

# Sera Mirzabegian

Barrister

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## Summary

Sera Mirzabegian was called to the NSW Bar in 2006 and admitted as a solicitor in 2002. She practises primarily in commercial, regulatory and class action litigation with a particular focus on AML/CTF, trade practices and competition, contracts, corporations law including directors' duties and insolvency, financial services law including superannuation, and mass torts and product liability. Sera has extensive experience in regulatory investigations and enforcement proceedings by APRA, AUSTRAC, ASIC and the ACCC. She has a deep understanding of the financial services industry, having advised the Commonwealth Bank on regulatory and class action matters in a senior in-house role. She also acts in public law matters including administrative law, international law and Royal Commissions.

Consistently recognised by *Doyle's Guide* as one of the 'Leading Commercial Litigation and Dispute Resolution Junior Counsel' in Australia, Sera was recently named by *Best Lawyers* as the 'Lawyer of the Year' in class actions in Sydney. She is currently the Honorary Secretary of the NSW Bar Association and has previously served as a Councillor of the NSW Bar Association and as Secretary of the NSW Bar's Commercial Law Section.

Sera graduated from the University of Sydney with a Master's degree in International Law (2008) and Bachelor's degrees in Law (2001) and Economics (Social Sciences) (1999). She received First Class Honours in Law on merit and was awarded several academic prizes and scholarships. In 2006, she received the Blashki Award for the highest marks in the NSW Bar exams. She is a published legal author and has lectured at the University of New South Wales, the University of Sydney and Macquarie University. Before coming to the Bar, Sera was a litigation solicitor at Herbert Smith Freehills and Gilbert + Tobin.

## Selection of Cases

### *Commercial*

- *Mount Gilead Pty Ltd & Anor v Macarthur-Onslow & Ors*: acting for Jones Lang LaSalle in a dispute concerning the sale of land in south-western Sydney for \$200 million (unled; instructed by Norton Rose Fulbright)
- *Marundrury & Ors v Commonwealth Bank*: acting for the Commonwealth Bank in a claim for breach of contract and negligence arising from the Bank's alleged non-compliance with its statutory obligations (unled; instructed by Herbert Smith Freehills)

- *In the matter of OneSteel Manufacturing Pty Ltd & Anor*: acting for Citibank in winding up proceedings against two GFG companies arising from the collapse of the global financier Greensill (led by John Sheahan QC; instructed by Baker McKenzie)
- *OPEL Networks Pty Ltd (In Liq) & Anor v The Commonwealth of Australia*: acted for OPEL and Optus in proceedings against the Commonwealth for breach of contract (led by Tony Bannon SC and Matthew Darke SC; instructed by Baker McKenzie)
- *CVC Mezzanine Finance Pty Ltd v Masters Home Improvement Pty Ltd & Anor*: acted for CVC in a claim for repudiation of an agreement to lease against Woolworths (led by Steven Finch SC; instructed by Harpur Phillips)
- *Jorgensen v Shorten (No. 2)* [2016] NSWSC 1761: acted for then Opposition Leader Bill Shorten and former MP Kelvin Thomson in an application for summary dismissal of a claim for damages in relation to a failed takeover bid (unled; instructed by Arnold Bloch Leibler)
- *KGD Investments Pty Ltd v Placard Holdings Pty Ltd* (2015) 10 ACSR 379; [2015] VSC 712: acted for Placard against a minority shareholder alleging oppression and unlawful payment of dividends (led by Robert Dick SC; instructed by Herbert Smith Freehills)
- *PB Films Pty Ltd v Universal City Studios Inc*: acted for Universal in proceedings brought by a film investor for payment of profit share of a film (unled; instructed by Gilbert+Tobin)
- *Noon v The Owners – Strata Plan No. 22422* (2014) 17 BPR 33279; [2014] NSWSC 1260: acted for unit owners in proceedings for declaratory relief concerning strata by-laws (led by Andrew Bell SC as his Honour then was; instructed by Gilbert+Tobin)
- *Network Ten Pty Limited v Seven Network (Operations) Ltd* [2014] NSWSC 692: acted for Network Ten in proceedings against the Seven Network for inducing breach of contract (led by David Studdy SC; instructed by Baker McKenzie)
- *CTI Joint Venture Company v CRI Chatswood Pty Ltd (In Liq) (Receivers and Managers Appointed) & Ors* [2012] NSWLEC 6: acted for the Commonwealth Bank in a contractual dispute concerning the Chatswood Transport Interchange project (unled; instructed by Herbert Smith Freehills)
- *Georgiou v Westpac Banking Corporation & Ors*: acted for Westpac in a claim by a customer for unconscionable conduct and unfair contract (unled; instructed by Gilbert+Tobin)
- *Lift Capital Partners Pty Ltd (In Liq) & Ors v Merrill Lynch International & Ors* (2009) 73 NSWLR 404; [2009] NSWSC 7: acted for borrowers in a dispute concerning proprietary interests in shares bought using funds advanced under margin loans (led by Andrew Bell SC as his Honour then was; instructed by Gilbert+Tobin)

