

NAOMI SHARP

Barrister

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QUALIFICATIONS

Tertiary Qualifications

BA (Honours) (UNSW) 1995

LLB (UNSW) 1995

LLM (McGill University, Montreal) 1999

Professional Qualifications

Graduate Certificate of Legal Practice (UTS) 1998

Graduate Certificate of Continuing Legal Practice (UTS) 1998

Admitted as a Legal Practitioner of the Supreme Court of New South Wales on 28 August 1998

Admitted to the Bar in February 2002

WORK HISTORY POST-GRADUATION

Prior to coming to the Sydney Bar in February 2002, Naomi was an associate to Justice Mary Gaudron at the High Court of Australia (1997), a solicitor at Gilbert + Tobin in the Competition and Regulation Group (from 1999) and a solicitor at the NSW Crown Solicitor's Office in the Administrative Law Team and later the Constitutional Law Team (from 2000). From 1996 until 2002, Naomi also lectured variously on a part-time or full-time basis at the University of New South Wales (Litigation (Evidence)), Contracts, and Public Law), at the University of Technology, Sydney (Constitutional Law) and at the University of Sydney (Constitutional Law).

AWARDS

First in Bar Exams – November 2001 (winner of Blashki award – robes)

LLM thesis placed on the Dean's Honour List, McGill University 1999

Lionel Murphy Foundation Overseas Postgraduate Scholarship in Law 1998

McGill University Max Stern Recruitment Fellowship 1998

University of New South Wales Exchange Student Scholarship 1995

UNSW Alumni Association Scholarship 1993 – 1995

First Class Honours in Bachelor of Arts (Political Science) 1994

AREAS OF PRACTICE AT THE BAR

Naomi practises in both public law and commercial law and has acted on behalf of a large range of government and corporate clients. Naomi has acted both for and against government regulators including the Australian Competition and Consumer Commission, the Australian Communications and Media Authority, the Health Care Complaints Commission and the NSW Office of Water. She has a comprehensive understanding of working with government.

Naomi's public law work involves both judicial review and merits review, including in the area of immigration. She also regularly advises on and appears in matters arising under the Commonwealth Constitution.

Naomi's commercial work includes competition and consumer law, contract, equity and trusts (including charitable trusts). Recently, Naomi has worked with the ACCC on a number of merger clearance matters.

Naomi has appeared in the High Court, the NSW Court of Appeal, the NSW Supreme Court, the Federal Court (Full Court and first instance), the NSW Land and Environment Court and the NSW Industrial Relations Commission, as well as a range of quasi-judicial and administrative tribunals.

Naomi has appeared as counsel assisting in a number of inquests and has acted in a number of disciplinary proceedings, including in the NSW Conduct Division of the Judicial Commission and a range of health practitioner tribunals. She was Counsel Assisting in the 2014 Australian Human Rights Commission Inquiry into Children in Immigration Detention and has appeared as Counsel Assisting in a number of Case Studies in the Royal Commission into Institutional Responses to Child Abuse.

SELECTION OF WORK AT THE BAR

High Court

Minister for Immigration and Border Protection v SZSSJ [2016] HCA 29 (leading Hochroth and Hume for SZSSJ) (administrative law; immigration law)

Pollentine v Attorney-General for Queensland [2014] HCA 30; (2014) 311 ALR 332 (led by Sexton SC SG for State of New South Wales) (constitutional law)

Attorney-General for the Northern Territory v Emmerson (2014) 250 CLR 669 (led by Sexton SC SG for State of New South Wales) (constitutional law)

TCL Air Conditioning (Zhongshan) Co Ltd v Judges of the Federal Court of Australia (2013) 87 ALJR 410 (led by Walker SC for TCL) (constitutional law; commercial arbitration; model law)

O'Donogh v Ireland; Zentai v Republic of Hungary; Williams v USA (2008) 234 CLR 599 (led by Sexton SC SG for State of New South Wales) (Extradition Act; constitutional law)

Elliott v R; Blessington v R (2007) 234 CLR 38 (led by Bennett QC SC for Commonwealth) (sentencing law; constitutional law)

