



**DANIELLE
FORRESTER**
Barrister

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PROFESSIONAL EXPERIENCE

2014 - present

Barrister

August 2013 - April 2014

Senior Lawyer, Dispute Resolution, Australian Government Solicitor (AGS)

Australian Electoral Commission v Johnston (2014) 251 CLR 463
(WA Senate Election Case)

August 2011 - August 2013

Counsel Assisting the Solicitor-General of the Commonwealth

Working directly to Stephen Gageler SC and then Justin Gleeson SC in the preparation of advice to and in the conduct of litigation on behalf of the Commonwealth. Appearing as junior counsel in various High Court proceedings. Assisting the Solicitor-General in preparation of significant matters in the High Court and international courts, including matters such as *JT International SA v Commonwealth of Australia* (**Plain Packaging Case**) (2012) 250 CLR 1. Co-authoring opinions and assisting in researching and drafting advice to government at the highest levels. Assisting the Solicitor-General as a member of the Australian delegation to the International Court of Justice in June 2013 in *Australia v Japan; New Zealand intervening* (**Whaling in the Antarctic Case**).

May 2010 - August 2011

Senior Lawyer, Constitutional Litigation Unit, AGS (Canberra)

April 2009 - April 2010

Senior Legal Officer, Office of Constitutional Law, Attorney-General's Department (Canberra)

June 2005 - March 2009

Lawyer and Senior Lawyer, AGS (Adelaide)

EDUCATION

Honours Degree of Bachelor of Laws, 2004

Bachelor of Arts (International Studies), 2001

University of Adelaide

Master of Laws, 2011

Australian National University

SELECTED MATTERS

Commercial law

Australian Prudential Regulation Authority v IOOF Investment Management Ltd (ACN 006 695 021) & Ors [2019] FCA 1521

- Led by Noel Hutley SC, Nicholas Owens SC and Jonathon Redwood and with Brad Holmes for the First and other Respondents (instructed by KWM)
- Acting for IOOF in regulatory proceedings before Jagot J concerning disqualification and related relief in relation to alleged breaches of the *Superannuation Industry (Supervision) Act 1993* (Cth)
- Commonwealth workers' compensation - whether reasonable administrative action

Australian Competition and Consumer Commission & Commonwealth v Phoenix Institute of Australia Pty Ltd (subject to DOCA) and Anor (NSD1471 of 2015) - reserved

- Led by Naomi Sharp SC and Robert White for the Applicant (instructed by AGS)
- Acting for the ACCC in proceedings against registered training organisations involving allegations of unconscionable conduct in respect of the VET FEE-HELP scheme

Rinehart v Hancock Prospecting Pty Ltd [2019] HCA 13; (2019) 93 ALJR 582 (written submissions on behalf of ACICA as amicus)

- Led by Justin Gleeson SC and Jonathon Redwood for the *amicus curiae* (instructed by Ashurst)
- Interpretation and scope of arbitration agreements

BHP Coal Pty Ltd & Ors v Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships (BS11313/15, BS2371/16) - settled proceedings in the Supreme Court of Queensland

- Led by John Sheahan QC, Thomas Bradley QC and Sean Cooper for the Applicant (instructed by Herbert Smith Freehills)

Chow v Chow [2016] NSWSC 908

- Led by Paul Blackburn-Hart SC for the Plaintiffs (instructed by Arnold Bloch Leibler)
- Format of estate accounts for the purpose of passing by a registrar

Chow v Chow (No 2) [2015] NSWSC 1348; (2015) 229 BPR 35,385

- Led by Paul Blackburn-Hart SC for the Plaintiff (instructed by Arnold Bloch Leibler)
- Whether "usual order" for all costs out of proceeds appropriate

Chow v Chow (No 1) [2015] NSWSC 1347; (2015) 229 BPR 35,381

- Led by Paul Blackburn-Hart SC for the Plaintiff (instructed by Arnold Bloch Leibler)

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- Section 66G application, under the *Conveyancing Act 1919* (NSW) – dispute as to trustees

In the matter of JGS Investment Holdings Pty Ltd [2014] NSWSC 1532; (2014) 32 ACLC 14-063

