

MELITA PARKER

Barrister

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ADMISSION

2021 Called to the New South Wales Bar

2015 Admitted to the Supreme Court of Western Australia

SELECTED DECISIONS & BRIEFS

Commercial litigation and arbitration matters

Australian Eastern Railroad Pty Ltd (Aurizon) v Genesee & Wyoming Inc, NSW Supreme Court (Commercial List), for the Plaintiff, led by C Moore SC, D Sulan SC, J Kennedy, instructed by Quinn Emanuel Urquhart & Sullivan, settled – breach of contract, loss of opportunity

Confidential arbitration, Hong Kong International Arbitration Centre, for the Applicants, led by A Munro SC, instructed by KWM, settled – breach of indemnity regarding foreign tax liabilities

Confidential arbitration, Australian Centre for International Commercial Arbitration, for the Applicants, led by P Braham SC, E Hyde, instructed by KWM, reserved – public-private partnership construction contract dispute

Datona Pty Ltd v United Petroleum Pty Ltd, NSW Supreme Court (Commercial List), for the Defendant, led by P Braham SC, instructed by Johnson Winter & Slattery, settled – breach of contract of bailment, misleading or deceptive conduct

Independent Liquor & Gaming Authority v Melco Resorts & Entertainment & Ors [2022] NSWSC 294 (Ball J) (interlocutory service dispute), for the Defendants, led by J Stoljar SC, S Mirzabegian SC and Z Hillman, instructed by Ashurst, settled - debt claim under the *Casino Control Act 1992* (NSW), judicial review cross-claim

Lendlease Corporation Ltd v Acciona Infrastructure Asia Pacific Pty Ltd & Anor, NSW Supreme Court (Commercial List), 2021/00219818, for the Plaintiff, led by J Williams SC, T O'Brien, instructed by HSF, settled – construction of sale of business contract

Mulberry Capital Management Pty Ltd v Shen [2022] NSWSC 1220 (Hammerschlag CJ in Eq), for the Defendant, led by A Munro SC, instructed by Webb Henderson, successful with indemnity costs – breach of contract, breach of directors' duties

Robust Construction Services Pty Ltd (in liquidation) v Titan Cranes and Rigging Pty Ltd, NSW Supreme Court (Equity List), for the Defendant, led by J Hutton SC, instructed by Clayton Utz, settled – insolvent and voidable transactions

Sheehy v Nuix Pty Ltd [2023] FCA 56 (Halley J), for the Applicant, led by I Jackman SC and O Jones, instructed by Kardos Scanlan – construction of option agreement, implied terms, Anshun estoppel

Wynyard 048 Service Pty Ltd Limited ATF Wynyard 048 Trust v Mirvac Real Estate Pty Limited, NSW Supreme Court, for the defendant, led by O Jones, instructed by Dentons, settled – construction of settlement deed

Vakiloroaya v Norri, NSW Local Court, 2021/48216, for the Defendant, unled, successful with costs - fraud

Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd, WA Supreme Court, CIV 3041/2010, CIV 2617/2012, for the HPPL Parties, Smith J, led by N Hutley SC, P Brereton SC, C Bova SC and others, instructed by Corrs Chambers Westgarth, reserved, including interlocutory disputes:

- *Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 16)* [2022] WASC 432 (Smith J) led by C Bova SC, T O'Brien - application for adjournment or stay
- *Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd* [2023] WASCA 88 (Quinlan CJ, Vaughan and Beech JJA), led by N Hutley SC, J Kennedy – appeal against refusal of application for adjournment or stay
- *Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 23)* [2023] WASC 380 (Smith J), led by P Brereton SC - objections to documentary evidence
- *Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 25)* [2024] WASC 132 (Whitby J), led by P Brereton SC and C Bova SC – successful defence of challenge to privilege claims

Public and regulatory matters

Asset Energy Pty Ltd v Minister for Resources, Federal Court, for the Applicant, led by S Free SC, settled – judicial review application under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth), constitutional challenge to the validity of the appointment of Former Prime Minister Scott Morrison to Minister for Resources during COVID

Bandjalang Traditional Owners Aboriginal Corporation RNTBC v Transport for NSW (Case No 2024/64159); *Yaegl Traditional Owners Aboriginal Corporation RNTBC v Transport for NSW* (Case No 2024/64160); *Yaegl Traditional Owners Aboriginal Corporation RNTBC v Transport for NSW* (Case No 2024/202215), Land and Environment Court, for the Respondent, led by H El-Hage SC, with A Hall, instructed by CSO – quantification of compensation for compulsory acquisition of native title

Australian Competition and Consumer Commission v Dell Australia Pty Ltd [2023] FCA 588 (Jackman J), for the Applicant, led by S Free SC and S Mirzabegian SC, instructed by Johnson Winter & Slattery – misleading or deceptive conduct claim

Australian Competition and Consumer Commission v Dell Australia Pty Ltd [2023] FCA 983 (Jackman J), for the Applicant, led by S Mirzabegian SC, instructed by Johnson Winter & Slattery – pecuniary penalty (\$10 million)

Axicom Inbuilding Solutions Pty Ltd v Australian Communications and Media Authority [2023] FCA 1069 (Perry J), for the Applicant, led by S Free SC, instructed by Clayton Utz – judicial review application of decision under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth)