ACCC v Baxter (2007) 232 CLR 1 (led by Sexton SC SG and Gageler SC for the State of New South Wales) (competition law; derivative crown immunity)

Forge v Australian Securities and Investments Commission (2006) 228 CLR 45 (led by Bennett QC SG for the Commonwealth) (constitutional law; independence of judiciary; Corporations Act)

ATSIC v The Commonwealth (2005) (Hayne J in original jurisdiction) (led by Bennett QC SG for the Commonwealth) (constitutional law)

Baker v R (2004) 223 CLR 513 (led by Burmester QC for the Commonwealth) (sentencing; constitutional law)

Fardon v Queensland (2004) 223 CLR 575 (led by Burmester QC for the Commonwealth) (indefinite detention legislation; constitutional law)

NT Power Generation Pty Ltd v Power and Water Authority (2004) 219 CLR 90 (led by Gageler SC for the State of New South Wales) (competition law; derivative crown immunity)

Paliflex v Chief Commissioner of State Revenue (2003) 219 CLR 325 (led by Bennett QC SG for the Commonwealth) (land tax; constitutional law)

New South Wales v Lepore (2003) 212 CLR 511 (led by Sexton SC SG and Barry QC for the State of New South Wales) (negligence; non-delegable duties of care)

Full Court of Federal Court

Commissioner of Police, New South Wales v Guo [2016] FCAFC 62 (leading Bathurst) (public interest immunity)

SZSSJ v Minister for Immigration and Border Protection [2015] FCAFC 125 (leading Hochroth) (administrative law; immigration)

Animals Angels' eV v Secretary, Department of Agriculture [2014] FCAFC 173 (led by Kirk SC) (administrative law)

O'Flaherty v City of Sydney [2014] FCAFC 56 (leading Joyce for Mr O'Flaherty) (constitutional law, freedom of political communication)

Baker v Commonwealth [2012] FCAFC 121 (led by Williams SC for the Commonwealth) (constitutional law – claim by Federal Magistrates to constitutional entitlement to pension)

Williams v USA (2007) 161 FCR 220 (led by Sexton SC SG for the State of New South Wales) (Extradition Act; constitutional law)

ACCC v Baxter Healthcare Pty Ltd (2006) 153 FCR 57 (led by Gageler SC for the State of New South Wales) (competition law; derivative Crown immunity)

Tuncok v MIMIA [2004] FCAFC 172 (led by Williams SC for MIMIA) (judicial review)

Federal Court

Australian Competition and Consumer Commission v Valve Corporation (No 3) [2016] FCA 196 (for ACCC) (misleading conduct in relation to the Australian consumer guarantees)

Animals' Angels eV v Secretary, Department of Agriculture, Forestry and Fisheries [2014] FCA 398 (for Animals' Angels eV) (judicial review)

O'Flaherty v City of Sydney (2013) FCR 484 (leading Joyce for Mr O'Flaherty) (constitutional law, freedom of political communication)

SZQJB v Minister for Immigration & Citizenship [2013] FCA 10 (for Minister) (migration law, judicial review)

SZQJH v Minister for Immigration & Citizenship [2012] FCA 297 (for Minister) (migration law, judicial review)

Makasa v Minister for Immigration & Citizenship [2012] FCA 321 (for Minister) (migration law, deportation, judicial review)

Huang v Abayawickrama & UNSW [2012] FCA 1504 (for UNSW) (discrimination law)

Killeen v Combined Communications Network Pty Ltd [2011] FCA 27 (for Director-General of the Department of Transport) (discrimination law)

ACCC v Original Mama's Pizza & Ribs Pty Ltd (2008) ATPR 42-236; [2008] FCA 370 (appeared on behalf of the ACCC) (ss.52 and 53, TPA)

Seven v ACCC & Foxtel [2007] FCA 1929 (Buchanan J) (appeared on behalf of the ACCC) (telecommunications access regime under Part XIC of the TPA)

Sheikholeslami v Brungs [2007] FCA 556 (appeared on behalf of Brungs & University of NSW) (discrimination law)

Sheikholeslami v Brungs [2006] FCA 176 (appeared for Brungs and University of NSW) (discrimination law)

