



LUCA MORETTI
Barrister

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ADMISSIONS

- 2022** Barrister, New South Wales Bar
- 2018** Solicitor, Supreme Court of New South Wales

ACADEMIC

- 2018 - 2019** **University of Oxford**
BCL (Distinction)
Vinerian Scholarship for Best Performance in the BCL (aeq)
Law Faculty Prize for Law and Society in Medieval England
Peter Birks Prize for Restitution of Unjust Enrichment
Myers Scholarship (awarded by Christ Church, Oxford)
Hannah Fullerton and Charles Herbert Currey Memorial Scholarships (awarded by University of Sydney)
- 2012 - 2017** **University of Sydney**
LLB (First Class Honours) (2017); BA (History) (2014)
Nancy Gordon Smith Prize for Honours at Graduation – awarded to top five LLB graduates
ED Roper Memorial Prize No 2 for Equity and Corporations Law
University of Sydney Academic Merit Prizes for law and history
LexisNexis Book Prize No 3 for Most Proficient in Combined Law III
George and Matilda Harris Scholarship No IIB for Third Year of Combined Law

EXPERIENCE

- Since 2022** **Barrister**, Banco Chambers
- 2021 - 2022** **Counsel Assisting the Solicitor-General of the Commonwealth**
Assisted Dr Stephen Donaghue KC with the provision of advice to the Commonwealth government and preparation of litigation on its behalf. Appeared as junior counsel in the High Court of Australia.
- 2020 - 2021** **Associate to the Hon Justice Virginia Bell AC**, High Court of Australia
- 2020** **Tutor**, ANU College of Law (torts, constitutional law)
Awarded ANU College of Law Excellence in Education Award.

2017 - 2020 **Solicitor**, Herbert Smith Freehills

Practice groups: disputes (commercial litigation, regulatory proceedings and class actions);
corporate (equity capital markets and mergers and acquisitions)

SELECTED MATTERS

As counsel

Appellate (and original jurisdiction of the High Court)

Benbrika v Minister for Home Affairs (HCA file no. M90/2022; judgment reserved) – constitutional law, validity of s 36D of the *Australian Citizenship Act 2007* (Cth), which provides for citizenship cessation following conviction for certain serious national security offences (led by SP Donaghue KC and FI Gordon SC, instructed by Australian Government Solicitor)

Jones v Commonwealth of Australia (HCA file no. B47/2022; judgment reserved) – constitutional law, validity of s 34(2)(b)(ii) of the *Australian Citizenship Act 2007* (Cth), which provides for revocation of citizenship following certain criminal convictions committed prior to the acquisition of citizenship (led by SP Donaghue KC and FI Gordon SC, instructed by Australian Government Solicitor)

Lantrak Holdings Pty Ltd v Yammine (FCA NSD309/2023) and *Yammine v Liemant* (FCA NSD1158/2022) – ongoing appeals concerning misleading or deceptive conduct in relation to the sale of a business and principles applicable to the stay of a proceeding as an abuse of process (led by RCA Higgins SC and L Hawas, instructed by Baker & McKenzie)

Timberwolf Planting Pty Ltd v Ferguson (NSWSC 2023/00171136) – practice and procedure, resisting an application to stay costs order made by the Local Court (unled, instructed by Holding Redlich)

Laundry Hotels (Quarry) Pty Ltd v Dyco Hotels Pty Ltd [2023] HCA 6; 97 ALJR 194 – contract law, interpretation, dispute concerning a contract for the sale and purchase of the property and assets of a hotel business that required the vendor to carry on business in the "usual and ordinary course as regards its nature, scope and manner", effect of public health orders introduced in response to the COVID-19 pandemic (led by JT Gleeson SC, instructed by JDK Legal)

Alexander v Minister for Home Affairs [2022] HCA 19; 96 ALJR 560 – constitutional law, validity of s 36B of the *Australian Citizenship Act 2007* (Cth), which provides for citizenship cessation for certain foreign terrorist fighters (led by SP Donaghue KC, PD Herzfeld SC and JD Watson, instructed by Australian Government Solicitor)

BCC Trade Credit Pty Ltd v Thera Agri Capital No 2 Pty Ltd [2023] NSWCA 20 – insurance, construction of a trade credit insurance policy in respect of a Murabaha finance agreement (led by JT Gleeson SC and A Horvath SC, instructed by Kennedys (Australasia) Partnership)

Spall v Minister for Home Affairs (HCA file no. M11/2023; ongoing) – application to remove a challenge to the validity of s 34(2)(b)(ii) of the *Australian Citizenship Act 2007* (Cth) into the High Court of Australia (led by FI Gordon SC, instructed by Australian Government Solicitor)

Productivity Partners Pty Ltd v Australian Competition and Consumer Commission (HCA file no. S46/2023; ongoing) – special leave application, liability for unconscionability under s 21 of the *Australian Consumer Law* (led by JT Gleeson SC, O Bigos KC and S Patterson, instructed by Johnson Winter Slattery)

Wills v Australian Competition and Consumer Commission (HCA file no. S49/2023; ongoing) – special leave application, accessory liability for contravention of s 21 of the *Australian Consumer Law* (led by JT Gleeson SC, O Bigos KC and S Patterson, instructed by Johnson Winter Slattery)

