

Perry Herzfeld SC

Professional details

Admitted to practice:	26 April 2006
Bar admission:	19 November 2009 (Vic); 1 July 2013 (NSW)
Appointed Senior Counsel:	30 September 2020
Qualifications:	BSc LLB (Hons) (Melb) LLM (Melb)
Other legal positions:	Editor, <i>New South Wales Law Reports</i> (2022–) Fellow, Australian Academy of Law (2022–)
Previous legal positions:	Associate to the Hon Justice Susan Crennan AC, High Court of Australia (2008–9) Allens Arthur Robinson, Articled Clerk (2005–6), Lawyer (2006–8) Reporter, <i>Commonwealth Law Reports</i> (2010–16)

Contact details

Chambers:	Eleven Wentworth Chambers Level 11, 174–180 Phillip Street SYDNEY NSW 2000
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Education

Post-graduate: LLM (Melb)

Graduate: BSc LLB (Hons) (Melb)

Placed second on the Final Law Honours List (Spero Wilson Memorial Scholarship)

Harrison Moore Exhibition for Advanced Constitutional Law (placed first in subject)

Full Faculty Scholarship from the Faculty of Law

Recent publications

“Statutory Interpretation from *Visy* to Today” in Stephen Puttick and Michael Gvozdenovic (eds), *Current Issues in Competition Law: Volume I* (2021, Federation Press)

Statutory Interpretation Principles (2nd ed, 2021, Thomson Reuters) (with Thomas Prince)

Interpretation (2nd ed, 2020, Thomson Reuters) (with Thomas Prince)

“Limitation of Actions and Specific Performance” (2019) 93 ALJ 470

Recent cases

Appellate

GLJ v The Trustees of the Roman Catholic Church for the Diocese of Lismore [2023] HCA 32 — torts, historic child sexual abuse, permanent stay, for the appellant

Bogan v Estate of Smedley (deceased) [2023] VSCA 256 — class actions, cross-vesting, group costs orders, for KPMG

Vanderstock v Victoria [2023] HCA 30 — constitutional law, for the Australian Trucking Association as *amicus*

Independent Liquor and Gaming Authority v Whitebull HTL Pty Ltd [2023] NSWCA 224 — judicial review, statutory construction, gambling, for the appellant

Aerotropolis Pty Ltd v Secretary, Department of Planning and Environment [2023] NSWCCA 195 — environmental prosecution, limitation period, statutory construction, for the appellant

Moore v Commonwealth Director of Public Prosecutions [2023] NSWCA 153 — crime, jurisdiction, statutory construction, for the respondent

R v AB [2023] NSWCCA 168 — crime, foreign bribery, statutory construction, for the applicant

CCU21 v Minister for Home Affairs [2023] FCAFC 87 — judicial review, migration, for the respondent

Minister for Immigration, Citizenship and Multicultural Affairs v SZRWS [2023] FCAFC 83 — statutory construction, migration, for the appellant

Chief Commissioner of State Revenue v Shell Energy Operations No 2 Pty Ltd [2023] NSWCA 113 — taxation, duties, for the respondent

DFO19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2023) 296 FCR 204; [2023] FCAFC 38 — judicial review, migration, for the respondent

Director-General of Security v Plaintiff S111A/2018 (2023) 296 FCR 639; [2023] FCAFC 33 — judicial review, national security, for the appellant

DMH20 v Minister for Home Affairs (2023) 296 FCR 256; [2023] FCAFC 31 — constitutional law, migration, for the respondent

Attorney General for New South Wales v FJG [2023] NSWCA 34 — statutory interpretation, constitutional law, for the plaintiff

Galati v Deans [2023] NSWCA 13 — equity, resulting trust, common intention constructive trust, for the appellant

Hays & Department of Communities and Justice [2023] FedCFamC1A 3 — international child abduction, for the Independent Children’s Lawyer

Darkinjung Local Aboriginal Land Council v Minister Administering the Crown Land Management Act (2022) 110 NSWLR 535; [2022] NSWCA 275 — Aboriginal land rights, for the appellant

Minister for Immigration, Citizenship and Multicultural Affairs v McQueen (2022) 292 FCR 595; [2022] FCAFC 199 — judicial review, migration, for the appellant

KPMG (A Firm) v Bogan [2022] HCATrans 208 — removal into High Court, class actions, cross-vesting, for the applicant

Miller v Minister for Immigration, Citizenship and Multicultural Affairs (2022) 295 FCR 254; [2022] FCAFC 183 — judicial review, migration, for the appellant

Secretary, Department of Communities and Justice v KH (2022) 110 NSWLR 57; [2022] NSWCA 221 — judicial review, child welfare, for the plaintiff

