

# DANIEL REYNOLDS

Eleven Wentworth, 180 Phillip Street, Sydney

## QUALIFICATIONS

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Education:	BInst (Distinction) / LLB (Hons) (UNSW) / LLM (Melb)
Called to the Bar:	6 May 2019
Admitted to practice:	1 January 2018
Other legal positions:	Reporter for the <i>Commonwealth Law Reports</i> — since 2020
Previous legal positions:	Associate to the Honourable Justice Patrick Keane AC, High Court of Australia — 2017 Tipstaff to the Honourable Justice Robert McDougall, Supreme Court of NSW — 2015 Herbert Smith Freehills — 2013–2019 Tutor at the Australian National University — 2017
Memberships:	Member, Maritime Law Association of Australia and New Zealand — since 2022 Fellow, Gilbert + Tobin Centre of Public Law, UNSW — since 2019 Member, Australian Association of Constitutional Law — since 2019

## AWARDS

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2020	Cheryl Saunders Prize for Excellence in Constitutional Law Scholarship
2020	Dwight Prize for Constitutional Rights and Freedoms
2019	Sir Rupert Hamer Prize for Current Issues in Administrative Law
2014	UNSW Law Dean's List for Academic Excellence
2013	AIAL National Essay Prize in Administrative Law

## PUBLICATIONS

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### Books

*Leading Cases in Australian Law* — (Federation Press, 2016) (with Lyndon Goddard)

*A Charter of Rights for Australia* — (NewSouth Books, 2017) (with George Williams)

*Leading Cases in Contract Law* — (Federation Press, 2017) (with Lyndon Goddard)

### Selected Articles

Defining the Limits of Section 117 of the Constitution: The Need for a Theory of the Role of States — (2021) 44(2) *UNSW Law Journal* 786

The Merely Evidentiary Role of Contracts in Ascertaining the Scope of Fiduciary Obligations — (2020) 48 *Australian Bar Review* 386

Anti-Suit Injunctions in Aid of Legal and Equitable Rights — (2020) 94 *Australian Law Journal* 137

The Injunction in Section 75(v) of the Australian Constitution — (2019) 30 *Public Law Review* 211

Rethinking Equitable Damages — (2019) 13(1) *Journal of Equity* 46

An Implied Freedom of Political Observation in the Australian Constitution — (2018) 42(1) *Melbourne University Law Review* 199

What Are the Duties of Constructive Trustees? — (2018) 41(4) *UNSW Law Journal* 1297

Corporate Knowledge: The Search for the Relevant Mind(s) — (2018) 92 *Australian Law Journal* 991

Gender Equality among Barristers Appearing before the High Court — (2017) 91(6) *Australian Law Journal* 483

A Human Rights Act for Queensland? Lessons from Recent Australian Experience — (2016) 41(2) *Alternative Law Journal* 81 (with George Williams)

Construction of Contracts after *Mount Bruce Mining v Wright Prospecting* — (2016) 90(3) *Australian Law Journal* 190

Petitioning the Australian Parliament: Reviving a Dying Democratic Tradition — (2016) 31(1) *Australasian Parliamentary Review* 60 (with George Williams)

The Operation and Impact of Australia's Parliamentary Scrutiny Regime for Human Rights — (2015) 41(2) *Monash University Law Review* 241 (with George Williams)

The *Racial Discrimination Act* and the Australian Constitution — (2015) 36(1) *Adelaide Law Review* 241 (with George Williams)

The Independent Reviewer for Adverse Security Assessments: Comfort but not Hope for Indefinitely Detained Refugees — (2013) 20(4) *Australian Journal of Administrative Law* 199

The Constitutionalisation of Administrative Law: Navigating the Cul-de-Sac — (2013) 74 *ALAL Forum* 76

#### Book chapters

Human Rights Scrutiny by the Federal Parliament — in Debeljak and Grenfell (eds), *Law Making and Human Rights: Executive and Parliamentary Scrutiny across Australian Jurisdictions* (2020, Thomson Reuters) (with George Williams)

Parliamentary Human Rights Vetting and Deliberation — in Levy, Kong, Orr and King (eds), *The Cambridge Handbook of Deliberative Constitutionalism* (2018, Cambridge University Press) 72 (with George Williams)

## REPRESENTATIVE MATTERS — UNLED

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*Mills v Walsh* [2022] NSWCA 255 — misleading or deceptive conduct, proof of loss (for the first respondent)

