



**JUSTIN
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ABOUT

Fellow of the Chartered Institute of Arbitrators.

Fellow of ACICA.

Fellow of the Australian Academy of Law.

Member of the SIAC Panel of Arbitrators

Member of HKIAC Panel of Arbitrators

Justin has close to 40 years legal experience, as solicitor (1985-1988), counsel (1989 onwards) and Senior Counsel (2000 onwards). He was the founding head of Banco Chambers Sydney (2005-2012) and the 10th Solicitor-General of the Commonwealth of Australia (2012-2016).

He is a Fellow of the Australian Academy of Law, ACICA and the Chartered Institute of Arbitrators and a member of the SIAC and HKIAC Panels of Arbitrators. He specialises in international law, international arbitration, constitutional law and appellate law; and is available to accept appointments as arbitrator or expert determiner, or to appear as counsel.

RECENT APPOINTMENTS IN INTERNATIONAL & AUSTRALIAN ARBITRATIONS

INTERNATIONAL

2022-24: Co-arbitrator, SIAC arbitration (Singapore).

2022-24: Co-arbitrator, ICC arbitration (London)

2021-24: Co-arbitrator, UNCITRAL arbitration

2022-23: Presiding arbitrator, ICC arbitration (Hong Kong).

2020: Sole Arbitrator, foreign state arbitration.

2020: Presiding arbitrator, LCIA arbitration (London).

AUSTRALIA

2024: Sole Arbitrator, ACICA arbitration, renewable energy dispute.

2023: Expert Determiner, renewable energy dispute.

2022-23: Expert Determiner, various insurance coverage disputes.

2022: Sole arbitrator, Resolution Institute arbitration.

2022: Sole arbitrator, Ad hoc commercial arbitration.

2018, 2020-2021: Arbitrator appointed by Australian Energy Regulator (AER) in various disputes under Part 23 of National Gas Rules.

2023: Member of pool of arbitrators of AER under National Gas Rules.

OTHER RECENT RETAINERS IN THE INTERNATIONAL ARBITRATION SPACE

2020-2024: Counsel for Foreign States Resisting Enforcement of Arbitral Award in Australia.

2017-2024: Counsel in various ISDS disputes for States and private investors.

2018-2019: Various retainers to give expert evidence before Courts in the United States and Singapore.

2017: Expert assessor in respect to funding of an ISDS case.
 2017-2022: Counsel or arbitrator in various private commercial arbitrations.
 2017: Chair of a Panel to inquire and report on certain matters for a major public institution in Australia.

APPEARANCES IN INTERNATIONAL COURTS AND TRIBUNALS

As Solicitor-General of the Commonwealth of Australia between 2012 and 2016, Justin advised on numerous international law issues and was joint counsel for Australia in proceedings including:

International Court of Justice

2014: *Timor-Leste v Australia, Questions relating to the Seizure and Detention of Certain Documents and Data.*

2013: *Australia v Japan, Whaling in the Antarctic.*

Inter-State arbitration

2015: *Timor-Leste v Australia, Arbitration under the Timor Sea Treaty* (PCA case 2015-42).

2013: *Timor Leste v Australia, Arbitration under the Timor Sea Treaty* (PCA case 2013-16).

Inter-State conciliation

2016: *Timor-Leste v Australia, Compulsory Conciliation under the United Nations Convention on the Law of the Sea* (PCA case 2016-10).

Investor-State arbitration

2015: *Phillip Morris Asia Limited v Australia, Arbitration under the Hong Kong-Australia Business Investment Treaty concerning Tobacco Plain Packaging Legislation* (PCA case 2012-12).

RECENT APPEARANCES AS COUNSEL IN APPELLATE MATTERS

HIGH COURT OF AUSTRALIA

Justin has conducted 110 cases in the High Court of Australia as leading counsel over the last 25 years. Recent and forthcoming cases include the following:

2024: *Cessnock City Council v 123 259 932 Pty Ltd* [2024] HCA 17 – scope of the *Amman Aviation* damages principle.