### *Regulatory*

- *APRA v Kelaher & Ors* (2019) 138 ACSR 459; [2019] FCA 1521: acted for the former Chairman of IOOF in disqualification proceedings brought by APRA for breach of duties under the *Superannuation Industry (Supervision) Act 1993* (Cth) (led by Tony Bannon SC; instructed by Jones Day)
- *Chief Executive Officer of Australian Transaction Reports and Analysis Centre v Commonwealth Bank of Australia Limited* [2018] FCA 930: acted for the Commonwealth Bank in civil penalty

proceedings brought by AUSTRAC for breach of AML/CTF laws (led by John Sheahan QC; instructed by Herbert Smith Freehills)

- *O'Sullivan v ASIC* (2018) 160 ALD 233; (2018) 74 AAR 268; [2018] FCA 228; *O'Sullivan v ASIC* [2017] AATA 644: acted for the former managing director of Provident Capital challenging a decision by ASIC to disqualify him as a director (led by Ian Jackman SC; instructed by Gilbert+Tobin)
- *Chief Executive Officer of Australian Transaction Reports and Analysis Centre v TAB Limited & Ors (No 3)* [2017] FCA 1296: acted for TAB in civil penalty proceedings brought by AUSTRAC for breach of AML/CTF laws (led by John Sheahan QC; instructed by Herbert Smith Freehills)
- *ACCC v Woolworths Limited* (2016) ATPR ¶42–521; [2016] FCA 44: acted for Woolworths in civil penalty proceedings brought by the ACCC for misleading or deceptive conduct relating to product safety (led by Matthew Darke SC; instructed by Clayton Utz)
- *Lantern Hotel Group v ASIC* [2015] AATA 428: acted for Lantern in a review of a decision by ASIC to refuse relief from the *Corporations Act 2001* (Cth) to enable an off-market buy-back of stapled securities (unled; instructed by Baker McKenzie)
- *Preston v NSW Commissioner for Fair Trading* (2011) 80 NSWLR 359; [2011] NSWCA 40: acted for the NSW Commissioner for Fair Trading in an appeal concerning an administrative decision to issue a reprimand under the *Home Building Act 1989* (NSW) (unled; instructed by the NSW Crown Solicitor's Office)
- *ACCC v Link Solutions Pty Ltd (No. 2)* (2010) 188 FCR 463; [2010] FCA 919: acted for a director and a senior executive in an application for summary judgment against the ACCC in proceedings for third line forcing (unled; instructed by Watson Mangioni)
- *ACCC v FChem Australia Ltd & Ors* [2008] FCA 344: acted for a senior executive in civil penalty proceedings brought by the ACCC for price-fixing (led by Lucy McCallum SC as her Honour then was; instructed directly by the client)
- Acted for financial services executives in section 19 examinations by ASIC (unled; instructed by various firms)

### *Class actions*

- *Pallas & Anor v Lendlease Corporation Limited & Anor*: acting for Lendlease in a shareholder class action alleging breach of continuous disclosure obligations and misleading or deceptive conduct (led by Elizabeth Collins SC; instructed by Herbert Smith Freehills)
- *Thomas & Anor v Commonwealth Financial Planning Limited & Ors*: acting for Commonwealth Financial Planning, Financial Wisdom and Commlnsure in a class action alleging breach of fiduciary and statutory duties and knowing receipt (led by Elizabeth Collins SC; instructed by Allens)
- *Kayler-Thomson v Colonial First State International Limited & Anor*: acting for Colonial First State and the Commonwealth Bank in a class action seeking compensation for breach of superannuation trustee duties (led by Steven Finch SC; instructed by Herbert Smith Freehills)
- *Philipsen & Anor v Astora Women's Health LLC*: acting for Astora Women's Health in a mass tort class action alleging defective pelvic mesh products (led by Kate Morgan SC; instructed by Baker McKenzie)

- *Lynch v Cash Converters Personal Finance Pty Ltd & Anor; McKenzie v Cash Converters International Ltd & Anor*: acted for Cash Converters in two class actions defending a claim for a civil penalty under consumer credit legislation and for unconscionable conduct (led by Elizabeth Collins SC; instructed by Herbert Smith Freehills)
- *Stanford & Anor v DePuy International Ltd & Anor*: acted for DePuy and Johnson & Johnson in a mass tort class action alleging defective hip implants (judgment on settlement approval: *Stanford v DePuy International Ltd* [2016] FCA 1452; led by Steven Finch SC and Robert Dick SC; instructed by Herbert Smith Freehills)

#### *Public law*

- *Chief Executive Officer (Housing) v Young & Ors*: acted for the Australian Human Rights Commission as amicus curiae in an appeal in the Court of Appeal of the Northern Territory in a class action brought by public housing tenants in the remote First Nations community of Santa Theresa (unled: instructed by the Australian Human Rights Commission)
- Acted for Bupa Aged Care in the *Royal Commission into Aged Care Quality and Safety* (led by John Sheahan QC and Jane Needham SC; instructed by Herbert Smith Freehills)
- Acted for the Commonwealth Bank in the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (led by Steven Finch SC; instructed by Clayton Utz)