

**David Hume**  
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## Practice

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Briefs accepted in all areas of law

Areas of specialisation

**Commercial Law** (including corporations law, tax, intellectual property, contracts, equity, trade practices, professional negligence, intentional torts, building & construction)

**Public Law** (including administrative law, criminal law, migration, land and environment, constitutional law, discrimination and human rights)

*Doyle's Guide 2017* leading NSW planning and environment barristers

Called to the Bar in 2013

## Education

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**Harvard Law School**

LLM (2009)  
Frank Knox Memorial Fellow  
John Monash Scholar

**University of New South Wales**

LLB, University Medal in Law  
BA (Hons I), University Medal in Philosophy  
Multiple subject prizes, including Contract, Property, Equity and Trusts, Civil and Criminal Procedure, Evidence, Income Tax

## Professional Background

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**Barrister**

Sixth Floor

2013-

**Lecturer**, UNSW and Melbourne University

Constitutional Law and Administrative Law

2008, 2014

**Lawyer**

Australian Government Solicitor

Constitutional Litigation Unit

2011-2012

**Solicitor**

Freehills

Commercial Litigation  
Supervising Partner: Geoff Healy

2009-2011

**Associate**

High Court of Australia

The Honourable AM Gleeson AC

2007

## Representative matters

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### High Court of Australia

- Acting for Dr Gillespie, the Assistant Minister for Health, in the ALP's challenge to Dr Gillespie's election, led by G Reynolds SC
- Acting for the respondents in the security of payment appeals in *Probuild v Shade Systems* and *Maxcon v Vadasz*, led by M Christie SC
- Acting for Doctors 4 Refugees in the High Court challenge to immigration secrecy provisions, led by R Merkel QC
- *Falzon v Minister for Immigration and Border Protection*: constitutional challenge to s 501(3A) of the *Migration Act*, unled and led by S Lloyd SC
- *Re Day (No 2)* (2017) 91 ALJR 518 and *Re Day* (2017) 91 ALJR 262: electoral qualifications, led by A Bell SC, for Mr Day, instructed by Griffins Lawyers
- *Palmer v Ayres* [2017] HCA 5: constitutional validity of s 596A (examination summons power) of the *Corporations Act*, led by J Gleeson SC and T Howe QC, for the Cth A-G (intervening), instructed by AGS
- *Southern Han Breakfast Point Pty Ltd (in liq) v Lewence Construction Pty Ltd* (2016) 91 ALJR 233: security of payments, led by M Christie SC, for Southern Han, instructed by CCS Legal
- SZSSJ (2016) 90 ALJR 901: migration, led by N Sharp, for SZSSJ, direct brief
- *Alqudsi* (2016) 90 ALJR 711 and [2015] HCATrans 242: s 80 trial by jury waiver, led by J Kirk SC (and unled for removal application), for Alqudsi, instructed by Zali Burrows
- *Obeid v R (No 2)* (2016) 90 ALJR 452 and *Obeid v R* (2016) 90 ALJR 447: stay pending special leave and non-publication orders, led by G Reynolds SC, for Obeid, instructed by Breen & Breene. Also *R v Obeid (No 13)* [2016] NSWSC 1840; *Obeid v R* (2015) 91 NSWLR 226, *R v Obeid (No 5)* [2015] NSWSC 1967; *R v Obeid (No 4)* [2015] NSWSC 1442 and *R v Obeid (No 3)* [2015] NSWSC 1441
- *Plaintiff M68* (2016) 257 CLR 42: offshore processing challenge, led by R Merkel QC, for Plaintiff M68, instructed by Human Rights Law Centre
- *Beckett* (2015) 256 CLR 305: perverting the course of justice, led by G Reynolds SC, for Beckett, instructed by Hammond Nguyen Turnbull
- *Alqudsi v Commonwealth* (2015) 90 ALJR 192: external affairs, removal/remittal, led by S Lloyd SC, for Alqudsi, instructed by Zali Burrows
- *PT Bayan Resources TBK v BCBC Singapore Pte Ltd* (2015) 89 ALJR 975: transnational freezing orders, led by S Lloyd SC, for Cth A-G, instructed by AGS
- *Uelese* (2015) 256 CLR 203: migration, led by N Owens, for Uelese, direct brief
- *CPCF* (2015) 255 CLR 514: operation sovereign borders challenge, led by R Merkel QC, for CPCF, instructed by Shine Lawyers

