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Outline

Areas of practice: Public and commercial law, including statutory interpretation, judicial and merits review, constitutional law, environment and planning law, revenue law, equity and contract.

Admitted to practice: 9 April 2010

Called to the Bar: May 2013 (Highest Aggregate Mark in June 2012 Exams)

Qualifications: BA LLB (University Medal in Law and Hons I) (USYD); LLM (Cambridge)

Employment history: Solicitor, A/Senior Solicitor – NSW Crown Solicitor’s Office (Administrative Law Group, Constitutional and Native Title Law Group)

Associate to the Hon. Chief Justice French AC, High Court of Australia

Associate to the Hon. Chief Justice Black AC, Federal Court of Australia

Lecturer in Evidence – University of Sydney, University of Technology Sydney

Education

2010 – 2011

Master of Law, University of Cambridge

- Studied on a *John Monash Scholarship, Cambridge Commonwealth Trust Scholarship* and *University of Sydney Travelling Scholarship*
- Awarded First Class grade
- Glanville Williams Prize (best performing LLM student at Jesus College)
- Sir Peter Gadsden Prize (best performing Australian at Jesus College)
- Jesus College Foundation Scholarship
- Thesis focused on statutory interpretation and the separation of powers

2003 – 2007

Bachelor of Laws, University of Sydney

- University Medal and First Class Honours
- Awarded various LLB prizes, including for Litigation (Evidence and Procedure), Third Year Law (Federal Constitutional Law; Law Lawyers & Justice) and International Law
- World Champions of Jessup International Law Moot (2007) with Dillard Award for Best Memorial; and awards for Best Applicant, Respondent and Overall Memorial in the Australian Rounds
- USYD Scholarship for Outstanding Achievement in the HSC
- Exchange Scholarship to Universiteit Utrecht

- 2003 – 2005 **Bachelor of Arts (Philosophy; Government), University of Sydney**
- Emeritus Prof FA Bland Prize, John S D’Arcy Prize for Third Year Govt
 - Tish Proctor Memorial Prize, Turner Prize for First Year Govt
- 2002 **Higher School Certificate, Pymble Ladies’ College**
- UAI of 100.00 and Dux of the School

Employment History

- 2011 – 2013 **NSW Crown Solicitor’s Office**
- A/ Senior Solicitor, Constitutional and Native Title Law Group
 - Drafted advices on constitutional and native title law
 - Briefed Attorney General on intervention in constitutional law cases
 - Instructed in proceedings under the *Aboriginal Land Rights Act 1983*
 - Solicitor, Administrative Law Group
 - Drafted advices on administrative law and statutory interpretation
 - Appeared as solicitor advocate in proceedings before the Administrative Decisions Tribunal and for the Attorney General in *Khoury v Mental Health Review Tribunal* (2012) 84 NSWLR 445
 - Instructed in judicial review proceedings
- 2013 **Casual Lecturer in Evidence, University of Sydney**
- 2012 **Tutor in Evidence & Criminal Procedure, University of Technology**
- 2009 – 2010 **Associate to the Hon Chief Justice French AC, High Court of Australia**
- 2008 – 2009 **Associate to the Hon Chief Justice Black AC, Federal Court of Australia**

Selected matters

Constitutional law

Palmer v Western Australia; Mineralogy Pty Ltd v Western Australia (2021, HCA, Rsvd) – whether WA legislation terminating arbitration invalid on constitutional grounds – appeared for WA, instructed by SSO – led by J Thompson SC, S Free SC and J Shaw

Chetcuti v Commonwealth [2020] HCA 42; and on appeal (2021, HCA, Rsvd) – whether it is within the legislative competence of Parliament to treat plaintiff as an “alien” within s 51(xix) of the Constitution – instructed by AGS – led by S Donaghue QC and C Lenehan SC

