

Perry Herzfeld SC

Professional details

Admitted to practice:	26 April 2006
Bar admission:	19 November 2009 (Vic); 1 July 2013 (NSW)
Appointed Senior Counsel:	30 September 2020
Qualifications:	BSc LLB (Hons) (Melb) LLM (Melb)
Other legal positions:	Editor, <i>New South Wales Law Reports</i> (2022–) Fellow, Australian Academy of Law (2022–)
Previous legal positions:	Associate to the Hon Justice Susan Crennan AC, High Court of Australia (2008–9) Allens Arthur Robinson, Articled Clerk (2005–6), Lawyer (2006–8) Reporter, <i>Commonwealth Law Reports</i> (2010–16)

Contact details

Chambers:	Eleven Wentworth Chambers Level 11, 174–180 Phillip Street SYDNEY NSW 2000
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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

Interpretation (3rd ed, 2024, Thomson Reuters) (with Thomas Prince)

“Injunctions in Public Law” in John Griffiths and James Stellios, *Issues in Australian Constitutional Law: Tributes to Professor Leslie Zines — Volume 2* (2024, Federation Press)

“Statutory Interpretation from *Visy* to Today” in Stephen Puttick and Michael Gvozdenovic (eds), *Current Issues in Competition Law: Volume I* (2021, Federation Press)

Statutory Interpretation Principles (2nd ed, 2021, Thomson Reuters) (with Thomas Prince)

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

Recent cases

Appellate

Elisha v Vision Australia Ltd [2024] HCA 50 — breach of contract, employment, damages, for the appellant

Kramer v Stone [2024] HCA 48 — proprietary estoppel, for the respondent

Imad v Director-General of Security [2024] FCAFC 138 — judicial review, public interest immunity, national security, for the respondent

Boyjonauth v Minister for Immigration and Multicultural Affairs (2024) 305 FCR 152; [2024] FCAFC 130 — judicial review, statutory construction, for the appellant

Gehlert v Minister for Immigration and Multicultural Affairs (2024) 305 FCR 172; [2024] FCAFC 129 — statutory construction, for the respondent

Indara Inbuilding Solutions Pty Ltd v Australian Communications and Media Authority [2024] FCAFC 117 — telecommunications, judicial review, statutory interpretation, for the respondent

Carbone v Fowler Homes Pty Ltd [2024] NSWCA 192 — contract, building and construction, for the appellants

Coca-Cola Europacific Partners API Pty Ltd v Pombinho [2024] NSWCA 191 — workers' compensation, judicial review, for the appellant

EMJ18 v Secretary, Department of Home Affairs (2024) 303 FCR 308; [2024] FCAFC 87 — freedom of information, statutory construction, for the respondent

Boyle v DPP (Cth) (2024) 332 IR 205; [2024] SASCA 73 — public interest disclosure, statutory construction, for the Human Rights Law Centre

Greylag Goose Leasing 1410 Designated Activity Company v PT Garuda Indonesia Ltd (2024) 98 ALJR 828; [2024] HCA 21 — private international law, foreign state immunity, statutory construction, for the appellant

CCU21 v Minister for Home Affairs (2024) 303 FCR 350; [2024] FCAFC 69 — judicial review, migration, peremptory mandamus, for the respondent

Haddad v GEO Group Australia Pty Ltd (2024) 114 NSWLR 407; [2024] NSWCA 135 — workers' compensation, statutory construction, for the respondent

QBT Pty Ltd v Wilson [2024] NSWCA 114 — contract, construction, implied terms, for the appellant

Miller v Minister for Immigration, Citizenship and Multicultural Affairs (2024) 98 ALJR 623; 418 ALR 166; [2024] HCA 13 — judicial review, statutory construction, for the appellant

Minister for Immigration, Citizenship and Multicultural Affairs v McQueen (2024) 98 ALJR 594; 418 ALR 133; [2024] HCA 11 — judicial review, migration, for the applicant

Brotherhood of St Laurence v Sarina Investments Pty Ltd [2024] VSCA 46 — contract, lease, construction, repudiation, for the appellant

Secretary, Department of Communities and Justice v Stewart [2024] NSWCA 59 — workers' compensation, statutory construction, for the appellant

Minister for Immigration, Citizenship and Multicultural Affairs v MZAPC (2024) 302 FCR 159; [2024] FCAFC 34 — judicial review, migration, injunctions, for the appellant