ACCC v CFMEU & Bovis Lend Lease & Ors (2006) (appeared for ACCC) (s.45E of the TPA)

Re Commonwealth Bank of Australia & Ors (2005) 57 ACSR 28 (led by Bathurst QC for CBA) (Corporations Act; transfer of shares to controlled entity)

HJ Heinz v CEO, Customs (2005) 58 ATR 536 (led by Flick SC for HJ Heinz) (customs duties; administrative law)

ACCC v Baxter Healthcare Pty Ltd (2005) ATPR 42-066 (led by Gageler SC for the State of New South Wales) (competition law; derivative Crown immunity)

ACCC v Globex Systems Pty Ltd (2005) ATPR 42-069 (led by Alexis SC for Globex Systems) (s.52 of the TPA; contempt)

NSW Court of Appeal

Fraser v Health Care Complaints Commission [2015] NSWCA 421 (for HCCC) (disciplinary proceedings)

Paphos Providores Pty Ltd v Ladha [2015] NSWCA 353 (for Commonwealth Attorney General) (constitutional law)

State of New South Wales v Donovan [2015] NSWCA 280 (for State of New South Wales) (Crimes (High Risk Offenders) Act 2006)

Attorney General for New South Wales v Homeland [2015] NSWCA 15 (led by Newlinds SC for Attorney General) (charitable trusts)

Mine Subsidence Board v Jemena Ltd [2013] NSWCA 465 (led by Hutley SC for Mine Subsidence Board) (judicial review, statutory construction)

Reid-Frost v Industrial Relations Commission of New South Wales [2013] NSWCA 161 (for Commissioner of Police) (judicial review)

Australian Hardboards Ltd v Hudson Investment Group Ltd [2007] NSWCA 104 (led by Newlinds SC for Australian Hardboards Ltd & Ors) (contracts; equity)

Solution 6 v IRC (2004) 60 NSWLR 558 (led by Sexton SC SG for the State of New South Wales) (constitutional law)

Airlink Pty Ltd v Patterson (No 2) (2003) 58 NSWLR 388 (led by Sexton SC SG for the State of New South Wales) (constitutional law)

Mitchforce v IRC (2003) 57 NSWLR 212 (led by Sexton SC SG for the State of New South Wales) (constitutional law)

NSW Court of Criminal Appeal

BUSB v Director-General of Security & Ors [2011] NSWCCA 39 (led by Sexton SC SG for the State of New South Wales) (constitutional law; implied power to make witness screening orders)

Re Application by Attorney General (No 3 of 2002) (Guideline judgment case for HRPDA) (2004) 61 NSWLR 305 (led by Cogswell SC for the Attorney General of NSW) (sentencing law)

Supreme Court of New South Wales

State of New South Wales v Bastian [2016] NSWSC 331 (for State of New South Wales) (Crimes (High Risk Offenders) Act 2006)

State of New South Wales v Donovan [2015] NSWSC 1254 (for State of New South Wales leading Avery-Williams) (Crimes (High Risk Offenders) Act 2006)

White v Local Health Authority [2015] NSWSC 417 (for NSW Public Guardian) (habeas corpus application; operation of Guardianship Act 1987 and *Mental Health Act 2007*)

Bishop Irinej Dobrijevic v Free Serbian Orthodox Church-Diocese for Australia and New Zealand Property Trust [2015] NSWCA 637 (leading Hochroth for Attorney-General of NSW) (charitable trust law)

Paphos Providores Pty Ltd v Ladha [2014] NSWSC 1788 (for Commonwealth Attorney-General) (constitutional law)

Hunter Region SLSA Helicopter Rescue Service Limited v Attorney-General of NSW (for Hunter Region led by Coles SC for Helicopter Rescue Service) [2013] NSWSC 1749 (charitable trust law)

Attorney-General of NSW v Homeland Community Limited [2013] NSWSC 1748 (for Attorney-General of NSW) (charitable trust law)

Australian Vaccination Network Inc v Health Care Complaints Commission [2012] FCA 1504 (for HCCC) (judicial review)

Crowle Foundation v NSW Trustee and Guardian [2010] NSWSC 647 (for Attorney General of NSW) (charitable trust law)