2024: *Chief Executive Officer, Aboriginal Areas Protection Authority v Director of National Parks & Anor* [2024] HCA 16 – immunity of Commonwealth from Territory criminal laws.

2024: *R v Kola* [2024] HCA 14 – proper directions in conspiracy trials involving strict liability elements.

2024: *Godolphin Australia Pty Ltd v Chief Commissioner of State Revenue* – [2023] HCA Trans 136 - scope of primary production exemption from state land tax

2024: *Williams v Toyota Motor Corporation Australia Ltd* [2023] HCA Trans 162 – proper measure of damages under s 267 Australian Consumer Law.

2024: *Commonwealth v Sanofi* [2023] HCA Trans 184 – recovery under the usual undertaking as to damages.

2024: *KPMG v Bogan* [2024] HCA SL 55 transfer of proceedings under Corporations legislation in face of group costs order.

2023: *Hurt v The King; Delzotto v The King* (2024) 98 ALJR 485 – application of mandatory minimum sentencing provisions.

2023: *Redland City Council v Kozik* [2024] HCA 7 – defences to restitution for wrongly imposed imposts by public authorities overpaid fees.

2023: *Karpik v Carnival PLC* (2023) 98 ALJR 45 – extra-territorial application of Australian Consumer Law

2023: *The King v Jacobs Group Australia Pty Ltd* (2023) 97 ALJR 595 – maximum penalties for sentencing for foreign bribery.

2023: *Qantas Airways Limited v Transport Workers Union of Australia* (2023) 97 ALJR 711 – general protections provisions of *Fair Work Act*.

2022: *Unions NSW v State of NSW* (2023) 97 ALJR 150 – further challenge to validity of electoral spending laws under implied freedom of political communication.

2022: *Electricity Networks Corporation v Herridge* (2022) 276 CLR 271 – liability of electricity transmission operator in tort.

2022: *SelfCare IP Holdings v Allergan* (2023) 97 ALJR 388– principles governing trademark infringement.

2022: *Metal Manufactures Pty Ltd v Morton* (2023) 275 CLR 100– availability of set off under *Corporations Act* against unfair preference claim.

2022: *BHP Group Ltd v Impiombato & Ors* (2022) 96 ALJR 956 – whether Federal Court class action procedures are available in favour of foreign resident group members.

2022: *Cth v Montgomery* [2022] HCA Trans 52 – whether indigenous Australians can be treated as aliens under the Constitution.

2022: *Fairbairn v Radecki* (2022) 275 CLR 400 – scope of federal jurisdiction over breakdown of de facto relationships.

2021: *Tapp v ABCRA* (2022) 273 CLR 454 - principles governing *Civil Liability Act* claims.

2021: *Commonwealth v AJL 20* (2021) 273 CLR 43 - Chapter III of the Constitution and migration detention.

2021: *Arsalan v Rixon; Nguyen v Cassim* (2021) 274 CLR 606 - assessment of damages for loss of use of non-income producing assets.

2021: *Wells Fargo Trust Company v VB Leaseco Pty Ltd* (2022) 275 CLR 1 – application of Cape Town Convention to recovery of airline engines in insolvency.

2020: *Wigmans v AMP* (2021) 270 CLR 623 – regulation of overlapping class actions.

2020: *Roy v O'Neill* (2020) 272 CLR 291 – implied licence to enter property and proactive policing.

2020: *Berry v CCL Secure Pty Ltd* (2020) 271 CLR 151 – assessment of damages under *Australian Consumer Law*.

2020: *Moore v Scenic Tours* [2020] 268 CLR 326 – whether claims for distress and disappointment from loss of expectation are personal injury damages.

2019-2020: *Commonwealth v Helicopter Resources* (2020) 270 CLR 523 – application of accusatorial principle to compulsory examination of officers of corporations.

2019: *Westpac Banking Corporation v Lenthall* (2019) 269 CLR 574 – availability of common fund orders in class actions.