*Tabcorp Holdings Pty Ltd v Entain Group Pty Ltd & Anor* (Supreme Court of New South Wales, ongoing) — preliminary discovery, wagering (for the second respondent)

*Avant-Garde Logistics Solutions Pty Ltd v Productreview.com.au Pty Ltd* [2022] FCA 484 (interlocutory application, for the respondent)

*Allied Express Transport Pty Ltd v Panasonic Australia Pty Ltd* (Local Court of New South Wales, 27 May 2022) (contract, implied terms, for the defendant)

*Zhang and Mills v JSW Property Projects Pty Ltd and Ors* [2021] NSWDC 655 — building defects, misleading or deceptive conduct, demolished property (for the second defendant)

*EVX20 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FCA 1079 — character test, irrelevant considerations (for the applicant)

*Sanson v Sanson* [2021] NSWSC 417 — application to give evidence from the Czech Republic (for the respondent)

*Safety Floorings Pty Ltd v Erudgere Vineyard Pty Ltd* (NSWSC, settled) — debt, breach of contract, mismanagement of winemaking business (for the defendants and cross-claimants)

*Bay State Construction Pty Ltd v Woollabra Municipal Council* [2020] NSWLEC 86 — environment and planning, advertising on building cranes, sentencing appeal (for the appellant)

*Huang v Crown Windows Pty Ltd* (Supreme Court of New South Wales, 2020) — transfer of shares, fraud, settled prior to hearing (for the plaintiffs)

*Refresh Finance Pty Ltd v Chiodo Corporation Pty Ltd & Anor* (NSWLC, 29 October 2019) — breach of contract, misleading and deceptive conduct (for the cross-defendant)

*Woollabra Municipal Council v Bay State Construction Pty Ltd* (Local Court of New South Wales, 2019, prosecution discontinued part heard) — environmental planning and assessment (for the defendant)

*Butler v Coomber* (District Court of New South Wales, 22 August 2019) — debt recovery, professional misconduct, application to set aside default judgment (for the applicants)

## REPRESENTATIVE MATTERS — LED

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### High Court

*Facebook Inc v Australian Information Commissioner & Anor* (S137/2022) — private international law, service out of jurisdiction, carrying on business in Australia (for the appellant, led by Noel Hutley SC)

*Attorney-General v Hynb* (S78/2022) — inquiries into conviction, the *Judiciary Act*, federal jurisdiction (for the first respondent, led by Richard Wilson SC)

*Carmichael Rail Network Pty Ltd v BBC Chartering Carriers GmbH & Co. KG (The BBC Nile)* (B54/2022) — maritime law, carriage of goods by sea, anti-suit injunctions (for the applicant, led by Edward Cox SC)

*Alexander v Minister for Home Affairs* (2022) 96 ALJR 560; 401 ALR 438 — constitutional law, Ch III, citizenship stripping, (for the plaintiff, led by David Hooke SC)

*MZAPC v Minister for Immigration and Border Protection* (2021) 95 ALJR 441; 390 ALR 590 — judicial review, materiality, burden of proof (for the appellant, led by David Hooke SC)

*Luppino v Commissioner of the Australian Federal Police* [2021] HCASL 132 — warrants, principle of legality (for the applicant, led by Stephen McDonald SC)

*BHL19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (first instance ([2019] FCA 929); intermediate appeal ([2020] FCAFC 94); special leave hearing ([2020] HCATrans 220)) — judicial review, legal unreasonableness (for the Minister, led by Perry Herzfeld SC)

*Meyers v Commissioner for Social Housing & Anor* [2020] HCATrans 12 — negligence, statutory exceptions for public authorities (for the respondents, led by Vanessa Thomas)

*Lazarus v Kane* (S177/2019); *Lazarus v Kane* (S203/2019) — judicial review, special leave application and removal application (for the respondent, led by Joanna Davidson)

### Constitutional law

*Dungog Shire Council v Attorney General of New South Wales* (FCA, ongoing) — native title, extinguishment, constitutional law (for the first respondent, led by James Emmett SC)

*Attorney-General for Kiribati v Lambourne* [2022] KICA 1 — constitutional law, executive interference with judiciary (for the respondent, led by Perry Herzfeld SC)

*Kassam v Hazard; Henry v Hazard* [2021] NSWCA 299 — section 51(xxiiiA), civil conscription (for the respondents, led by Jeremy Kirk SC and Thomas Prince)

*APM21 v Lusty* (Federal Court of Australia, 2021, relief sought made by consent before hearing) — compulsory examinations, invalid exercise of legislative power (for the applicant, led by Stephen McDonald SC)