Redelman v State Property Authority [2010] NSWSC 486 (led by Bathurst QC for Redelman and others) (contract; rent review clause)

State of New South Wales v Thomas [2008] NSWSC 640 and [2008] NSWSC 1340 (led by Staehli SC for State of NSW) (application under the *Crimes (Serious Sex Offenders) Act 2006* (NSW))

State of New South Wales v Toms [2008] NSWSC 1238 (led by Katzmann SC for State of NSW) (application under the *Crimes (Serious Sex Offenders) Act 2006* (NSW))

State of New South Wales v Brookes [2008] NSWSC 150 (led by Babb SC for State of NSW) (application under the *Crimes (Serious Sex Offenders) Act 2006* (NSW))

Applications under the Protected Estates Act and the Guardianship Act (2007) (appeared for the Attorney General for NSW)

Hexiva Pty Ltd & Ors v Lederer & Anor (Brereton J) (2006) (led by Hammerschlag SC for Lederer) (partnership law; contracts; equity)

Attorney General (NSW) v Gallagher [2006] NSWSC 340 (led by Cogswell SC for Attorney General of NSW) (application under the *Crimes (Serious Sex Offenders) Act 2006*)

Noor Al Houada Islamic College v Bankstown Airport (2005) 215 ALR 625 (led by Young on behalf of Bankstown Airport Pty Ltd) (negligence; contracts; s.52 of TPA)

NSW Women's Aboriginal Corporation (in liq) v Commissioner of Dormant Funds (2004) 12 BPR 22,381 (McLaughlin M) (appeared for the Attorney General for NSW) (charitable trusts)

Land and Environment Court

Harrison v Perdikaris [2015] NSWLEC 99 (led by Jordan SC) (Prosecution and sentencing for contraventions of *Water Management Act 2000*)

Full Court of Industrial Relations Commission

Rail Corporation of New South Wales v Elleray [2013] NSWIR Comm 86 (appeal, employment law)

Commissioner of Police v Skelly [2010] NSWIRComm 18 (led by Kimber SC for the Commissioner of Police) (disciplinary; statutory review right)

Veta Ltd v Evans [2004] NSWIRCom 336 (appeared for the Attorney General for NSW) (constitutional law)

Broken Hill City Council v Barrier Industrial Council (led by Sexton SC SG for the State of NSW) (constitutional law)

Australian Competition Tribunal

Application by Sea Swift Pty Limited [2016] A Comp T 9 (led by Burnside AC and with van Proctor for ACCC) (applicant for merger authorisation)

Application by Services Sydney Ltd [2005] A Comp T 7 (led by Bathurst QC for Sydney Water Corporation) (application for access under Part IIIA of TPA)

Coroner's Court of New South Wales

Inquest into the death of "Mr X" (2012) (counsel assisting)

Inquest into the death of Benjamin Hadley (2011) (counsel assisting)

Inquest into the death of Josefa Rauluni, David Saunders and Al-Alakabi (2011) (counsel assisting)

Inquest into the death of Jahan Hilliers (2011) (counsel assisting)

Inquest into the deaths of Simon Munnerley and Neil Smith (2011) (counsel assisting led by Hamill SC)

Inquest into the Death of Brian Peters ("Balibo 5 inquest") (2007) (counsel assisting led by Tedeschi QC)

Inquest into the Death of Mr and Mrs Attia (2003) (counsel assisting)

Other

Counsel Assisting in Case Study No.36, No.39 and No.42 in the Royal Commission into Institutional Responses to Child Abuse

Counsel Assisting in 2014 Australian Human Rights Commission Inquiry into Children in Immigration Detention

Various complaints in disciplinary tribunals such as Pharmacy Tribunal and NSW Midwifery Tribunal

Junior Counsel Assisting in the Matter of "A Magistrate" (2012) (led by Gormly SC)

Junior Counsel Assisting in the Matter of Magistrate Day before the Judicial Conduct Division (2002) (led by Blackett SC)

Two Cartel Leniency Policy Applications in 2003 and 2004 respectively (acting for the ACCC)

Two separate merger clearance applications in 2015 (acting for the ACCC)