2019: *Connective Services Pty Ltd v Sleat Pty Ltd* (2019) 267 CLR 461 – prohibition on financial assistance by corporations.

2018: *Unions NSW v NSW* (2019) 264 CLR 595 – validity of electoral expenditure laws under implied freedom of political communication.

2018: *ASIC v Lewski* (2018) 266 CLR 173 – directors' duties and validity of amendment to scheme constitution.

2018: *Parkes Shire Council v South-West Helicopters* (2019) 266 CLR 212 – exclusivity of Warsaw Convention in respect to nervous shock claim.

2018: *Work Health Authority v Outback Ballooning Pty Ltd* (2019) 266 CLR 428 – inconsistency between Civil Aviation Law of Commonwealth and Territory workplace law.

2018: *Mighty River v Hughes* (2018) 265 CLR 480 – scope of Deeds of Company Arrangement.

2018: *Amaca Pty Ltd v Latz* (2018) 264 CLR 505 – assessment of personal injury damages for “lost years”.

2018: *Commissioner of Taxation v Thomas* (2018) 264 CLR 382 – treatment of franking credits and principle in *Executor Trustee* case.

2018: *Re Gallagher* (2018) 263 CLR 460 – appearance for Senator Gallagher on referral of questions under s 44 of Constitution.

2017: *Plaintiff M174 v Minister* (2018) 264 CLR 217 – challenge to “fast track” provisions in Migration Act.

2017: *Re Canavan* (2017) 263 CLR 284 – appearance for Tony Windsor in opposition to Barnaby Joyce on referral of questions under s 44 of Constitution.

INTERMEDIATE APPELLATE COURTS

2024: *Law Society of NSW v Attorney General of NSW* (NSWCA) – scope of approved professional indemnity policies.

2023: *Bogan v Estate of Smedley* [2023] VSCA 256- cross-vesting of proceeding in face of Victorian group costs order

2023: *Capic ats Ford* [2023] FCAFC 179 - scope of statutory guarantee of acceptable quality in class action over motor vehicles.

2023: *University of Sydney v Anderson* (FCAFC) – appeal in academic wrongful dismissal action

2023: *Emmanuel Exports v WA* [2023] WASCA 36– validity of WA animal protection laws under s 109 Constitution.

2022: *Thera Agri Capital v BCC Trade* [2023] NSWCA 20– construction of trade insurance policy.

2022: *LCM v Stanwell Corporation Ltd* (2022) 292 FCR 169: whether litigation funding schemes are regulated as managed investment schemes.

2022: *Metlife v AFCA* (Full Federal Court): jurisdiction of AFCA over superannuation complaints.

2022: *About Life v AFCA* (NSWCA): causation and damages in solicitors' negligence claim.

2021: *Carcani & Boscaini* [2021] FamCAFC 9 – principles governing setting aside of pre-nuptial agreement.

2020: *Allied Services Union of Australia & Ors v Qantas Airways Ltd* – (2020) 302 IR 190 - availability of personal and compassionate leave entitlements for workers during period of industrial stand down.

2020: *Swashplate Pty Ltd v Liberty Mutual Insurance* (2020) 381 ALR 648 – helicopter insurance case.

2020: *Kraft Foods Group Brands LLC v Bega Cheese Limited* (2020) 377 ALR 387 - assignability of common law trademarks.

2020: *ACCC v Pacific National* (2020) 378 ALR 1 – s 50 merger case.

2019: *Pitcher Partners v Neville's Bus Services* (2019) 271 FCR 392 – assessment of damages in deceit and Australian Consumer Law.

2019: *Mackellar Mining & Anor v Urquhart & Ors* (2019) 367 ALR 171– anti-suit injunctions.

2018: *Daiwa Can & Anor v Knights Quest Pty Ltd* (2018) 366 ALR 557 – companies/oppression.

2018 *Ulman & Ors v Live Group Pty Ltd* (2018) 367 ALR 95 – contempt of court by religious tribunal.

