

# Daniel Farinha

Admitted to practice: 2018

Called to the bar: 2020

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## Education

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**Bachelor of Laws (First Class Honours and University Medal)** 2011–2016

*University of Sydney*

University of Sydney Outstanding Achievement Scholarship (2011–2016)

Ian Joye Prize in Law (2016)

Nancy Gordon Smith Prize for Honours at Graduation (2016)

RG Henderson Memorial Prize (NSW Bar Association) (2016)

John George Dalley Prize No 1A for Final Year Exams (2016)

George and Matilda Harris Scholarship No I for Second Year (2015)

LexisNexis Book Prize No 4 for Most Proficient in Combined Law IV (2015)

Minter Ellison Prize for Most Distinguished Student Commencing Combined Law IV (2014)

LexisNexis Book Prize No 2 for Most Proficient in Combined Law II (2012)

Herbert Smith Freehills and EM Mitchell Prizes for Contracts (2012)

Aaron Levine Prize for Criminal Law (2012)

**Bachelor of Economics (First Class Honours and University Medal)** 2011–2014

*University of Sydney*

Dean's List of Excellence in Academic Performance (2011–2013)

Randolph G Rouse Prize for Best Performance in 4th Year Honours (2014)

Geoffrey Dale Prize for Third Year in the Faculty of Economics and Business (2013)

## Professional Experience

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**Associate to the Hon Justice Nettle AC** 2019–2020

*High Court of Australia*

**Tipstaff to the Hon Justice Meagher** 2017–2018

*New South Wales Court of Appeal*

**Equity Division Researcher** 2017

*Supreme Court of New South Wales*

**Australian Clerk** 2014

*Linklaters LLP*

## Legal Publications

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“Equity Proceedings”, Subtitle 5.8 in *The Laws of Australia* (online)

“The Implied Freedom of Political Communication and Defamation Law in the Mason High Court” in McDonald, Chen and Gordon (eds), *Dynamic and Principled: The Influence of Sir Anthony Mason* (2022) (with Professor David Rolph)

“Misfeasance by Directors: Past, Present and Future” in Eldridge, Douglas and Carr (eds), *Economic Torts and Economic Wrongs* (2021) (with Justice Geoffrey Nettle AC)

“Fraud and Formality: Relief in Equity from Acts of Parliament” (2018) 12 *Journal of Equity* 297

“Book Review: *Equitable Compensation and Disgorgement of Profit*” (2017) 91 *Australian Law Journal* 931

“Causation and Fiduciary Misconduct in Hong Kong and Beyond” (2017) 44 *Australian Bar Review* 221

“Damages for Breach of Contract: *Clark v Macourt*” (2014) 28 *Commercial Law Quarterly* 47

## Selected Cases

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### Appellate

#### High Court

*Bogan v Estate of Peter John Smedley (Deceased)* [2025] HCA 7 — group costs orders, transfer of proceedings, federal jurisdiction (for the director defendants led by T Spencer Bruce SC)

*Anchorage Capital Master Offshore Ltd v Bakewell* (special leave application) — facility agreements, accessorial liability, causation (for the CFO of Arrium led by M Pesman SC, A Munro SC and E Hyde)

*Ogawa v Attorney-General (Cth)* [2021] HCATrans 97 (special leave application) — judicial review, prerogative of mercy (for the applicant led by J Kirk SC and D Hume)

*Namoa v The Queen* (2021) 271 CLR 442 — statutory interpretation, crime of conspiracy (for the appellant led by G Reynolds SC)

*DRJ v Commissioner of Victims Rights* [2021] HCASL 53 — conflict of laws, statutory interpretation (for the applicants led by K Eastman SC and D Hume)

#### Full Federal Court

*Hastie Group Ltd (In liq) v Multiplex Constructions Pty Ltd* [2024] FCAFC 61 (Perram, Stewart and Button JJ) — bank guarantees (for the Lendlease parties led by C Bova SC)

*Australian Rail, Tram and Bus Industry Union v Busways Northern Beaches Pty Ltd* (2022) 291 FCR 93 (Bromberg, Wheelahan and Snaden JJ) — statutory interpretation, industrial law (for the applicant led by W Friend QC)

*Carnival PLC v Karpik (The Ruby Princess)* (2022) 294 FCR 524 (Allsop CJ, Rares and Derrington JJ) — conflict of laws, class actions, consumer legislation, contract law (for the respondent led by I Pike SC and R May)

