

# Perry Herzfeld

## Professional details

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<b>Admitted to practice:</b>	26 April 2006
<b>Signed Bar Roll:</b>	19 November 2009
<b>Qualifications:</b>	BSc LLB (Hons) (Melb) LLM (Melb)
<b>Previous legal positions:</b>	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 <i>Commonwealth Law Reports</i> (2010–16)

## Contact details

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<b>Chambers:</b>	Eleven Wentworth Chambers Level 11, 174–180 Phillip Street SYDNEY NSW 2000
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<b>Clerk:</b>	Zach Rymer Eleven Wentworth Chambers Level 11, 174–180 Phillip Street SYDNEY NSW 2000 02 9232 7609
<b>Melbourne clerk:</b>	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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*Interpretation* (2nd ed, 2020, Thomson Reuters) (with Thomas Prince)

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

## Recent cases

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### Unled

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### Appeals

*Chamoun v Minister for Immigration Citizenship Migrant Services and Multicultural Affairs* [2020] FCAFC 66 — administrative law, migration, unled for the respondent

*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) 99 NSWLR 470; [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

### **First instance**

*Liristis v Corrective Services NSW (No 4)* [2020] NSWSC 147 — contempt, unled for the defendants

*Environment Protection Authority v Newcastle Ports Corporation* [2020] NSWLEC 6 — environmental prosecution, duplicity, unled for the prosecutor

*SDCV and Director-General of Security* [2019] AATA 6112 — national security, adverse security assessment, unled for the respondent

*SYLN v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2019] FCA 1986 — administrative law, unled for the respondent

*In the matter of ACN 004 410 833 Ltd (formerly Arrium Ltd)* [2019] NSWSC 1606 — corporations, public examination, abuse of process, unled for KPMG

*Ljubisavljevic 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) 166 ALD 284; [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

## Led

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### High Court

*Smethurst v Commissioner of Police* [2020] HCA 14 — torts, constitutional law, search warrants, with Stephen Lloyd SC for the plaintiffs

*New South Wales v Robinson* (2019) 94 ALJR 10; [2019] HCA 46 — arrest, statutory construction, with Jeremy Kirk SC for the appellant

*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) 264 CLR 541; [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

### **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) 275 A Crim R 168; [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

## First instance

*Aurora Funds Management Limited v Australian Government Takeovers Panel (Judicial Review)* [2020] FCA 496 — administrative law, corporations, with Stephen Lloyd for ASIC

*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)