- *Commissioner of Taxation v MBI Properties Pty Ltd* (2014) 254 CLR 376: GST, for MBI Properties, led by J Hmelnitsky SC, instructed by Balazs Lazanas Welch
- *Tajjour* (2014) 254 CLR 508: implied freedom/consorting, led by G Reynolds SC, for Hawthorne, instructed by Joyner Mattouk
- Special leave/removal applications/original jurisdiction matters, led variously by S Lloyd SC, G Reynolds SC, M Christie SC, A Slater QC, J Kirk SC

### **New South Wales Court of Appeal and Court of Criminal Appeal**

- *Obeid v R* (2017 NSWCCA): conviction and sentence appeal, led by G Reynolds SC, instructed by Hanna Legal
- *Shade Systems Pty Ltd v Probuild Constructions (Aust) Pty Ltd* [2016] NSWCA 379 and [2016] NSWCA 382: security of payments, for Shade, led by M Christie SC and unled (stay application), instructed by Moray & Agnew
- *Obeid v R* [2016] NSWCCA 320 and [2016] NSWCCA 321: bail, led by G Reynolds SC, for Obeid, instructed by Breene & Breene
- *State of NSW v Randall* [2017] NSWCA 88: intentional torts, police powers, damages, led by M Windsor SC, for the State, instructed by McCabes
- *Benn v State of NSW* [2016] NSWCA 314: intentional torts, led by J Machonachie QC, for the State, instructed by CSO
- *Alqudsi v R* (2015) 91 NSWLR 92 (Court of Appeal) and (2015) 300 FLR 11 (Supreme Court proceedings): external affairs power, unled, for Alqudsi, instructed by Zali Burrows
- *Howe v Fischer* (2014) 12 ASTLR 66: professional negligence, led by K Stern SC, for Howe, instructed by CBP
- *Botany Bay City Council v Minister for Planning and Infrastructure* [2014] NSWCA 141 and [2015] NSWLEC 12: evidence/development consents, led by T Hale SC, for Botany Bay, instructed by Houston Dearn O'Connor

### **Full Court of the Federal Court**

- *Minister for Immigration and Border Protection v ARJ17* (2017): jurisdiction, unled, for ARJ17, instructed by the National Justice Project
- *Carrascalao v Minister for Immigration and Border Protection* [2017] FCAFC 107: visa cancellation, unled, for Carrascalao, instructed by Zali Burrows
- *Cayzer v Minister for Immigration and Border Protection* [2016] FCAFC 176: aliens power, led by S Donaghue QC, for the Minister, instructed by AGS
- *Taulahi v Minister for Immigration and Border Protection* (2016) 246 FCR 146: visa cancellation, led by S Lloyd SC and unled, instructed by Dobbie & Devine and Zali Burrows, for the applicants
- *Commissioner of Taxation v Seven Network Ltd* (2016) 241 FCR 1: tax treaties/copyright, led by G McGowan QC, for the Commissioner, instructed by AGS. See also *Seven Network Limited v Commissioner of Taxation* (2014) 109 IPR 520 and (2015) 324 ALR 137 (Federal Court substantive and costs proceedings).