*New South Wales Court of Appeal*

*Warner Capital Pty Ltd v Shazbot Pty Ltd* [2024] NSWCA 245 (Gleeson, White and Kirk JJA) — valuation of business, insolvency (for the respondents led by E Finnane)

*Anchorage Capital Master Offshore Ltd v Sparkes* (2023) 111 NSWLR 304 (Ward P, Brereton JA and Griffiths AJA) — facility agreements, misleading or deceptive conduct, insolvency, novel duty of care, accessorial liability (for the CFO of Arrium led by M Pesman SC, A Munro SC and E Hyde)

*Larter v Hazzard* [2022] NSWCA 238 (Brereton and Mitchelmore JJA) — validity of public health orders, judicial review (for the State led by T Prince SC)

*Bowers v Judicial Commission of New South Wales* [2022] NSWCA 69 (White JA) — competency of appeal (for the Commission led by P Herzfeld SC)

*Rinehart v Rinehart* (2022) 402 ALR 345 (Gleeson, Leeming and White JJA) — trust documents, abuse of process (for Mrs Rinehart led by C Bova SC and T O'Brien)

*Bowers v Judicial Commission of NSW (No 1)* [2021] NSWCA 323 and *(No 2)* [2021] NSWCA 324 (Macfarlan and McCallum JJA) — leave to appeal (for the Commission unled)

*Rinehart v Rinehart* [2021] NSWCA 228 (Meagher and Payne JJA) — arbitration, stay of proceedings, abuse of process (for Mrs Rinehart led by P Brereton SC and T O'Brien)

*Western Australian Court of Appeal*

*Hancock Prospecting Pty Ltd v DFD Rhodes Pty Ltd [No 2]* [2023] WASCA 108 (Quinlan CJ, Beech and Vaughan JJA) — *Harman* obligation, abuse of process (for the Hancock parties led by C Bova SC)

**First instance commercial**

*General*

*Pro-Invest Pitt St Development Pty Ltd v Charter Hall Holdings Pty Ltd* (NSWSC, ongoing) — breach of confidence, restraints of trade (for the plaintiffs led by J Hutton SC)

*PNR Assets Holdings Pty Ltd v Holcim Australia Pty Ltd* (FCA, ongoing) — breach of contract, unfair contract terms, unconscionable conduct, quantum meruit (for the respondents led by P Herzfeld SC)

*Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd; DFD Rhodes Pty Ltd v Hancock Prospecting Pty Ltd (Hope Downs)* (WASC, judgment reserved) — partnership law, fiduciary duties, contract construction, mining law (for the Hancock parties led by N Hutley SC, P Brereton SC, C Bova SC, C Colquhoun SC, J Hutton SC and others)

*Shinetec (Australia) Pty Ltd v The Gosford Pty Ltd* [2024] NSWSC 1287 (Stevenson J) — conflict of laws, letters of credit (for the Gosford parties led by P Braham SC)

*CPB Contractors Pty Ltd v HDI Global SE, Australia* (NSWSC, settled) — construction all risks insurance (for the defendant insurers led by P Herzfeld SC and M Newton)

*Tabcorp Holdings Ltd v Entain Group Pty Ltd* [2023] NSWSC 220 (Stevenson J) — preliminary discovery, gambling legislation (for the defendant led by P Herzfeld SC and O Jones)

*Hancock v Hancock Prospecting Pty Ltd* (2022) 402 ALR 328 (Ball J) — arbitration, apprehended bias (for Mrs Rinehart led by P Brereton SC, C Bova SC and T O'Brien)

*Sydney Seaplanes Pty Ltd v Airag Aviation Services Pty Ltd* (NSWSC, settled) — professional negligence, civil aviation (for the plaintiff led by I Pike SC and A Munro SC)

#### *Corporate and insolvency*

*London City Equities Ltd v Excelsior Capital Ltd* (FCA, ongoing) — listed public company, (for the defendant led by C Brown KC)

*Scott v Kennedy* (NSWSC, ongoing) — directors duties (for the defendants led by C Bova SC)

*Lawson Solutions Pty Ltd v B & J Lloyd Pty Ltd* (FCA, settled) — shareholder oppression, board meetings, contract construction, restraints of trade (for the defendants led by C Bova SC)

*Hastie Group Ltd (In liq) v Multiplex Constructions Pty Ltd [No 3]* (2022) 410 ALR 531 (Middleton J) — bank guarantees, insolvency set-off, limitations (for the Lendlease parties led by C Bova SC and A Carr)