*Lottoland (Australia) Pty Ltd v Minister for Racing, Gaming and Licensing (NT)* (NT Supreme Court, interlocutory injunction ([2020] NTSC 65), public interest immunity ([2021] NTSC 19), hearing (ongoing)) — sports bookmaker licences, challenge to decision to impose conditions on licence, freedom of interstate trade and commerce (for the plaintiff, led by Noel Hutley SC and Sebastian Hartford Davis)

*Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v BFW20 by his Litigation Representative BFW20.A* — migration law, detention pending appeals by the Executive, *Chu Kheng Lim* principle (for the appellant, led by Perry Herzfeld, settled prior to hearing)

*Cantrell & North and Anor* [2020] FamCAFC 175 — fraud, property adjustment, capacity of a state court to set aside a transfer effected pursuant to an order of a federal court (for the appellant, led by Perry Herzfeld)

*Medical Board of Australia v Yu* [2020] SACAT 3 — federal jurisdiction, capacity of multiple parliaments to create a single national body, health practitioner regulation (for the applicant, led by Jeremy Kirk SC)

*Anastasopoulos v The Queen* (District Court of New South Wales, unreported, 13 August 2019) — non-consensual use of listening devices, implied freedom of political communication (for the Attorney General of New South Wales, led by Brendan Lim)

## Maritime law / private international law

*Maersk AS v Urimbo Group Pty Ltd* (SYG1487/2022) — maritime law, unpaid freight (for the plaintiff)

*Icom Operations Pty Ltd v Blue One Shipping SA & Ors* (NSD870/2022) — maritime law, carriage of goods by sea, limitation periods, estoppel (for the appellant, led by Edward Cox SC)

*Carmichael Rail Network Pty Ltd v BBC Chartering Carriers GmbH & Co. KG (The BBC Nile)* [2022] FCAFC 171 — maritime law, carriage of goods by sea, anti-suit injunctions (for the plaintiff, led by Edward Cox SC)

*Veenstra v Patrick Stevedores Holdings Pty Ltd* (District Court of New South Wales, settled) — worker's compensation, stevedoring (for the defendant)

*White Oak Commercial Finance Europe (Non-Levered) Limited v Insurance Australia Limited* [2022] FCA 1587 — foreign evidence, application to commence proceedings under §1782 of Title 28 of the United States Code (for the applicant, led by Peter Braham SC and Justin Williams SC)

*Facebook Inc v Australian Information Commissioner* [2022] FCAFC 9 — private international law, 'carrying on business' in Australia (for the appellant, led by Noel Hutley SC and Sebastian Hartford Davis)

## Commercial law

*Janala Pty Ltd v Hardaker* [2022] NSWSC 822 — restraint of trade, non-solicitation (for the defendant, led by Philip Greenwood SC); *Janala Pty Ltd v Hardaker (No 2)* [2022] NSWSC 1222 — restraints of trade, relevance of post-contracting conduct (for the defendants, led by Ian Pike SC)

*Stockham v WLD Practice Holdings Pty Limited* [2021] NSWCA 280 — Anshun estoppel, leave to appeal (for the respondents, led by Christian Bova SC)

*SIF Holdings Pty Ltd v CRC Gosford Pty Ltd* [2021] NSWCA 174 — subrogation, unit trusts (for the first and second respondents, led by Peter Braham SC and James Arnott)

*Sara Stockham Pty Ltd v WLD Practice Holdings Pty Ltd* [2021] NSWCA 51 — separate questions, construction of contract, for the respondent, led by Christian Bova SC)

*DXC Enterprise Australia Pty Ltd v Optus Systems Pty Ltd* (SCNSW, settled) — contract, software integration project (for Optus, led by Jason Potts SC, Alex Langshaw and Benjamin Goodyear)

*LM Investment Management Limited (in liq) v EY & Ors* (pleadings dispute ([2020] QSC 264)) — auditor negligence, calculation of impairment (for the defendants, led by Alec Leopold SC and Alan Shearer)

*Haider v Gudelj* [2021] ACTCA 9 — doctrine of contribution, defences, clean hands (for the respondents, led by Philip Greenwood SC)

*Sanson v Sanson* (NSWSC, settled) — property development, joint venture (for the plaintiffs, led by Christian Bova SC)

*Broadway Plaza Investments Pty Ltd v Broadway Plaza Pty Ltd* [2020] NSWSC 1778 — joint ventures, unauthorised transactions, powers of attorney (for the Deiri entities, led by Noel Hutley SC, Christian Bova SC and Brent Michael)