Goldsmith v Stinson (HCA file no. B21/2023; ongoing) – special leave application, practice and procedure, power of the Federal Circuit and Family Court of Australia (Div 1) to stay or vary property settlement orders made under s 79 of the *Family Law Act 1975* (Cth) (led by MP Kearney SC, instructed by Phillips Family Law)

Cessnock City Council v 123 259 932 Pty Ltd (HCA file no. S21/2023; ongoing) – special leave application, contract law, availability of reliance damages for breach of contract (led by JT Gleeson SC, instructed by Holding Redlich)

AIO21 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs [2023] HCATrans 17 – special leave application, migration law, operation of s 501CA(4) of the *Migration Act 1958* (Cth) (led by DJ Hooke SC and SH Hartford-Davis, instructed by Hearn Legal)

First instance

Horizon Capital Fund (Luxembourg Business Registration No. B218924) v Insurance Australia Ltd (NSWSC case no. 2022/00250607; ongoing) – dispute concerning trade credit insurance policy and authority of underwriter (led by A Horvath SC, instructed by Kennedys (Australasia) Partnership)

Playoust v Australian Enterprise Holdings Pty Ltd (NSWSC case no. 2022/00387537; ongoing) – dispute concerning family trust (led by DR Sulan SC, instructed by Arnold Bloch Leibler)

Rinehart litigation (ongoing) – dispute concerning alleged breaches of trust and fiduciary duties (led by CH Withers SC and A Hochroth, instructed by YPOL Lawyers)

Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd (FCA file no. NSD 1245/2016); *Harbour Fund II LP v Cashman* (FCA file no. NSD 715/2022); *Sanda v Maurice Blackburn Pty Ltd* (NSD 716/2022) – acting for Maurice Blackburn in a number of proceedings arising out of the *Sanda v PTTEP* class action in which it was solicitor on the record (led by A Bannon SC, CA Moore SC and RA Yezerski, instructed by Arnold Bloch Leibler)

Hall v New South Wales Rural Assistance Authority (NSWSC case no. 2023/00084252; settled) – judicial review proceeding concerning applications to the Authority for a "drought freight subsidy" (unled, instructed by NSW Crown Solicitors' Office)

Smit Lamnalco Towage (Australia) Pty Ltd v Newcastle Port Corporation t/as Port Authority of New South Wales (NSWSC case no. 2022/00325467; settled) – judicial review proceeding concerning licences issued to tugboat operators (led by SJ Free SC, instructed by Herbert Smith Freehills)

Harper and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration) [2022] AATA 3148 – review of a decision not to revoke the cancellation of a visa pursuant to s 501CA of the *Migration Act 1958* (Cth) (unled, instructed by Australian Government Solicitor)

Opinions

Various opinions on questions concerning statutory construction, constitutional law, insurance law, electoral law, employment law and professional discipline for companies, statutory agencies, professional associations and Commonwealth and State governments.

Assisting the Solicitor-General

Australian Building and Construction Commissioner v Pattinson [2022] HCA 13; 175 ALD 383 – civil penalties, principles for determining appropriate penalties

Minister for the Environment v Sharma [2022] FCAFC 35; 291 FCR 311 – negligence, novel duty of care, whether Minister owed a duty of care to the children of Australia when exercising power under ss 130 and 133 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) to approve or not approve the extension of a coal mine

Deputy Commissioner of Taxation v Huang [2021] HCA 43; 96 ALJR 43 – practice and procedure, power of Federal Court of Australia to make a worldwide freezing order pursuant to r 7.32 of *Federal Court Rules 2011* (Cth)

As a solicitor

Australian Energy Regulator v AGL HP 1 Pty Ltd & Ors SAD 170/2019 (Federal Court of Australia) – proceedings commenced by the Australian Energy Regulator against four wind farm operators in connection with the Black System Event in South Australia on 28 September 2016

Angelis as trustee for the Angelis Family Trust v Pemba Capital Partners Fund I Partnership, LP (No 3) [2019] NSWSC 1759 – corporations/contract dispute

Crowley v WorleyParsons Limited NSD 1292 of 2015 (Federal Court of Australia) – shareholder class action, continuous disclosure obligations, misleading or deceptive conduct

Zonia Holdings Pty Ltd v Commonwealth Bank of Australia VID 1085 of 2017 (Federal Court of Australia) – shareholder class action, continuous disclosure obligations

PUBLICATIONS & OTHER EXPERIENCE

"Book review: M Barnes QC, *The Law of Estoppel* (Hart Publishing, 2020)" (2020) 36 *Journal of Contract Law* 292

"Certainty and Promissory Estoppel after *Crown Melbourne Ltd v Cosmopolitan Hotel (Vic) Pty Ltd*" (2017) 31(3) *Commercial Law Quarterly* 3

"Determining pecuniary penalties under the National Credit Act and Code: *Make it Mine Finance Pty Ltd, in the matter of Make it Mine Finance Pty Ltd (No 2)* [2015] FCA 1255", *Corporate Law Bulletin*, Bulletin No. 220 (17 December 2015)

Assisted Professor Emeritus John Carter and Professor Luke Nottage on various books and articles

Refugee Advisory Case Service, volunteer (2017 - 2019)