Wilson v Chan & Naylor Parramatta Pty Ltd [2020] NSWCA 213 – whether matter in NCAT within s 76(ii) *Constitution* and, if so, whether NCAT has power to make costs orders – instructed by NSW Crown Solicitor’s Office – led by M G Sexton SC

Westpac Banking Corporation v Lentball & Ors [2019] HCA 45, 158; [2019] FCAFC 34 – appeal from joint sitting of FCAFC and NSWCA – challenge to making of common fund orders in class actions – whether acquisition of property otherwise than on just terms or contrary to Ch III *Constitution* – instructed by Shine Lawyers – led by J Gleeson SC and W A Edwards

Clubb v Edwards; Preston v Avery [2019] HCA 11 – challenge to “safe access zone” legislation in Victoria and Tasmania – implied freedom of communication on government and political matters – appeared for NSW AG intervening – instructed by NSW CSO – led by J K Kirk SC

Plaintiff M47/2018 v Minister for Home Affairs [2019] HCA 17 – attempt to re-open *Al-Kateb v Godwin* (2004) 219 CLR 562 – construction of *Migration Act 1958* (Cth) – whether detention where no real prospect of removal in the reasonably foreseeable future contrary to Ch III *Constitution* – instructed by AGS – led by S Donaghue QC and P Herzfeld

Work Health Authority v Outback Ballooning Pty Ltd [2019] HCA 2 – s 109 inconsistency between Cth civil aviation law and NT work health and safety law – appeared for Cth AG intervening – instructed by AGS – led by S Donaghue QC, and leading T Wood

DKP v Children’s Guardian [2019] NSWCATAP 185 – whether proceedings in diversity jurisdiction, *Constitution* s. 75(iv) – whether Appeal Panel exercising judicial power – instructed by NSWCSO (unled)

Alford v Parliamentary Joint Committee on Corporations and Financial Services [2018] HCA 57 – application to restrain Parliamentary Joint Committee on Corporations and Financial Services from acting upon order to attend as a witness – appeared for Cth AG intervening – instructed by AGS – led by S Free SC

Re WS (No 2) [2017] NSWSC 475 – adoption application – inconsistency between Cth Family Law Regulations and *Adoption Act 2000* (NSW) – appeared for Cth AG, instructed by AGS (unled)

Bell Group NV & Anor v State of Western Australia [2016] HCA 21 – validity of WA legislation removing funds from Bell Group liquidator and vesting them in WA State authority – inconsistency with Cth Tax and Corporations legislation – instructed by AGS – led by J Gleeson SC, J Watson and M O’Meara

Duncan v Independent Commission Against Corruption [2015] HCA 32 – validity of NSW legislation validating various corrupt conduct findings against Cascade Coal directors – instructed by NSW Crown Solicitor’s Office – led by B Walker SC, G Watson SC and S Free

Duncan v State of NSW; Cascade Coal Pty Ltd & Ors v State of NSW; Nucoal Resources Ltd v State of NSW [2015] HCA 13 – validity of NSW legislation cancelling Cascade Coal exploration licences - instructed by NSW Crown Solicitor’s Office – led by M G Sexton SC and S Free

Administrative law / statutory construction

EWV20 v Minister for Home Affairs (No 3) [2021] FCA 866 – judicial review of decision to cancel visa under s 501(3)(b) of *Migration Act 1958* (Cth) – instructed by AGS – led by C Lenehan SC

BRD21 v ABC (2021, FCA, Rsvd) – proceedings under *Public Interest Disclosures Act 2013* (Cth) – application to strike out pleadings for breach of parliamentary privilege – instructed by AGS (unled)

McDonald v Ku-ring-gai Council (2021, NCAT, Rsvd) – application under *Government Information (Public Access) Act 2009* (NSW) – instructed by Sparke Helmore (unled)

Public Service Association and Professional Officers’ Association Amalgamated Union of NSW v Industrial Relations Commission of NSW [2021] NSWCA 64 – judicial review of IRC’s decision to refuse 2.5% wage increase for public servants in NSW – instructed by NSW CSO – led by I Taylor SC and M Easton