Edwards and Secretary, NSW Department of Communities and Justice [2023] FedCFamC1A 3 (Full Court of the Federal Circuit and Family Court of Australia), as the Independent Children's Lawyer, led by P Herzfeld SC, instructed by Legal Aid – application under *Hague Convention on the Civil Aspects of International Child Abduction*

Hamzy v Commissioner of Corrective Services [2022] NSWCA 16 (Bathurst CJ, Basten and Leeming JJA), for the Amicus Curiae, led by C Gleeson SC, instructed by CSO – statutory construction, validity of *Crimes (Administration of Sentences) Regulation 2014* (NSW)

Indara Inbuilding Solutions Pty Ltd v Australian Communications and Media Authority [2024] FCAFC 117 (S Derrington, Banks-Smith and Kennett JJ), for the Appellant, led by H El-Hage SC, instructed by Clayton Utz – appeal against unsuccessful judicial review application

New South Wales Aboriginal Land Council v Minister Administering the Crown Land Management Act (Appletree Flat), (2023/450073), Land and Environment Court, for the Minister, unled, instructed by CSO, settled – Aboriginal Land Claim

New South Wales Aboriginal Land Council v Minister Administering the Crown Land Management Act (Adaminaby), (2024/136106), Land and Environment Court, for the Minister, unled, instructed by CSO, settled – Aboriginal Land Claim around Lake Eucumbene

Royal Commission into Defence and Veteran Suicide – In-depth Inquiry 1 (confidential), led by S Free SC, instructed by AGS

Tribunal matters

Can United Pty Ltd and Australian Skills Quality Authority, AAT, 2021/4068, 2021/4212, for the Applicant, unled, instructed by Thomson Geer, settled - review of deregistration under the *National Vocational Education and Training Regulator Act 2011* (Cth)

Lam and NDIA, AAT, 2021/4403, for the Respondent, instructed by HWL Ebsworth, unled, settled – review of refusal of support

NSW Land and Housing Corporation v Ohlsen, NCAT, SH21/21028, for the Respondent, unled, instructed by Legal Aid - application for stay of termination proceedings (successful, unreported) – interference with right to silence in criminal proceedings

Santos NSW Pty Ltd and EnergyAustralia Narrabri Gas Pty Ltd and Gomeroi People and State of New South Wales [2022] NNTTA 74 (Dowsett J), for the State, led by H El-Hage SC (unled at hearing and mediation), instructed by CSO, remittal ongoing – native title, future act determination, challenge to relevance of climate change in future act determinations

Advice matters

Advice to ICAC, led by Z Heger SC, instructed by ICAC

Advice for corporate receivers regarding potential liability under *Building Products (Safety) Act 2017* (NSW), *Design and Building Practitioners Act 2020* (NSW), *Home Building Act 1989* (NSW), led by J Williams SC, instructed by Corrs Chambers Westgarth

Advice to casino regarding compliance with *Casino Control Act 1992* (NSW), led by P Herzfeld SC, instructed by Gadens

Advice to the Board of the Royal Australasian College of Physicians on governance and duties of charitable organisation, led by J Hutton SC, instructed by Holding Redlich

Advice for Chartered Accountants Australia New Zealand regarding professional obligations of tax agents following PwC scandal (*Tax Agent Service (Code of Professional Conduct) Determination 2024*), led by S Free SC, instructed by General Counsel

Advice and representation of consumers in disputes with property developers and financial institutions regarding contracts for purchase of land – each settled prior to commencement of proceedings

Advice and investigations into workplace (law firm) behaviour, led by P Braham SC and A Munro SC

Pro bono advice to PIAC Homeless Persons' Legal Service regarding interaction between Solicitors Conduct Rules and *Children and Young Persons' Care and Protection Act 1998* (NSW)

PROFESSIONAL EXPERIENCE PRIOR TO THE BAR

- Oct 2020 – Jun 2021** **Government Legal Department (United Kingdom)**
Lawyer - Home Office and Immigration Division
Drafting prospects advice and pleadings; preparing witness statements and collecting evidence in UK administrative law and human rights challenges.
- Feb 2014 - Sep 2019** **Australian Government Solicitor**
Lawyer, Senior Lawyer (from February 2017) - AGS Dispute Resolution
Managing Federal Court representative proceedings; drafting prospects advice; identifying ADR solutions for claimants within the Commonwealth legal framework; drafting pleadings and submissions; conducting witness conferences and drafting witness statements; briefing counsel; and analysing large volumes of documentary evidence.
- Jan 2013 - Dec 2013** **Supreme Court of Western Australia**
Research Associate to the Hon Justice Simmonds and the Hon Justice Beech
Associate duties for civil and criminal trials, sentencing and interlocutory hearings; legal research; drafting and proofing judgments; managing the Civil List; and reviewing transcript, evidence and court documents to prepare summary memoranda.

EDUCATION

- 2019 - 2020** **London School of Economics and Political Science**
Master of Laws (Distinction)
Dissertation: Multiple Source Contamination: Overcoming the Causation Challenges in Australian Tort Law
- 2014** **Australian National University**
Graduate Diploma in Legal Practice
- 2011 - 2013,
2007 - 2009** **University of Western Australia**
Bachelor of Laws (Hons) (First Class)/Bachelor of Arts
Dissertation: Reconceiving the Assessment of Common Law Judicial Reviewability in Australia
- 2010** **University of Melbourne**
Bachelor of Arts (Political Science and International Relations) (Hons) (First Class)