*Volkswagen Financial Services Australia Pty Ltd v Atlas CTL Pty Ltd (Recs and mgrs apptd) (In liq)* (2022) 414 ALR 453 (Hammerschlag CJ in Eq) — insolvency, equitable liens, liquidator remuneration (for the Volkswagen parties led by S Keizer)

*Re Flight Centre Technology Pty Ltd* (2022) 160 ACSR 651 (Black J): financial reporting, relief from irregularities (for the Flight Centre parties led by S Mirzabegian SC)

*Sher v Chargrill Charlies Holdings Pty Ltd; MC Sher Pty Ltd v RW Sher Pty Ltd* (NSWSC, settled) — shareholders agreements, corporate restructure (for various defendants led by J Williams SC)

*Techfront Australia Pty Ltd v MKTG Australia Pty Ltd* (NSWSC, settled) — ipso facto stay (for the plaintiff led by C Bova SC)

#### *Equity and trusts*

*Davis Stack Capital Pty Ltd v Raj & Jai (Mudgee) Pty Ltd* (NSWSC, ongoing) — specific performance, sale of trust units (for the plaintiffs led by A Shearer SC)

*Maddison Bea Pty Ltd v Goodall* (NSWSC, ongoing) — statutory trusts for sale, vendor's liens, rescission (for the defendant unled)

*Wesley Community Services Ltd v Smith* [2025] NSWSC 154 — charitable trusts, *cy-près* schemes (for the Attorney-General unled)

*John Campbell Nominees Pty Ltd* [2021] NSWSC 233 (Kunc J) — judicial advice, real property (for the trustee led by J Burnett)

*Perry v Attorney General (NSW)* (orders made) — charitable trusts, *cy-près* schemes (for the Attorney-General unled)

### *Class actions*

*Bogan v Estate of Peter John Smedley (Arrium)* (VSC, ongoing) — shareholder class action, financial reporting (for the director defendants led by M Pesman SC and T Spencer Bruce SC)

*Nathan v Macquarie Leasing Pty Ltd (Flex Commissions)* (VSC, judgment reserved) — consumer class action, credit legislation (for Macquarie Leasing led by J Williams SC)

*Karpik v Carnival plc (The Ruby Princess) (Stay Application)* (2021) 157 ACSR 1 (Stewart J) — consumer class action, conflict of laws, maritime torts (for the applicant led by I Pike SC and R May)

### *Taxation*

*La Mancha Group International BV v Commissioner of Taxation* (FCA, settled) — capital gains tax, double taxation, valuation of mining assets (for the taxpayer led by D McInerney KC, J Arnott SC and A Roe)

## **First instance public Law**

### *Constitutional*

*Ramsay v Southern NSW Local Health District* [2024] NSWDC 326 (Waugh SC DCJ) — federal jurisdiction, workers compensation (for the Attorney General unled)

*Kvelde v State of New South Wales* [2023] NSWSC 1560 (Walton J) — implied freedom, standing, validity of regulations (for the plaintiffs led by S Free SC, F Graham and E Jones)

*Mulley v Hayes* (2021) 286 FCR 360 (Lee J) — federal jurisdiction, defamation (for the applicant unled at the hearing)

### *Administrative*

*Asset Energy Pty Ltd v Minister for Industry and Science* (FCA, discontinued) — offshore petroleum (for the New South Wales Minister for Natural Resources led by J Emmett SC)

*Laxale v Sydney Local Health District* [2024] NSWSC 994 (Button J) — statutory interpretation, mental health (for the Health District unled)

*LMRD v Minister for Immigration, Citizenship and Multicultural Affairs* (FCA, conceded by Minister) — procedural fairness, ministerial direction (for the applicant unled)

*Hunter Community Forum Inc v Crescent Newcastle Pty Ltd* [2023] NSWLEC 1 (Duggan J) — development consent (for the developer led by J Hutton SC)

*James Bowers v Judicial Commission of New South Wales (No 2)* [2021] NSWSC 1570 (Wright J) — procedural fairness (for the Judicial Commission unled)

### *Tribunals and commissions*

*Archer v Point to Point Transport Commissioner* [2025] NSWCATOD 8 — merits review, transport authorisation (for the Commissioner unled)

*Perth Casino Royal Commission* (for the former Executive Chairman of Crown)

*Liability limited by a scheme approved under Professional Standards Legislation*