- *MUA v Minister for Infrastructure & Regional Development* (2015) 238 FCR 464: coastal shipping, led by N Williams SC, for MUA, instructed by McNally Jones Staff
- *Brown v Minister for Immigration* (2015) 235 FCR 88: visa cancellation, led by S Lloyd SC, for the Minister, instructed by Sparke Helmore
- *Maritime Union of Australia v Fair Work Ombudsman* [2015] FCAFC 120: *Fair Work Act* compensation, led by N Williams SC, for MUA, instructed by McNally Jones Staff
- *Vella v Minister for Immigration* (2015) 230 FCR 61: procedural fairness, led by N Williams SC, for Vella, instructed by Meridian Legal
- *Kerrison v Melbourne City Council* (2014) 228 FCR 87: the “Occupy Melbourne” case, led by R Merkel QC, for Kerrison, instructed by Fitzroy Legal Centre
- *Animals’ Angels E.V. v Secretary, Department of Agriculture* (2014) 228 FCR 35: standing/administrative law, led by A Mitchelmore, for the Secretary, instructed by AGS. See also (2014) 141 ALD 158 (Federal Court proceedings).

### **Supreme Court of New South Wales**

- *Mauceri v Deputy State Coroner* [2017] NSWSC 545: application to set aside coroners’ decision, for the NSW Police, unled, instructed by McCabes
- *National Union of Workers v Belan* (NSWSC 2016/85796): breach of statutory/fiduciary duties/employment, for the NUW, unled, instructed by McNally Jones Staff
- *NSW Netball Association Ltd v Probuild Constructions (Aust) Pty Ltd* [2015] NSWSC 1401 and [2015] NSWSC 1339: payment claims, led by M Christie SC, for Probuild, instructed by Thomson Geer
- *Ennis Paint Australia Holding Pty Ltd v Lei* [2015] NSWSC 1933: restraint of trade, led by E Collins SC, for Ennis, instructed by Bartier Perry
- *McCloy v The Honourable Megan Latham and ICAC* [2015] NSWSC 1782, [2015] NSWSC 1879: bias, led by N Williams SC, for NSW A-G, instructed by CSO
- *In the matter of Glenevan Pty Ltd* [2015] NSWSC 201: winding up, unled, for the Commissioner of Taxation, instructed by AGS.
- *Doulle Pty Ltd v Clarins SA* (NSWSC – 2014/181663): partnership/oppression, led by A Bell SC and D Thomas, for Doulle Pty Ltd, instructed by Atanaskovic Hartnell (settled after three-week hearing)
- Unled matters for NSW and offenders instructed by CSO and the Aboriginal Legal Service regarding judicial review of parole decisions: eg [2016] NSWSC 903

### **Federal Court**

- Acting for NAB in the ASIC BBSW proceedings, instructed by KwM
- *ARJ17 v Minister for Immigration and Border Protection* [2017] FCA 263: for the applicant, concerning the Federal’s Court jurisdiction under the *Migration Act*, unled, instructed by the National Justice Project
- *Selia v Commonwealth of Australia* [2017] FCA 7: professional discipline, led by K Stern SC, for the Commonwealth, instructed by Clayton Utz

- *WDR Delaware Corporation v Hydrox Holdings Pty Ltd* [2016] FCA 1164: international arbitration, oppression and winding up, led by B Walker SC, for Woolworths Ltd, instructed by KwM
- *Caratti v Commissioner of the Australian Federal Police* [2016] FCA 1407, [2016] FCA 1132 and [2015] FCA 1108: warrants, led by K Stern SC, for the Commissioner, instructed by AGS
- *Fair Work Ombudsman v Skilled Offshore (Australia) Pty Ltd* [2014] FCA 724, [2015] FCA 275, [2015] FCA 1509: penalties/contribution/compensation, led by N Williams SC, for the MUA, instructed by McNally Jones Staff
- *Binetter v Commissioner of Taxation* [2015] FCA 645: tax, led by J Hmelnitsky SC and I Jackman SC, for Binetter, instructed by Brown Wright Stein
- Led and unled matters for applicants and Minister for Immigration and Border Protection and applicants instructed by AGS, DLA Piper, Dobbie & Devine, Zali Burrows: eg (2016) 242 FCR 169; (2016) 241 FCR 214; [2016] FCA 806; [2016] FCA 750; (2015) 150 ALD 34