2018: *Racing NSW v Lewin* (2018) 97 NSWLR 694 – construction of Racing Rules.

2018: *Karimbla Properties v City of Council of Sydney* (2018) 99 NSWLR 66 – construction of rating statute.

2018: *Mobis Parts Australia Pty Ltd v XL Insurance Company SE* (2018) 363 ALR 730 – rectification of insurance policy.

2018: *Warrie v Fortescue Metals* (2019) 273 FCR 350 – exclusivity of native title established by spiritual sanctions.

2018: *Perera & Ors v Get Swift Pty Ltd* (2018) 263 FCR 92 – stay of overlapping class actions.

2017: *ASIC v Whitebox* (2017) 251 FCR 448 – overlap of civil penalties and Criminal Code.

2017: *First Pacific Advisors LLC v Boart Longyear Ltd* (2017) 320 FLR 78 – company scheme of arrangement class composition.

OTHER PROFESSIONAL EXPERIENCE

Over close to 40 years of professional practice, Justin has conducted multiple trials and appeals as counsel, and provided numerous written opinions across most areas of commercial, public and constitutional law.

In the area of insurance, he has advised and appeared in numerous disputes over professional indemnity, directors and officers', property and other policies.

He has extensive experience in corporations, equity, trade practices, intellectual property, competition, aviation and shipping law.

Justin's qualifications in public, constitutional and international law are noted above.

RECENT AND FORTHCOMING ADDRESSES, BOOKS AND PUBLICATIONS

INTERNATIONAL LAW & ARBITRATION

2024: Robert Goff Lecture to Hong Kong International Arbitration Centre: *"International Arbitration – Can it survive and prosper in the face of incommensurable methods of fact finding?"*

2023: *'Harmonising the local and global: Non-unitary States and UNCITRAL's work of legal convergence'*: chapter co-authored with Danielle Forrester in the Elgar Companion to UNCITRAL.

July and October 2021: Class Action Forums Australian Academy of Law

March 2021: ACICA *'Australia as a Centre for Excellence'* (2020 Arbitration Report) – Justin Gleeson SC and Jonathon Redwood SC

November 2020: ACICA address: *'Taking Advantage of Technology Dispute Resolution Best Practice'*.

October 2020: CIARB address: *'Advocacy in the Virtual Environment'*.

October 2020: ACICA Arbitrator Round table forum: *'Best Practice in International Arbitration'*.

May 2020 – ACICA webinar: *'Best Practice in Virtual Hearings'*.

February 2020: Member of Singapore International Arbitration Academy.

November 2019: Presenter ACICA arbitration round table in Australian Arbitration Week.

August 2019: Moderator: Australian Academy of Law/Australian Academy of Sciences Climate Change Hypothetical.

November 2018: Panel discussion on International commercial arbitration at ABA conference.

July 2018: Address to ACICA on 60th anniversary of New York Convention.

November 2017: Singapore International Arbitration Academy, Speaker and Tribunal member.

October 2017: IBA Annual Conference Sydney, Keynote Address to Under 40's Arbitration Workshop.

August 2017: Australian Academy of Law Conference, Sydney: *"Can Australian Lawyers of the future afford not to be internationalist?"*

July: Centre for Comparative Constitutional law conference, Melbourne: *"Demystifying Proportionality in Australian Constitutional Law"*.

July 2017: CIArb Australia lunch Melbourne: *"International Arbitration – What can Australia learn from current developments overseas?"*.

May 2017: Keynote address, Global Pound Alternative Dispute Resolution Conference, Sydney.

October 2016: *"The increasing internalisation of Australian Law"*, Australian Academy of Law Annual Patron's Lecture (published in (2017) 28 PLR 25-40).

August 2016: *"Australia's recent involvement in International Dispute Resolution: Tobacco Plain Packaging and beyond"*, address to NSW Supreme Court Annual Judges' conference.