Minister for Home Affairs v BRO18 (2024) 302 FCR 259; [2024] FCAFC 27 — judicial review, migration, for the appellant

Fisher v Nonconformist Pty Ltd (2024) 114 NSWLR 1; [2024] NSWCA 32 — workers' compensation, causation, for the respondent

CEU22 v Minister for Home Affairs (2024) 301 FCR 578; [2024] FCAFC 11 — constitutional law, judicial review, migration, for the respondent

Collaery v The Queen (No 4) [2023] ACTCA 47 — national security, for the Attorney-General (Cth)

Commissioner of Police v Ritson [2023] NSWCA 30 — privacy, statutory construction, for the applicant

Hartley v Commissioner of the Australian Federal Police [2023] FCAFC 197 — search warrants, for the respondent

NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs (2023) 97 ALJR 1005; 415 ALR 254; [2023] HCA 37 — constitutional law, for the defendants (with Stephen Donaghue KC)

GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore (2023) 97 ALJR 857; 414 ALR 635; [2023] HCA 32 — torts, historic child sexual abuse, permanent stay, for the appellant

Bogan v Estate of Smedley (deceased) (2023) 72 VR 394; [2023] VSCA 256 — class actions, cross-vesting, group costs orders, for KPMG

Vanderstock v Victoria (2023) 98 ALJR 208; [2023] HCA 30 — constitutional law, for the Australian Trucking Association as *amicus curiae*

Care A2 Plus Pty Ltd v Gensco Laboratories, LLC [2023] FCA 1246 — private international law, anti-suit injunctions, leave to appeal, for the applicant

Independent Liquor and Gaming Authority v Whitebull HTL Pty Ltd [2023] NSWCA 224 — judicial review, statutory construction, gambling, for the appellant

Aerotropolis Pty Ltd v Secretary, Department of Planning and Environment (2023) 256 LGERA 69; [2023] NSWCCA 195 — environmental prosecution, limitation period, statutory construction, for the appellant

Moore v Commonwealth Director of Public Prosecutions (2023) 378 FLR 391; [2023] NSWCA 153 — crime, jurisdiction, statutory construction, for the respondent

R v AB [2023] NSWCCA 168 — crime, foreign bribery, statutory construction, for the applicant

CCU21 v Minister for Home Affairs (2023) 297 FCR 503; [2023] FCAFC 87 — judicial review, migration, for the respondent

Minister for Immigration, Citizenship and Multicultural Affairs v SZRWS (2023) 297 FCR 589; [2023] FCAFC 83 — statutory construction, migration, for the appellant

Chief Commissioner of State Revenue v Shell Energy Operations No 2 Pty Ltd (2023) 116 ATR 337; [2023] NSWCA 113 — taxation, duties, for the respondent

DFO19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2023) 296 FCR 204; [2023] FCAFC 38 — judicial review, migration, for the respondent

Director-General of Security v Plaintiff S111A/2018 (2023) 296 FCR 639; [2023] FCAFC 33 — judicial review, national security, for the appellant

DMH20 v Minister for Home Affairs (2023) 296 FCR 256; [2023] FCAFC 31 — constitutional law, migration, for the respondent

Attorney General (NSW) v FJG (2023) 111 NSWLR 105; [2023] NSWCA 34 — statutory construction, constitutional law, for the plaintiff

Galati v Deans [2023] NSWCA 13 — equity, resulting trust, common intention constructive trust, for the appellant

Hays & Department of Communities and Justice [2023] FedCFamC1A 3 — international child abduction, for the Independent Children’s Lawyer

Darbinjung Local Aboriginal Land Council v Minister Administering the Crown Land Management Act (2022) 110 NSWLR 535; [2022] NSWCA 275 — Aboriginal land rights, for the appellant

Secretary, Department of Communities and Justice v KH (2022) 110 NSWLR 57; [2022] NSWCA 221 — judicial review, child welfare, for the plaintiff

Australia Capital Financial Management Pty Ltd v Australian Financial Complaints Authority Ltd (2022) 164 ACSR 215; [2022] NSWCA 204 — corporations, external dispute resolution scheme, for the first respondent

Attorney-General v Lambourne [2022] KICA 9 (Kiribati Court of Appeal) — constitutional law, judicial independence, appeals, for the respondent

