migration, unled for the respondent

*Minister Administering the Water Management Act 2000 v Sharkey* [2017] NSWCA 319; (2017) 226 LGERA 322 — statutory interpretation, unled for the applicant

*Morgan v District Court of New South Wales* [2017] NSWCA 105; (2017) 94 NSWLR 463; 319 FLR 463; 345 ALR 621; 266 A Crim R 528 — administrative law, criminal law, review of District Court on appeal from Local Court, unled for the second respondent (State of New South Wales)

*Minister for Immigration and Border Protection v SZVFW* [2017] FCAFC 33; (2017) 248 FCR 1 — administrative law, migration, unled for the appellant

*ASP15 v The Commonwealth* [2016] FCAFC 145; (2016) 248 FCR 372; 155 ALD 41 — administrative law, constitutional law, migration, unled for the respondents

*Attia v Caird Seven Pty Ltd* [2016] NSWCA 271 — contract, specific performance, unled for the respondent

*Waterhouse v Independent Commission Against Corruption (No 2)* [2016] NSWCA 133 — administrative law, bias, Independent Commission Against Corruption, unled for the respondents

*SZVCP v Minister for Immigration and Border Protection* [2016] FCAFC 24; (2016) 238 FCR 15 — administrative law, migration, unled for the first respondent

### **First instance**

*Hartigan v Treasurer (ACT)* [2018] ACTSC 271 — administrative law, act of grace payment, unled for the plaintiff

*DKB18 v Minister for Home Affairs* [2018] FCA 1465 — administrative law, migration, statutory interpretation, unled for the respondent

*McKane v Commissioner of Corrective Services (NSW) (No 3)* [2018] NSWSC 1060 — administrative law, corrective services, unled for the defendant

*Vannini v Worldwide Demolitions Pty Ltd* [2018] NSWSC 572 — administrative law, workers' compensation, unled for the first defendant

*Nguyen v Corbett* [2017] NSWSC 1689; (2018) 19 BPR 38,191; *Nguyen v Corbett (No 2)* [2018] NSWSC 441; (2018) 19 BPR 38,505; 58 Fam LR 592 — real property, fraudulent conveyances, trusts, unled for the second defendant

*Hall v The Commonwealth* [2018] ACTSC 79 — preliminary discovery, unled for the defendant

*Bernard-Ross v New South Wales* [2018] NSWSC 182 — administrative law, corrective services, unled for the second defendant (Commissioner of Corrective Services)

*Parker v Select Civil Pty Ltd* [2018] NSWSC 240 — administrative law, workers' compensation, unled for the defendant

*CGR v Office of the Children's Guardian* [2018] NSWSC 26 — administrative law, children, unled for the defendant

*DLF16 v Minister for Immigration and Border Protection* [2017] FCA 1072 — administrative law, migration, unled for the respondent

*Sharkey v Minister Administering the Water Management Act 2000* [2017] NSWLEC 47 — statutory interpretation, unled for the respondent

*ARJ17 v Minister for Immigration and Border Protection* [2017] FCA 263; (2017) 250 FCR 446 — administrative law, jurisdiction, migration, unled for the respondent

*LFDB v SM (No 3)* [2017] FCA 80 — private international law, registration of foreign judgments, *Trans-Tasman Proceedings Act 2010* (Cth), unled for the applicants

*Dean v Antunes* [2016] NSWSC 1845 — trusts, leave to amend, unled for the defendant

*Caird Seven Pty Ltd v Attia* [2016] NSWSC 1088; *(No 2)* [2016] NSWSC 1217; *(No 3)* [2016] NSWSC 1452; (2016) 92 NSWLR 457; *(No 4)* [2016] NSWSC 1750 — contract, specific performance, enforcement of orders, receivers, unled for the plaintiff

## Led

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### High Court

*Minister for Immigration and Border Protection v SZVFW* [2018] HCA 30; (2018) 92 ALJR 713; 357 ALR 408 — administrative law, migration, with Neil Williams SC and Matt Sherman for the appellant

*Re Gallagher* [2018] HCA 17; (2018) 92 ALJR 502; 355 ALR 1 — constitutional law, parliamentary disqualification, with Stephen Donaghue QC and Julia Watson, for the Attorney-General of the Commonwealth (intervening)

*Re Canavan* [2017] HCA 45; (2017) 91 ALJR 1209; 349 ALR 534 — constitutional law, parliamentary disqualification, with Stephen Donaghue QC, Mark Costello and Julia Watson, for the Attorney-General of the Commonwealth (intervening)

*Brown v Tasmania* [2017] HCA 43; (2017) 261 CLR 328; 91 ALJR 1089; 349 ALR 534 — constitutional law, implied freedom of political communication, with Stephen Donaghue QC and Julia Watson, for the Attorney-General of the Commonwealth (intervening)

*Plaintiff S195/2016 v Minister for Immigration and Border Protection* [2017] HCA 31; (2017) 91 ALJR 857; 261 CLR 622; 346 ALR 181 — constitutional law, migration, with Stephen Donaghue QC, Geoffrey Kennett SC and Anna Mitchelmore for the first and second defendants

*Plaintiff M96A/2016 v The Commonwealth* [2017] HCA 16; (2017) 261 CLR 582; 91 ALJR 579; 343 ALR 362; 155 ALD 224 — constitutional law, migration, with Stephen Donaghue QC for the defendants

*Attwells v Jackson Lalic Lawyers Pty Ltd* [2016] HCA 16; (2016) 259 CLR 1; 90 ALJR 572; 331 ALR 1 — advocates' immunity, with Andrew Bell SC for the respondent