- Unled for the Plaintiff (instructed by Clayton Utz)
 - Amendment application – joinder – reflective loss – particularisation of loss and causation
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International trade law matters

Advising a large international client in 2019, with Justin Gleeson SC, in relation to possible avenues of challenge concerning government decision-making, including in relation to investor-state dispute settlement (ISDS) provisions (instructed by Jones Day)

Advising a multinational client in 2018, with Justin Gleeson SC, in relation to various matters of international trade law, including in relation to ISDS (instructed by Corrs Chambers Westgarth)

Public law / regulatory matters

Hocking v Director-General of the National Archives of Australia (HCA No. S262/2019) – reserved

- Led by Stephen Donaghue SC (Commonwealth Solicitor-General), Tom Howe QC and Craig Lenehan (instructed by AGS)
- special leave granted from *Hocking v Director-General of the National Archives of Australia* (2019) 264 FCR 1
- constitutional law; nature of records created by the Governor-General; “Commonwealth records”

Australian Competition and Consumer Commission v Kimberly-Clark Australia Pty Ltd [2019] FCA 992 – on appeal

- Led by Simon White SC (instructed by AGS)
- Consumer law; “flushable” wipes; false or misleading representations

Australian Competition and Consumer Commission v EmploySURE Pty Ltd (NSD2384/2018) – ongoing proceedings

- Led by Simon White SC (instructed by AGS)
- Consumer law; unconscionable conduct; false or misleading representations; unfair contract terms

Costello v Racing Appeals Tribunal [2019] NSWSC 1808

- Led by Sandy Dawson SC (instructed by Racing NSW)
- Judicial review of warning off decision

Independent Liquor and Gaming Authority v Auld [2019] NSWCA 88

- Led by Naomi Sharp SC for the Applicant (instructed by NSW Crown Solicitor’s Office)
- Liquor licensing; removal application; statutory construction

Brett Cattle v Minister for Agriculture, Fisheries and Forestry & Anor (NSD1102/2014) – reserved

— Led by Neil Williams SC and Michael O’Meara (instructed by AGS)

— Misfeasance in public office; damages

Ibrahim v Minister for Home Affairs [2019] FCAFC 89

— Unled for the Respondent (instructed by AGS)

— Judicial review; cancellation of partner visa on character grounds; jurisdictional error

Australian Competition and Consumer Commission v Pental Limited [2018] FCA 491

— Led by Simon White SC (instructed by AGS)

— Consumer law; contested penalty proceedings

Hocking v Director-General of the National Archives of Australia [2018] FCA 340

— Led by Tom Howe QC and Craig Lenahan (instructed by AGS)

— Judicial review – whether “Commonwealth records” under *Archives Act 1983* (Cth)

Construction Industry Training Board v Transfield Services [2017] SASFC 103

— Led by Chris Horan QC for the Attorney-General (Cth) intervening (instructed by AGS)

— Section 52(i) of the Constitution, power over places acquired for public purposes

CLS15 v Minister for Immigration & Anor [2016] FCCA 2164

— Unled for the Respondents (instructed by AGS)

— Judicial review – protection visa

Yeap v Minister for Immigration and Border Protection & Anor [2016] FCCA 1173

— Unled for the Respondents (instructed by AGS)

— Judicial review – Employer nomination visa decision

Wang & Ors v Minister for Immigration [2016] FCCA 1033

— Unled for the Applicant (instructed by W & H Lawyers)

— Judicial review – visa cancellation decision – extension of time

Commonwealth of Australia v Director, Fair Work Building Industry Inspectorate & Ors (2015) 258 CLR 482

— Led by Cameron Moore SC for the amici curiae (instructed by AGS)

— Whether *Barbaro v The Queen* (2014) 253 CLR 58 applies to civil penalty proceedings

AZAEY v Minister for Immigration and Border Protection [2015] FCAFC 193; (2015) 238 FCR 341

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- Unled for the Respondent (instructed by AGS)
 - Judicial review - procedural irregularity

Day v Sanders; Day v HRNSW (2015) 90 NSWLR 764

- Led by Andrew Bell SC and Sandy Dawson (now Sandy Dawson SC) for the Respondent (instructed by Cockburn & Co)
- Whether “absolute liability” offence within rule-making power