JKL v Justice Health and Forensic Mental Health Network [2021] NSWCA 94 – construction of s 48 of *Mental Health (Forensic Provisions) Act 1990* (NSW) – instructed by NSWCSO (unled)

GetSwift Limited v Webb [2021] FCAFC 26 – successful appeal from Lee J’s refusal to disqualify himself from hearing GetSwift class action – appeared for GetSwift – led by M Darke SC and A Shearer

Decision restricted [2021] NSWCA 63 – successfully sought recusal of District Court judge from hearing criminal proceedings – led by G Bashir SC

Mahony v Dental Council of NSW [2019] NSWSC 276 – construction of s 158/158A of Health Practitioner Regulation National Law (NSW) – instructed by NSW CSO (unled)

Child Support Registrar v MQMV [2019] FCA 1171 – judicial review of AAT decision confirming jurisdiction to conduct second review under s. 96A of the *AAT Act* – appeared as contradictor appointed by the Court ([unled](#))

Ascenio v Department of Fair Trading [2018] NSWCATAD 136 – review of refusal to grant tattoo licence under *Tattoo Parlours Act 2012* – instructed by NSW CSO ([unled](#))

Banerji v Minister for Immigration and Border Protection & Ors [2017] HCATrans 101 – application for summary dismissal – judicial review of termination of employment – instructed by Ashurst ([unled](#))

AIN v Medical Council of New South Wales [2017] NSWCATAP 21, 22, 23, 36 – various alleged breaches of the *Privacy and Personal Information Protection Act 1998* (NSW) – instructed by NSW CSO ([unled](#))

Duncan v Independent Commission Against Corruption [2016] HCATrans 305 (application for special leave); [2016] NSWCA 143; [2014] NSWSC 1018 – judicial review of ICAC’s corrupt conduct findings against Cascade Coal directors – instructed by NSW CSO – led by B Walker SC/G Watson SC and S Free

Board of Studies, Teaching & Educational Standards v Vandendovenkamp [2016] NSWCA 268 – construction of *Education Act 1990* (NSW) – s 109 inconsistency with parenting orders made under *Family Law Act 1975* (Cth) – direct brief – led by J K Kirk SC

Stuart v A/Deputy Secretary of Department of Justice [2016] NSWSC 1179 – application for judicial review of declaration applying lock out laws to Sydney CBD Bar – instructed by NSW CSO ([unled](#))

Environment and planning

Ku-ring-gai Council v Buyozo Pty Ltd (2021, NSWCA, Rsvd) – scope of modification power under s 4.56 EPA Act – proper construction of “gross floor area” under LEP – led by S Free SC

Barana Properties (No 7) Pty Ltd v City of Sydney [2021] NSWLEC 1293 – appeal against conditions of development consent – instructed by City of Sydney ([unled](#))

Anderson v Minister for Planning [2020] NSWLEC 138 – application for expedition of challenge to critical State Significant Infrastructure approval for Snowy Hydro 2.0 – instructed by Allens ([unled](#))

Karimbla Construction Services (NSW) Pty Ltd v Premier of NSW & Ors [2019] NSWLEC 76 – proceedings brought by Meriton group subsidiary seeking mandamus in relation to undetermined planning proposal – application for discovery and for removal of Premier – instructed by NSW CSO – led by J K Kirk SC

Council of the City of Ryde v State of NSW [2019] NSWLEC 47 – validity of State environmental planning policy on low rise medium density housing – instructed by Sparke Helmore – led by J K Kirk SC

Ku-ring-gai Council v Bunnings Properties Pty Ltd [2019] NSWCA 28 – whether LEC’s “amber light” approach to Class 1 planning appeals permitted by statute – instructed by Allens – led by J K Kirk SC