### **NSW Land and Environment Court**

- *Besmaw Pty Ltd v Secretary, Department of Planning and Environment* (2016): administrative law, led by N Williams SC and S Free, for Besmaw, instructed by Minter Ellison
- *Wollongong Coal Ltd v Minister for Planning* [2016] NSWLEC 154 and (2016) 219 LGERA 131: administrative law, led by N Williams SC, for Wollongong Coal Ltd, instructed by Minter Ellison
- *Nerio v Central Coast Council* [2016] NSWLEC 1281: s 121B orders, unled, for Nerio, instructed by Madison Marcus
- *Upper Mooki Landcare Inc v Shenhua Watermark Coal Pty Ltd* (2016) 216 LGERA 40: development consent, led by N Williams SC, for Shenhua, instructed by Minter Ellison
- *Moorebank Recyclers Pty Ltd v Benedict Industries Pty Ltd* [2015] NSWLEC 40: development consent, led by T Hale SC, for Benedict Industries, instructed by Minter Ellison

### **Other courts**

- District Court and Local Court criminal matters (eg *R v Beckett*: led by M Johnston SC and Grant Brady SC, perverting the course of justice)
- Various District Court police tort matters for the State of New South Wales, with M Spartalis and M Hutchings, instructed by Makinson D'Apice, Henry Davis York, McCabes and Sparke Helmore (eg [2016] NSWDC 297)
- Federal Circuit Court matters for both applicants and the Minister for Immigration & Border Protection instructed by DLA Piper, AGS, Christopher Levingston & Associates, W&H Lawyers: see [2016] FCCA 1971, [2016] FCCA 1868, [2016] FCCA [2016] FCCA 1141, [2015] FCCA 2366, [2015] FCCA 1784, [2015] FCCA 1212, [2015] FCCA 1281, [2015] FCCA 126

### **Tribunal matters**

- Led and unled tax matters for the ATO and taxpayers: eg (2016) ATC 1-079
- Led and unled disciplinary matters for ASIC: eg [2016] AATA 1057, [2016] AATA 879, [2016] AATA 583, [2016] AATA 380
- *Mayne Pharma Pty Ltd v Minister for Health*: TGA registration, led by S Lloyd SC, for the Minister, instructed by the TGA
- Also unled matters in NCAT and the Racing Appeals Panel

### **Arbitrations**

- Woolworths and Lowe's Group arbitration re the Masters business, led by B Walker SC and D Thomas, for Woolworths Ltd, instructed by KwM

### **Opinions**

- Opinions on a range of areas, including corporations law, trade practices, tax, tort, constitutional law, administrative law. Instructors include Piggot Stimson, Thompson Eslick, Banki Haddock Fiora, Legal Aid NSW, Makinson D'Apice, Norton Rose Fulbright, Maurice Blackburn Cashman, AGS, CSO, OEH, the ATO, Clayton Utz, Minter Ellison.

### **Select Publications and Papers**

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*Human Rights under the Australian Constitution* (2013, Oxford University Press, 2<sup>nd</sup> ed) (with George Williams) (winner of the Australian Publishing Association's best Tertiary Scholarly Resource)

*People Power: The History and Future of the Referendum in Australia* (2010, UNSW Press) (with George Williams) (finalist for the John Button Prize for best Australian Public Policy and Politics writing)

"Broadly-framed powers and the Constitution" (paper for the Public Law Section of the New South Wales Bar Association) (with Bret Walker SC)

'The Rule of Law in Reading Down: Good Law for the "Bad Man"' (2014) 37(3) *Melbourne University Law Review* 620

'Heresy in the High Court? Federalism as a Constraint on Commonwealth Power' (2013) 41(1) *Federal Law Review* 71 (with Andrew Lynch and George Williams)

'*Wotton v Queensland* – Islands of Power and Political Speech on Palm Island' [2012] UNSWLRS 39 (Paper delivered at 2012 Gilbert + Tobin Centre Constitutional Law Conference)

'Bribery and Corruption: Key Issues for Australian Companies Operating Overseas' (2011) 34(3) *University of New South Wales Law Journal* 747 (with Geoff Healy)