Insurance Australia Ltd v Meridian Travel (Vic) Pty Ltd [2022] HCATrans 172 — special leave, insurance, business interruption, for Insurance Australia Ltd

Australia Capital Financial Management Pty Ltd v Australian Financial Complaints Authority Ltd (2022) 164 ACSR 215; [2022] NSWCA 204 — corporations, external dispute resolution scheme, for the first respondent

Attorney-General v Lambourne, Kiribati Court of Appeal, 26 August 2022 — constitutional law, judicial independence, appeals, for the respondent

Hancock v Hancock Prospecting Ltd (2022) 409 ALR 638; [2022] NSWCA 152 — arbitration, for the ninth and tenth respondents

Alexander v Minister for Home Affairs (2022) 96 ALJR 560; 401 ALR 438; [2022] HCA 19 — constitutional law, citizenship, judicial power, for the defendants (with Stephen Donaghue QC)

Bowers v Judicial Commission of New South Wales [2022] NSWCA 69 — appeal competency, for the respondent

SDCV v Director-General of Security [2022] HCATrans 20 — special leave, constitutional law, for the respondents

Springs v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2022] HCATrans 17 — special leave, judicial review, migration, for the respondent

LCA Marrickville Pty Limited v Swiss Re International SE (2022) 290 FCR 435; [2022] FCAFC 17 — insurance, business interruption, for Insurance Australia Ltd (with Ian Jackman SC)

XJLR v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2022) 289 FCR 256; [2022] FCAFC 6 — judicial review, migration, for the respondent

WKMZ v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2021] HCATrans 195 — special leave, judicial review, migration, for the respondent

HZCP v Minister for Immigration and Border Protection [2021] HCATrans 168 — special leave, judicial review, migration, for the respondent

Fairfax Media Publications Pty Ltd v Voller (2021) 95 ALJR 767; 392 ALR 540; [2021] HCA 27 — defamation, for the appellants (with Neil Young QC)

Harris v New South Wales [2021] NSWCA 208 — torts, arrest, for the respondent

FFM20 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2021) 286 FCR 405; [2021] FCAFC 156 — judicial review, migration, for the respondent

GR v Secretary, Department of Communities and Justice [2021] NSWCA 157 — child welfare, statutory construction, for the Legal Aid Commission of NSW (as *amicus curiae*)

HDI Global Specialty SE v Wonkana No 3 Pty Ltd t/as Austin Tourist Park [2021] HCATrans 117 — special leave, insurance, for the applicant (with Ian Jackman SC)

Zhang v Commissioner of Police (2021) 95 ALJR 432; 389 ALR 363; [2021] HCA 16 — torts, constitutional law, search warrants, for the first defendant and Attorney-General of the Commonwealth (with Stephen Donaghue QC)

Ozcan v Macarthur Disability Services Ltd (2021) 306 IR 52; [2021] NSWCA 56 — judicial review, workers' compensation, for the respondent

SDCV v Director-General of Security (2021) 284 FCR 357; [2021] FCAFC 51 — constitutional law, judicial review, national security, for the respondent

KDSP v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2021] HCATrans 20 — special leave, statutory interpretation, migration, for the respondent

Walton v ACN 004 410 833 Limited (formerly Arrium Limited) (in liquidation) [2021] HCATrans 18 — special leave, corporations, for the second respondent

BHL19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2020] HCATrans 220 — special leave, judicial review, migration, for the respondent

Lewis v Australian Capital Territory (2020) 271 CLR 192; [2020] HCA 26 — torts, false imprisonment, damages, for the appellant

ACN 004 410 833 Ltd (formerly Arrium Ltd) (in liq) v Walton (2020) 383 ALR 298; [2020] NSWCA 157 — corporations, public examination, abuse of process, for KPMG

Cantrell v North (2020) 354 FLR 252; [2020] FamCAFC 175 — family law, property adjustment, fraudulent transactions, for the appellant

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs v BFW20 (2020) 279 FCR 475; [2020] FCAFC 121 — judicial review, migration, for the appellant

BHL19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2020) 277 FCR 420; [2020] FCAFC 94 — judicial review, migration, for the respondent

Hackett (a pseudonym) v Secretary, Department of Communities and Justice (2020) 379 ALR 248; [2020] NSWCA 83 — adoption, statutory construction, procedural fairness, for the appellant

Chamoun v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2020) 276 FCR 75; [2020] FCAFC 66 — judicial review, migration, for the respondent

First instance

ARUI17 v Minister for Immigration, Citizenship and Multicultural Affairs [2023] FCA 1275 — judicial review, migration, joinder, interrogatories, for the respondent

BRO18 v Minister for Home Affairs [2023] FCA 1193 — judicial review, migration, for the respondent

Abramov v Minister for Foreign Affairs (No 2) [2023] FCA 1099 — judicial review, sanctions, for the respondent