Randren House Pty Ltd v Water Administration Ministerial Corporation (No 4) [2019] NSWLEC 5 – judicial review and associated claims for remediation to land – instructed by NSW CSO ([unled](#))

Help Save Mt Gilead Inc v Mount Gilead Pty Limited (No 4) [2018] NSWLEC 149 – challenge to validity of local environmental plan – instructed by Addisons ([unled](#))

Local Democracy Inc v Minister for Local Government & Ors [2018] NSWLEC 9 – separate question – whether applicant should be granted an extension of time to challenge proposed amalgamation of Woollahra, Waverley and Randwick Councils – instructed by NSW CSO – led by A S Bell SC

Residents Against Intermodal Development Moorebank Incorporated v Minister for Planning [2017] NSWLEC 115 – summary dismissal – whether plaintiff inherited objector rights under *Associations Incorporation Act 2009* – instructed by Norton Rose Fulbright – led by A S Bell SC

Drawin Pty Ltd v Blacktown City Council [2017] NSWLEC 38; [2016] NSWLEC 1447 – appeal from refusal to grant modification to development consent under s 96 of *Environmental Planning and Assessment Act 1979* (NSW) – instructed by Sparke Helmore ([unled](#))

Revenue law

Lochtenberg v Commissioner of Taxation [2019] FCA 1167 – appeal from AAT decision – whether earnings “derived...from foreign service” within the meaning of s 23AG of ITAA 1936 – instructed by Munro Lawyers – led by M Richmond SC

H2O Exchange Pty Ltd and Innovation and Science Australia [2019] AATA 4195 – merits review of respondent’s decision that applicant’s activities were not “R&D activities” within the meaning of the *Income Tax Assessment Act 1997* (Cth) – instructed by HWL Ebsworth Lawyers ([unled](#))

In the matter of Citadel Financial Corporation Pty Ltd [2019] NSWSC 65 – application to set aside statutory demand for debts arising under taxation law – appeared for Deputy Commissioner of Taxation – instructed by AGS ([unled](#))

Al-Jaafaria Society Inc v Chief Commissioner of State Revenue [2017] NSWCATAD 283 – merits review of Chief Commissioner’s decision to reject application for exemption from stamp duty – appeared for Chief Commissioner – instructed by NSW CSO ([unled](#))

Commissioner of Taxation v Primary Health Care [2017] FCAFC 131 – appeal from AAT decision – instructed by King & Wood Mallesons – led by M Richmond SC

Primary Health Care Limited and Commissioner of Taxation [2017] AATA 393 – merits review of Commissioner’s refusal to extend time for objection to notice of assessment under s 14ZX of *Taxation Administration Act 1953* (Cth) – instructed by King & Wood Mallesons – led by M Richmond SC

General commercial / contract / equity

Dispute between two major Australian corporates (2020) – briefed to advise on contractual dispute

Ritchie v Advanced Plumbing & Drains Pty Limited [2019] NSWSC 1028 – application for leave to proceed against insurer under *Civil Liability (Third Party Claims Against Insurers) Act 2017* – proper construction of policy of insurance – instructed by McCabe Curwood – led by P Greenwood SC

White as administrator of estate of Josephine Agnes Virgona v Attorney General NSW [2019] NSWSC 917 – application for cy-près scheme – appeared for NSW AG, instructed by NSW CSO ([unled](#))

Morrison-Conway & Anor; Estate of the Late Judith Christine Walsh [2018] NSWSC 685 – application for judicial advice under s. 63 of *Trustee Act 1925* – questions affecting charitable trusts – appeared for NSW AG, instructed by NSW CSO ([unled](#))

Pacific Equity Partners Pty Ltd v Kernick [2017] NSWSC 1302 – application for preliminary discovery – alleged disclosure of private equity firm’s confidential “track record” – instructed by King & Wood Mallesons – led by J K Kirk SC

Dispute between two resources companies (2017) – arbitration before the Hon Kevin Lindgren – instructed by Piper Alderman – led by A Sullivan QC