Day v Harness Racing New South Wales (2014) 88 NSWLR 594

- Led by Andrew Bell SC and Sandy Dawson (now Sandy Dawson SC) for the Respondent (instructed by Cockburn & Co)
- Rule making powers - principles of statutory construction and delegated legislation

Assistant Commissioner Michael James Condon v Pompano Pty Ltd (2013) 252 CLR 38

- Led by Justin Gleeson SC (Commonwealth Solicitor-General) and Nicholas Owens (now Nicholas Owens SC) for the Attorney-General (Cth) intervening on the constitutional question (instructed by AGS)
- Chapter III - incompatibility as repository of Commonwealth judicial power

TCL Air Conditioner Co Ltd v The Judges of the Federal Court of Australia (2013) 251 CLR 533

- Led by Justin Gleeson SC (Commonwealth Solicitor-General) and Michael O’Meara for the Attorney-General (Cth) intervening (instructed by AGS)
- Chapter III - whether institutional integrity impermissibly impaired

Director of Public Prosecutions v Keating (2013) 248 CLR 459

- Led by Justin Gleeson SC (Commonwealth Solicitor-General) and Ruth Higgins (now Ruth Higgins SC) for the Attorney-General (Cth) intervening on the constitutional question (instructed by AGS)
- Chapter III and retrospectivity

Stanford v Stanford (2012) 247 CLR 108

- Led by Peter Hanks QC and Richard Hooker for the Commonwealth Attorney-General intervening (instructed by AGS)
- Scope of s 51(xxii) and (xxiii) of the Constitution; “marriage” and “matrimonial causes”

Tribunals and regulatory bodies

Independent Liquor and Gaming Authority v Auld [2018] NSWCATAP 68

- Unled for the Respondent (instructed by NSW Crown Solicitor’s Office)

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- Referral application

Ehrenfeld and Australian Securities and Investments Commission [2017] AATA 883

- Led by Mr David Healey for the Respondent (instructed by ASIC)
- Merits review - decision to disqualify from managing corporations - recusal application

Carter and Tax Practitioners Board (Taxation) [2017] AATA 528; (2017) 2017 ATC 10-454

- Unled for the Respondent (instructed by the Tax Practitioners Board)
- Merits review - decision to terminate tax agent registration - Code of Professional Conduct

Oliver and Comcare (Compensation) [2017] AATA 252

- Unled for the Respondent (instructed by Sparke Helmore)
- Commonwealth workers' compensation - ongoing entitlement to treatment

Paxton & Child Support Registrar and Anor [2016] FamCAFC 116

- Unled for the First Respondent (instructed by AGS)
- Leave to appeal - extension of time - SSAT decision endorsing determination to register overseas maintenance liability under *Child Support (Registration and Collection) Act 1988* (Cth)

Strata Community Insurance Agencies Pty Ltd and ASIC [2016] AATA 768

- Unled for the Respondent (instructed by ASIC)
- Merits review - Australian Financial Services licence - refusal of cross endorsement

Parker and ASIC [2016] AATA 767

- Unled for the Respondent (instructed by ASIC)
- Merits review - freedom of information decision

Application for Authorisation of Acquisition of Macquarie Generation by AGL Energy Limited [2014] ACompT 1

- Led by Charles Scerri QC, Nicholas De Young and Clare Exell for the ACCC (instructed by DLA Piper)
- Application for authorisation - *Competition and Consumer Act 2010* (Cth)

Applications by Public Interest Advocacy Service Ltd and Ausgrid Distribution [2016] ACompT 1

- Led by Stephen Lloyd SC, Michael O'Bryan QC, Stefan Balafoutis, Anna Mitchelmore, James Arnott, Tamara Phillips, with Frances St John for the Australian Energy Regulator (instructed by Corrs Chambers Westgarth)

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- National Electricity Law - review of distribution determination by AER

Muir and Comcare [2015] AATA 612

- Unled for the Respondent (instructed by Sparke Helmore)

Commonwealth workers' compensation - whether reasonable administrative action