July 2016: *"Australia's enmeshment in International Law Dispute Resolution: Implications for sovereignty"*, Annual Michael Kirby Lecture in International Law, Australian National University (published in *The Australian Year Book of International Law 2016*).

June 2016: *"The internationalisation of Australian Law"*, launch of International Negotiation and Dispute Resolution series hosted by NSW Young Lawyers (published in *The Arbitrator and Mediator*, December 2016 28-35).

May 2016: *"Australia's Interests in Investor-State Dispute Settlement under the UNCITRAL framework"*, address to the Second Annual UNCITRAL Seminar, Canberra.

April 2015: *"International Law and the Australian Constitution"*, Annual Sir Maurice Byers address to NSW Bar Association (published in (2015) 40 *Australian Bar Review* 149).

COMPARATIVE LAW

May 2017: Sydney PEN Free Voices Lecture, Sydney Writers Festival, *"Freedom of Expression, United States and Australian perspectives"*, published in Sydney PEN November 2017.

"Held on Trust" Griffith Review 57 Perils of Populism.

February 2017: Address to Singapore Academy of Law, *"Evolving Judicial Attitudes to Executive Power: The United Kingdom, Singapore and Australia"*.

March 2016: *"Recent Developments in Administrative Law in the United States and Australia"*, address to Australian Government Solicitor Law Conference, Canberra.

CONSTITUTIONAL AND PUBLIC LAW

2023: *'Course of Conduct and Totality in Civil Penalties'*, chapter co-authored with Kunal Sharma in *The Law of Civil Penalties*, Federation Press.

2021: *'Undertakings: constitutionality, commerciality and other considerations'*, chapter co-authored with Christopher Tran in *Current Issues in Competition Law*, Federation Press (2021).

2018: *"The Rule of Law and the Crown"* in Hinton and Williams (eds), The Crown, University of Adelaide Press, co-author with Ms C Winnett.

2018: *"Economic Union"* in Saunders and Stone (eds), Oxford Handbook of the Australian Constitution.

February 2018: *"The High Court on Constitutional Law: the 2017 Term"*, Keynote Address to 2018 Gilbert +Tobin Constitutional Law Conference.

January 2018: *"The Modern Executive in Australia – Rule Taker or Rule Maker?"* – Address to Annual Conference of Federal and Supreme Court Judges.

2017: *"Chapter II of the Constitution"*, joint chapter with Anna Mitchelmore in Williams (ed), Key Issues in Public Law, Federation Press.

May 2017: Annual Blackburn Lecture, ACT Law Society, *"Law, Morality and the Public Trust"*.

BOOKS

Rediscovering Rhetoric – Law, Language and the Practice of Persuasion (Federation Press, 2008, co-edited with Dr R Higgins).

Constituting Law – Legal Argument and Social Values (Federation Press 2011, co-edited with Dr R Higgins).

Historical Foundations of Australian Law – Volume I: Institutions, Concepts and Personalities; Volume II: Commercial Common Law (Federation Press 2013, co-edited with Dr J Watson, Dr R Higgins and Dr E Peden).

QUALIFICATIONS AND EDUCATION

2024: Member of HKIAC Panel of Arbitrators

2023: Member of the SIAC Panel of Arbitrators.

2017: Fellow of ACICA.

2016: Fellow of the Chartered Institute of Arbitrators.

2016: Fellow of the Australian Academy of Law

2012-2016: Solicitor-General of Commonwealth of Australia.

2005: Founding Head Banco Chambers, Sydney.

2000: Appointed Senior Counsel, NSW Bar.

2000: Editor of NSW Bar News.

1993, 2000-2002, 2007, 2008, 2012: Member Council of NSW Bar Association.

1989: Called to NSW Bar.

1985: Admitted as a Solicitor.

1985: BCL (Oxon).

1983: LLB (Sydney) First Class Honours and University Medal. First in year.

1981: BA (Sydney). Majoring in ancient and modern history.

1978: Higher School Certificate, NSW. First in State.