*Plaintiff M68-2015 v Minister for Immigration and Border Protection* [2016] HCA 1; (2016) 257 CLR 42; 90 ALJR 297; 327 ALR 369 — constitutional law, executive power, migration, with Justin Gleeson SC, Geoffrey Kennett SC and Anna Mitchelmore for the first and second defendants

### **Intermediate appellate**

*Vannini v Worldwide Demolitions Pty Ltd* [2018] NSWCA 324 — administrative law, workers' compensation, with Jeremy Kirk SC for the first respondent

*Robinson v New South Wales* [2018] NSWCA 231 — torts, arrest, statutory interpretation, with Jeremy Kirk SC for the respondent

*Hunter Quarries Pty Ltd v Mexon* [2018] NSWCA 178 — administrative law, workers' compensation, statutory interpretation, with Jeremy Kirk SC for the appellant

*ARJ17 v Minister for Immigration and Border Protection* [2018] FCAFC 98; (2018) 257 FCR 1; 360 ALR 64 — administrative law, migration, statutory interpretation, with Geoffrey Kennett SC for the respondent

*BB Australia Pty Ltd v Danset Pty Ltd* [2018] NSWCA 101 — contract law, damages, trusts, with Kelly Rees SC for the appellant

*Re Kelvin* [2017] FamCAFC 258; (2017) 57 Fam LR 503; 327 FLR 15; 351 ALR 329; (2017) FLC ¶93-809 — family law, constitutional law, case stated, transgender children, with Kate Richardson SC for the Attorney-General of the Commonwealth (intervening)

*Kaldas v Barbour* [2017] NSWCA 275; (2017) 326 FLR 122; 350 ALR 292 — administrative law, constitutional law, privative clauses, with Jeremy Kirk SC and Celia Winnett for the first and second defendants

*Minister for Immigration and Border Protection v ARJ17* [2017] FCAFC 125; (2017) 250 FCR 31; 347 ALR 477 — administrative law, statutory interpretation, with Geoffrey Kennett SC for the appellant

*Mandie v Memart Nominees Pty Ltd* [2017] VSCA 177 — trusts, exclusion of beneficiaries, bias, with Alan Archibald QC for the respondent

*People for the Plains Incorporated v Santos NSW (Eastern) Pty Ltd* [2017] NSWCA 46; (2017) 220 LGERA 181 — administrative law, environment and planning, mining, with Richard Lancaster SC for the third respondent (Secretary, NSW Department of Industry)

*Free Serbian Orthodox Church Diocese for Australia and New Zealand Property Trust v Bishop Irinej Dobrijevic* [2017] NSWCA 28; (2017) 94 NSWLR 340 — charitable trusts, with Sturt Glacken QC for the first and second respondents

*Minister for Indigenous Affairs v MJD Foundation Ltd* [2017] FCAFC 37; (2017) 250 FCR 31; 351 ALR 270 — administrative law, statutory interpretation, with Geoffrey Kennett SC for the appellant

*Board of Studies, Teaching and Educational Standards v Vandenvoerkamp* [2016] NSWCA 268 — constitutional law, inconsistency of federal and state laws, administrative law, education, with Noel Hutley SC for the appellant

*Jones v Treasury Wine Estates Ltd* [2016] FCAFC 59; (2016) 241 FCR 111 — private international law, anti-suit injunction, overseas depositions, with Andrew Bell SC for the respondent

*Chubb Insurance Company of Australia Ltd v Robinson* [2016] FCAFC 17; (2016) 239 FCR 300; 19 ANZ Ins Cas ¶62-096 — insurance, interpretation, with Neil Young QC for the appellant

*Mandie v Memart Nominees Pty Ltd* [2016] VSCA 4 — trusts, exclusion of beneficiaries, leave to amend, with Alan Archibald QC for the respondent

### **First instance**

*Mandie v Memart Nominees Pty Ltd* [2018] VSC 719 — trusts, exclusion of beneficiaries, with Alan Archibald QC for the defendant

*CrownBet Pty Ltd v New South Wales* [2017] NSWSC 1470 — equity, declarations, gambling, with Bret Walker SC for the plaintiff

*CFMEU v Director of the Fair Work Building Industry Inspectorate* [2017] FCA 1166; (2017) 274 IR 207; 69 AILR 102-869 — industrial law, with Michael Wheelahan QC and Matthew Follett for the respondent

*BB Australia Pty Ltd v Danset Pty Ltd* [2017] NSWSC 1307 — contract, inducing breach of contract, trusts, with Kelly Rees SC for the plaintiff

*Blairgowrie Trading Ltd v Allco Finance Group Ltd (Receivers & Managers Appointed) (In Liq) (No 3)* [2017] FCA 330; (2017) 343 ALR 476; 118 ACSR 614 — class actions, settlement approval, with Jeremy Kirk SC for the third respondent (KPMG)

*Linfox Australia Pty Ltd v Transport Accident Commission* [2016] VSC 592; (2016) 78 MVR 177 — transport accidents, personal property, statutory interpretation, with Michael Wheelahan QC for the defendant

*Obeid v Ipp* [2016] NSWSC 1376; (2016) 338 ALR 234 — tort, misfeasance in public office, administrative law, Independent Commission Against Corruption, with Bret Walker SC and Stephen Free for the first defendant

*People for the Plains Incorporated v Santos NSW* [2016] NSWLEC 93 — administrative law, environment and planning, mining, with Richard Lancaster SC for the third respondent (Secretary, NSW Department of Industry)

*Mandie v Memart Nominees Pty Ltd (No 3)* [2016] VSC 267 — trusts, exclusion of beneficiaries, bias, with Alan Archibald QC for the defendant

*Carillion Construction Ltd v AIG Australia Ltd* [2016] NSWSC 495; (2016) 19 ANZ Ins Cas ¶62-115 — insurance, deed of release, limitation of actions, with Geoff McArthur QC for the defendant