Hancock v Hancock Prospecting Ltd (2022) 409 ALR 638; [2022] NSWCA 152 — arbitration, for the ninth and tenth respondents

Alexander v Minister for Home Affairs (2022) 276 CLR 336; [2022] HCA 19 — constitutional law, citizenship, judicial power, for the defendants (with Stephen Donaghue KC)

Bowers v Judicial Commission of New South Wales [2022] NSWCA 69 — appeal competency, for the respondent

LCA Marrickville Pty Limited v Swiss Re International SE (2022) 290 FCR 435; [2022] FCAFC 17 — insurance, business interruption, for Insurance Australia Ltd (with Ian Jackman SC)

XJLR v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2022) 289 FCR 256; [2022] FCAFC 6 — judicial review, migration, for the respondent

First instance

JLW24 v Minister for Immigration and Multicultural Affairs [2024] FCA 1319 — judicial review, national security, for the Director-General of Security

Seadragon Offshore Wind Pty Ltd v Minister for Climate Change and Energy [2024] FCA 1290 — judicial review, statutory construction, for the respondent

AIX20 v Director-General of Security (No 2) [2024] FCA 1130 — public interest immunity, national security, for the respondents

Spall v Minister for Home Affairs [2024] FCA 849 — statutory construction, citizenship, for the respondent

Maules Creek Community Council Inc v Environment Protection Authority [2024] NSWLEC 71 — judicial review, environmental law, for Maules Creek Coal Pty Ltd

Capral Ltd v Insurance Australia Ltd t/as CGU Insurance [2024] FCA 775 — insurance, property damage, for the respondent

New South Wales Nurses and Midwives' Association v New South Wales [2024] NSWSC 636 — industrial law, award construction, for the defendant

Minister for Immigration, Citizenship and Multicultural Affairs v Pulini [2024] FCA 541 — judicial review, citizenship, for the appellant

Hassan (formerly described under the pseudonym AFX21) v Minister for Home Affairs [2024] FCA 527 — negligence, migration, for the respondent

Tigers Realm Coal Ltd v The Commonwealth (2024) 302 FCR 567; [2024] FCA 340 — sanctions, statutory construction, for the respondent

Deripaska v Minister for Foreign Affairs [2024] FCA 62 — constitutional law, judicial review, sanctions, for the respondent

AIX20 v Director-General of Security [2023] FCA 1344 — torts, judicial review, national security, summary dismissal, for the respondent

ARU17 v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCA 1275 — judicial review, migration, joinder, interrogatories, for the respondent

Abramov v Minister for Foreign Affairs (No 2) [2023] FCA 1099 — judicial review, sanctions, for the respondent

Stradford (a pseudonym) v Judge Vasta [2023] FCA 1020 — torts, false imprisonment, judicial immunity, liability of police, for the applicant

Racing New South Wales v Racing Victoria Limited (No 2) [2023] NSWSC 576 — preliminary discovery, for Racing Queensland Board

Tabcorp Holdings Ltd v Entain Group Pty Ltd [2023] NSWSC 220 — preliminary discovery, for the first defendant

In the matter of Vinidici Rushcutters Bay Pty Ltd – Vinidici Rushcutters Bay Pty Ltd v Zhang [2023] NSWSC 151 — deceit, misleading conduct, for the plaintiff

Attorney-General (Cth) v Pender (Final) (2022) 374 FLR 212; [2022] NSWSC 1773 — terrorism, extended supervision order, for the plaintiff

Rookwood General Cemeteries Reserve Land Manager v Attorney General (NSW) [2022] NSWSC 1763 — charitable trusts, for the defendant

Australian Securities and Investment Commission v A&M Group Pty Ltd t/as Debt Negotiators [2022] FCA 1534 — corporations, civil penalties, for the applicant

Sami v Minister for Home Affairs [2022] FCA 1513 — constitutional law, migration, for the respondent

Hancock v Rinehart [2022] NSWSC 1025 — suppression orders, for the first defendant/cross-claimant

Commissioner of Police v Attorney General (NSW) [2022] NSWSC 595 — judicial review, coronial inquiry, public interest immunity, for the defendant

Aversa v Transport for New South Wales [2022] NSWSC 277 — public interest immunity, for Transport for New South Wales and the Secretary of the New South Wales Treasury