ASIC v Whitebox Trading Pty Ltd [2017] FCAFC 100 – whether *Criminal Code (Cth)* applies in civil penalty proceedings under Pt 9.4B of *Corporations Act 2001 (Cth)* – appointed by the Court to act as contradictor – instructed by Quinn Emanuel – led by J Gleeson SC

Woolworths Limited v About Life Pty Ltd [2017] NSWSC 1117 – priorities dispute between Woolworths and Harris Farm regarding lease of premises at Kiaora Lane shopping centre in Double Bay – construction of right of first refusal granted to Woolworths – instructed by Corrs Chambers Westgarth – led by M J Darke SC

Tort

Ritchie v Advanced Plumbing & Drains Pty Limited, SCNSW – ongoing – briefed for Insurance Australia Ltd t/as CGU Insurance in class action relating to bushfire in Carwoola – instructed by McCabe Curwood – led by P Greenwood SC

Kazal v Independent Commission Against Corruption [2019] NSWSC 556 – motion for summary dismissal of proceedings claiming misfeasance in public office – for ICAC, instructed by NSW CSO (unled)

Sparks v Hobson [2018] HCATrans 191 – application for special leave – medical negligence – application of ss. 5I and 5O of the *Civil Liability Act 2002* – instructed by Avant Law – led by J K Kirk SC, K Burke

Wright, Glen bbt James Stuart Wright v Optus Administration Pty Limited & Anor [2017] HCATrans 159 – application for special leave – negligence – reasonable foreseeability – aggregation of corporate employees' knowledge – instructed by Firths – led by B Walker SC

Norris v Routley [2017] HCASL 104 (application for special leave, decided on papers); [2016] NSWCA 367; [2015] NSWSC 883; [2015] NSWSC 1875 – hearing on quantum – action under *Compensation to Relatives Act 1897 (NSW)* for damages arising from death of husband due to medical negligence – instructed by Avant Law – led by J K Kirk SC

Criminal law / high risk offenders / parole

Minister for Home Affairs v Pender [2021] NSWSC 921 – preliminary hearing – briefed for Minister seeking continuing detention order under *Criminal Code (Cth)* – led by P Herzfeld SC, and leading C Ernst

State of NSW v Brown (Garling J; 2020) – preliminary hearing under *Crimes (High Risk Offenders) Act 2006 (NSW)* – instructed by NSW CSO (unled)

Osman v State Parole Authority [2020] NSWSC 1392 – judicial review of decision of State Parole Authority – instructed by NSW CSO – led by D Kell SC

Whiteoak v State Parole Authority [2020] NSWSC 185 – judicial review of decision of State Parole Authority – instructed by NSW CSO – led by D Kell SC

Tannous v State of NSW [2020] NSWCA 261 – statutory construction – duration of extended supervision order under *Crimes (High Risk Offenders) Act 2006 (NSW)* – instructed by NSW CSO – led by D Kell SC

State of NSW v JS [2020] NSWSC 28 – application for extended supervision order under *Crimes (High Risk Offenders) Act 2006 (NSW)* – instructed by NSW CSO (unled)

R v Alpha Nobis FM Pty Ltd (2019, Local Court) – sentencing hearing for breach of development consent – appeared for the Prosecutor – instructed by City of Sydney Council (unled)

Practice and procedure

Environmental Protection Authority v Newcastle Ports Corporation [2019] NSWLEC 92 – application to inspect documents produced under subpoena – whether subject to privilege – instructed by EPA (unled)

Randren House Pty Ltd v Water Administration Ministerial Corporation (No 5) [2019] NSWLEC 63 – costs of alleged “public interest” litigation – application for indemnity costs – instructed by NSW CSO ([unled](#))

Kazal v ICAC [2018] NSWSC 1370 – motion to set aside notice to produce issued by plaintiff in misfeasance in public office proceedings – instructed by NSW CSO ([unled](#))