*CRC Gosford Pty Ltd & Anor v Columbus Investment Services Ltd as Trustee for the Gosford Ownership Trust and the Gosford Landholding Trust & Anor* [2020] NSWSC 1153 — trusts, distribution of income, subrogation (for the plaintiff, led by Peter Braham SC and James Arnott)

*WLD Practice Holdings Pty Limited v Sara Stockham* (stay application ([2020] NSWSC 395); judicial advice ([2020] NSWSC 464); costs ([2020] NSWSC 576); lump sum costs order ([2020] NSWSC 576); separate question on construction of contract ([2020] NSWSC 1488); strike-out application ([2021] NSWSC 634)) — dental practice, unitholders agreement (for the trustee, led by Christian Bova SC)

*Rinehart v Rinehart* [2020] NSWCA 221 — trusts, duties of an outgoing trustee, right of indemnity (for Gina Rinehart, led by Christian Bova SC and Tom O'Brien)

*Millinium Capital Managers Ltd v Ignition Wealth Pty Ltd* (SCNSW, 2019, settled prior to hearing — misleading and deceptive conduct (for the defendants, led by Perry Herzfeld)

## Administrative law / government liability

*Stradford (a pseudonym) v Judge Vasta & Ors* (FCA, ongoing) — false imprisonment, collateral abuse of process, judicial immunity (led by Perry Herzfeld SC)

*Lottoland (Australia) Pty Ltd v Minister for Racing, Gaming and Licensing & Anor (No 2)* [2022] NTSC 66 (licensing, administrative and constitutional law, for the plaintiff, led by Noel Hutley SC and Sebastian Hartford Davis)

*Meyers v Commissioner for Social Housing & Anor* [2020] HCATrans 12 — negligence, statutory exceptions for public authorities (for the respondents, led by Vanessa Thomas)

*Can v State of New South Wales* [2021] NSWSC 1480 — validity of public health orders, COVID 19 (for the defendants, led by Jeremy Kirk SC and Thomas Prince)

*Larter v Hazard (No 2)* [2021] NSWSC 1451 — validity of public health orders, COVID 19 (for the defendants, led by Jeremy Kirk SC and Thomas Prince)

*Kassam v Hazard; Henry v Hazard* [2021] NSWSC 1320 — validity of public health orders, COVID 19 (for the defendants, led by Jeremy Kirk SC and Thomas Prince)

*Garland v State of New South Wales* (SCNSW, 2020, settled prior to hearing) — misfeasance in public office, malicious prosecution, suspension of firearm dealer licence by police (for the plaintiffs, led by Peter Braham SC)

*Arcare Pty Ltd v Aged Care Quality and Safety Commission* (FCA, 2020, settled prior to hearing) — aged care, provision of additional care and services where residents unable to derive a benefit (for the respondent, led by Tiffany Wong SC)

*A v Secretary, Department of Communities and Justice* (SCNSW, 2020, settled prior to hearing) — non-statutory executive power, susceptibility to judicial review (for the defendant, led by Perry Herzfeld)

*Lottoland (Australia) Pty Ltd v Minister for Racing, Gaming and Licensing & Anor* [2020] NTSC 65 — licensing, interlocutory injunctions (for the plaintiff, led by Sebastian Hartford Davis)

*Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v BFW20 by his Litigation Representative BFW20A* (first instance ([2020] FCA 562); stay application ([2020] FCA 615); appeal ([2020] FCAFC 121)) — migration, Minister's ability to cancel protection visas (for the Minister, led by Perry Herzfeld)

*Lazarus v Independent Commission Against Corruption* (SCNSW, 20 March 2020, proceeding discontinued — judicial review, judicial directions (for the defendant, led by Rachel Mansted)

*Lazarus v Kane* [2019] NSWCA 194 — judicial review, warrants of commitment (for the third respondent, led by Joanna Davidson)

*Armand-Iskak v Attorney-General of New South Wales* [2019] NSWCA 145 — judicial review, inquiry into conviction (for the respondent, led by Joanna Davidson)

*SYLN v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2019] FCA 1986 — migration, judicial review, error of fact (for the respondent, led by Perry Herzfeld)

*Flevotomos v Independent Liquor and Gaming Authority (No 2)* [2019] NSWCATAD 184 — strip club, licence condition prohibiting former licensee from entering premises, merits review (for the respondent, led by James Emmett)