Axicom Inbuilding Solutions Pty Ltd v Australian Communications and Media Authority [2023] FCA 1069 — judicial review, telecommunications, for the respondent

Stradford (a pseudonym) v Judge Vasta [2023] FCA 1020 — torts, false imprisonment, judicial immunity, liability of police, for the applicant

Racing New South Wales v Racing Victoria Limited (No 2) [2023] NSWSC 576 — preliminary discovery, for Racing Queensland Board

Hartley v Commissioner of the Australian Federal Police [2023] FCA 368 — search warrants, for the respondent

Tabcorp Holdings Ltd v Entain Group Pty Ltd [2023] NSWSC 220 — preliminary discovery, for the first defendant

In the matter of Vinidici Rushcutters Bay Pty Ltd – Vinidici Rushcutters Bay Pty Ltd v Zhang [2023] NSWSC 151 — deceit, misleading conduct, for the plaintiff

Secretary, Department of Planning and Environment v Aerotropolis Pty Ltd (2023) 255 LGERA 286; [2023] NSWLEC 4 — environmental prosecution, limitation period, statutory construction, for the defendant

Attorney-General (Cth) v Pender (Final) (2022) 374 FLR 212; [2022] NSWSC 1773 — terrorism, extended supervision order, for the plaintiff

Rookwood General Cemeteries Reserve Land Manager v Attorney General (NSW) [2022] NSWSC 1763 — charitable trusts, for the defendant

Australian Securities and Investment Commission v A&M Group Pty Ltd t/as Debt Negotiators [2022] FCA 1534 — corporations, civil penalties, for the applicant

Sami v Minister for Home Affairs [2022] FCA 1513 — constitutional law, migration, for the respondent

DMH20 v Minister for Home Affairs [2022] FCA 1054 — constitutional law, migration, for the respondent

Hancock v Rinehart [2022] NSWSC 1025 — suppression orders, for the first defendant/cross-claimant

Commissioner of Police v Attorney General (NSW) [2022] NSWSC 595 — judicial review, coronial inquiry, public interest immunity, for the defendant

Plaintiff S111A/2018 v Minister for Home Affairs (No 4) [2022] FCA 329 — judicial review, national security, for the respondents

Aversa v Transport for New South Wales [2022] NSWSC 277 — public interest immunity, for Transport for New South Wales and the Secretary of the New South Wales Treasury

CCU21 v Minister for Home Affairs (2022) 398 ALR 535; [2022] FCA 28 — judicial review, migration, for the respondents

The Environment Centre NT Inc v Minister for Resources and Water (No 2) (2021) 399 ALR 68; 253 LGERA 114; [2021] FCA 1635 — judicial review, environment, for the applicant

Minister for Home Affairs v Pender (2021) 363 FLR 309; [2021] NSWSC 1644 — terrorism, continuing detention order, for the plaintiff

EPUI9 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (No 2) [2021] FCA 1536 — judicial review, migration, for the respondent

Australian Capital Financial Management Pty Ltd v Australian Financial Complaints Authority Ltd [2021] NSWSC 1577 — corporations, external dispute resolution scheme, for the first defendant

Australian Aged Dental Care Pty Ltd v Australian Dental Association (New South Wales Branch) Ltd [2021] FCA 1514 — misleading or deceptive conduct, stay of proceedings, for the respondent

Swiss Re International SE v LCA Marrickville Pty Ltd (2021) 394 ALR 461; [2021] FCA 1206 — insurance, business interruption, for Insurance Australia Ltd (with Ian Jackman SC)

KDSP v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (2021) 95 ALJR 666; 392 ALR 186; [2021] HCA 24 — judicial review, migration, for the defendant

AGH21 v Minister for Home Affairs [2021] FCA 452 — judicial review, migration, for the respondent

AGP21 v Minister for Home Affairs [2021] FCA 281 — judicial review, migration, for the respondent

Abela v Minister for Home Affairs [2021] FCA 96 — summary dismissal, migration, for the respondent

Shorey v One Key Workforce Pty Ltd (in liq) [2020] FCA 1750 — preliminary discovery, for the intervener One Key Resources Pty Ltd

Re Imogen (No 6) (2020) 61 Fam LR 344; [2020] FamCA 761 — family law, transgender children, for the Attorney-General (Cth)

Walker v Minister for Home Affairs [2020] FCA 909 — judicial review, migration, for the respondent

BFW20 by his Litigation Representative BFW20A v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2020] FCA 562 — judicial review, migration, mandamus, for the respondents

Liristis v Corrective Services NSW (No 4) [2020] NSWSC 147 — contempt, for the defendants

Environment Protection Authority v Newcastle Ports Corporation [2020] NSWLEC 6 — environmental prosecution, duplicity, for the prosecutor