

Perry Herzfeld

Professional details

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

Chambers: Eleven Wentworth Chambers
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Education

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

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

“Limitation of Actions and Specific Performance” (2019) 93 ALJ 470

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

Unled

Appeals

Degning v Minister for Home Affairs [2019] FCAFC 67 — administrative law, migration, statutory interpretation, unled for the respondent

Globe Church Incorporated v Allianz Australia Insurance Ltd (2019) 365 ALR 750; [2019] NSWCA 27 — insurance, limitation of actions, unled for the first defendant

Forster v Minister for Immigration and Border Protection (2018) 264 FCR 58; [2018] FCAFC 125 — administrative law, migration, unled for the respondent

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

Morgan v District Court of New South Wales (2017) 94 NSWLR 463; [2017] NSWCA 105 — administrative law, criminal law, judicial 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) 248 FCR 1; [2017] FCAFC 33 — administrative law, migration, unled for the appellant

ASP15 v The Commonwealth (2016) 248 FCR 372; [2016] FCAFC 145 — 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) 238 FCR 151; [2016] FCAFC 24 — administrative law, migration, unled for the first respondent

First instance

Ljubisavlijevic v Workers Compensation Commission (NSW) [2019] NSWSC 1358 — administrative law, workers' compensation, unled for the fourth defendant (Pascoes Pty Ltd)

Chamoun v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (No 2) [2019] FCA 1520 — administrative law, migration, unled for the respondent

FQM18 v Minister for Home Affairs [2019] FCA 1263 — administrative law, migration, unled for the respondent

BHL19 v Minister for Immigration, Citizenship and Multicultural Affairs [2019] FCA 929 — administrative law, migration, unled for the respondent

Applicant ACD13/2019 v Stefanic [2019] FCA 548 — interlocutory injunction, public interest disclosure, unled for the respondents

Ezegbe v Minister for Immigration and Border Protection (2019) 164 ALD 139; [2019] FCA 216 — administrative law, migration, unled for the respondent

Hartigan v Treasurer (ACT) (2018) 338 FLR 324; [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 (2018) 19 BPR 38,191; [2017] NSWSC 1689; (No 2) (2018) 19 BPR 38,505; 58 Fam LR 592; [2018] NSWSC 441 — 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) 250 FCR 446; [2017] FCA 263 — 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) 92 NSWLR 457; [2016] NSWSC 1452; *(No 4)* [2016] NSWSC 1750 — contract, specific performance, enforcement of orders, receivers, equitable execution, unled for the plaintiff

Led

High Court

Masson v Parsons (2019) 93 ALJR 848; 368 ALR 583; [2019] HCA 21 — constitutional law, inconsistency of laws, family law, with Stephen Lloyd SC and Suzanne Christie SC, for the third respondent (the independent children's lawyer)

Plaintiff M47/2018 v Minister for Home Affairs (2019) 93 ALJR 732; 367 ALR 711; [2019] HCA 17; — constitutional law, migration, with Stephen Donaghue QC and Zelig Heger, for the respondents

Spence v Queensland (2019) 93 ALJR 643; 367 ALR 587; [2019] HCA 15 — constitutional law, elections, inconsistency of laws, implied freedom of political communication, with Stephen Donaghue QC and Chris Tran, for the Attorney-General of the Commonwealth (intervening)

Williams v Wreck Bay Aboriginal Community Council (2019) 93 ALJR 279; 363 ALR 63; [2019] HCA 4 — constitutional law, inconsistency of laws, with Jeremy Kirk SC and Richard Arthur, for the first respondent

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

Re Gallagher (2018) 263 CLR 460; [2018] HCA 17 — constitutional law, parliamentary disqualification, with Stephen Donaghue QC and Julia Watson, for the Attorney-General of the Commonwealth (intervening)

Re Canavan (2017) 263 CLR 284; [2017] HCA 45 — 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) 261 CLR 328; [2017] HCA 43 — 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) 261 CLR 622; [2017] HCA 31 — 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) 261 CLR 582; [2017] HCA 16 — constitutional law, migration, with Stephen Donaghue QC for the defendants

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

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

Intermediate appellate

Parker v Australian Building and Construction Commissioner (2019) 365 ALR 402; 286 IR 116; [2019] FCAFC 56 — industrial law, civil penalties, with Matthew White SC for the respondent

Ladbrokes Digital Australia Pty Ltd v Liquor & Gaming NSW [2019] NSWCCA 26 — criminal law, case stated, gambling, with Jeremy Kirk SC for the appellant

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) 98 NSWLR 526; [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) 257 FCR 1; [2018] FCAFC 98 — 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) 57 Fam LR 503; [2017] FamCAFC 258 — family law, constitutional law, case stated, transgender children, with Kate Richardson SC for the Attorney-General of the Commonwealth (intervening)

Kaldas v Barbour (2017) 326 FLR 122; 350 ALR 292; [2017] NSWCA 275 — 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) 250 FCR 31; [2017] FCAFC 125 — 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) 220 LGERA 181; [2017] NSWCA 46 — 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) 94 NSWLR 340; [2017] NSWCA 28 — charitable trusts, with Sturt Glacken QC for the first and second respondents

Minister for Indigenous Affairs v MJD Foundation Ltd (2017) 250 FCR 31; [2017] FCAFC 37 — 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) 241 FCR 111; [2016] FCAFC 59 — private international law, anti-suit injunction, overseas depositions, with Andrew Bell SC for the respondent

Chubb Insurance Company of Australia Ltd v Robinson (2016) 239 FCR 300; [2016] FCAFC 17 — 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

Tredrea v KPMG [2019] NSWSC 640 — class actions, settlement approval, with Jeremy Kirk SC for the defendant

Kazal v Independent Commission Against Corruption [2019] NSWSC 556 — torts, misfeasance in public office, summary dismissal, Independent Commission Against Corruption, with Stephen Free for the second defendant (David Ipp QC).

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) 274 IR 207; 69 AILR 102-869; [2017] FCA 1166 — 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) 343 ALR 476; 118 ACSR 614; [2017] FCA 330 — class actions, settlement approval, with Jeremy Kirk SC for the third respondent (KPMG)

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

Obeid v Ipp (2016) 338 ALR 234; [2016] NSWSC 1376 — torts, 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) 19 ANZ Ins Cas ¶62-115; [2016] NSWSC 495 — insurance, deed of release, limitation of actions, with Geoff McArthur QC for the defendant