

## ***KRISTINA STERN SC***

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## **CURRICULUM VITAE**

### **PROFESSIONAL QUALIFICATIONS AND EXPERIENCE**

2011	Appointed Senior Counsel for the State of NSW October 2011.
2006	Admitted to the NSW Bar
2005	Admitted to the Northern Ireland Bar
2006	Appointed to Treasury Panel of Counsel in the United Kingdom
1996	Called to the UK Bar (39 Essex Street Chambers).
1992-1996	Lecturer in Law, School of Law, King's College London and School of Law, University College London
1988-1989	Solicitor at Arthur Robinson & Hedderwicks, Melbourne
1988	Admitted as a Solicitor in Victoria

### **DEGREES AND ACADEMIC AWARDS**

#### ***PhD Law (University of Cambridge)***

Full Tapp Scholarship from Gonville & Caius College Cambridge and Commonwealth Cambridge Trust Studentship.

#### ***BA (Hons) Law, First Class (University of Melbourne)***

Joan Rosanove Prize

#### ***BA Liberal Arts (Hons) Second Class (University of Melbourne)***

## PRACTICE AREAS

Broad based practice including commercial/contract disputes, regulatory proceedings and tax, mining disputes and regulation, financial services, planning and environmental law, arbitration, public/administrative law, telecommunications disputes and advisory work (including commercial and regulation), FOI, health care and pharmaceuticals and professional negligence. Extensive experience in a range of private and public law litigation and disciplinary proceedings.

Regularly acts in Western Australia, Queensland and Victoria.

Involved in numerous inquests, fire inquiries and public inquiries – including the inquest into the death of Phillip Hughes, the inquest into the Death of Scott Johnson, junior counsel to Jonathan Sumption QC (as he then was) for the UK Government in the Hutton Inquiry.

Appeared in the High Court of Australia and in the House of Lords on numerous occasions.

Written and presented extensively on all areas of public law. Published in the Australian Journal of Administrative Law, Modern Law Review, LQR, Australian Bar Review and AIAL Forum. Contributing author to *Legitimate Expectations in the Common Law World* (2017, Hart) *Key Issues in Judicial Review* (2013, Federation Press) and *Key Issues in Public Law* (2018, Federation).

Until 2006 contributing editor (Clinical Negligence) to *Bullen & Leake's Precedents and Pleadings*.

## SELECTED CASES

### ***High Court***

*Smethurst v Commissioner of Police* [2020] HCA 14; 94 ALJR 502

*Comcare v Banerji* [2019] HCA 23 (represented Australian Human Rights Commission – written submissions only).

*Minister for Immigration and Border Protection v SZVFW* [2018] HCA 34; 92 ALJR 713

*Bywater and Hua Wang Bank v Federal Commissioner of Taxation* [2016] HCA 45

*Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Limited* [2015] HCA 37; 256 CLR 104

*Momcilovic v The Queen and Ors* [2011] HCA 34; (2011) 245 CLR 1

*Minister for Immigration and Citizenship v SZIZO* [2009] 238 CLR 627

*Gedeon v Commissioner of the NSW Crime Commission* [2008] 236 CLR 120

### ***Court of Appeal and Court of Criminal Appeal***

*Fernandez v State of NSW* [2020] NSWCA 257

*Hanna v EPA* [2019] NSWCCA 299

*EPA v Wollondilly Abattoirs Pty Ltd and Davis* [2019] NSWCCA 312

*Bronze Wing International Pty Ltd v SafeWork NSW* [2017] NSWCA 41

*Clark v Commissioner for Corrective Services* [2016] NSWCA 186

*Mount Bruce Mining Pty Ltd v Wright Prospecting* [2014] NSWCA 323

*Howe v Fischer* [2014] NSWCA 286

*Hall v NSW* [2014] NSWCA 154

*Knezevic v Perpetual Trustees Victoria Ltd* [2013] NSWCA 199

*Perry Properties Pty Ltd v Chief Commissioner of State Revenue* [2013] NSWCA 274

*Coffs Harbour City Council v Minister for Planning and Infrastructure* (2013) LGERA 203; [2013] NSWCA 44

*McGuirk v NSW Ombudsman* [2008] NSWCA 357

### ***Full Federal Court***

*Commissioner of Taxation v Glencore* [2020] FCAFC 187

*Clarence City Council v The Commonwealth* [2020] FCAFC 134

*Cheryala v Minister for Immigration and Border Protection* [2018] FCAFC 43; 260 FCR 169

*Minister for Home Affairs v Aciek* [2018] FCAFC 120; 263 FCR 164

*Minister for Home Affairs v Buadromo* [2018] FCAFC 151; 362 ALR 48

*Caratti v Commissioner of the AFP* [2017] FCAFC 177; 257 FCR 166

*Minister for Immigration and Border Protection v Tesic* [2017] FCAFC 93; 251 FCR 23

*Minister for Immigration and Border Protection v Stretton* [2016] FCAFC 11; 237 FCR 1

*Minister for Immigration and Border Protection v Eden* [2016] FCAFC 28

*Minister for Immigration and Border Protection v Le* [2016] FCAFC 120; 244 FCR 56

*Bywater v Commissioner of Taxation* [2015] FCAFC 176

*QNA v The Takeovers Panel* [2015] FCAFC 68

*Fraser v Minister for Immigration and Border Protection* [2015] FCAFC 48

*ATS Pacific v Commissioner of Taxation* [2014] FCAFC 33

*CSL v Minister for Infrastructure and Transport* [2014] FCAFC 35

*Parker v Minister for Sustainability, Environment, Water, Population and Communities* (2012) 205 FCR 415; [2012] FCAFC 94

*Kumar v Minister for Immigration and Citizenship* [2009] 176 FCR 401

*Minister for Immigration and Citizenship v SZKKC* [2007] 158 FCR 292

*Telstra Corporation Ltd v Minister for Communications, Information Technology and the Arts* (2008) 166 FCR 64; [2008] FCAFC 7

*SZISM v Minister for Immigration and Citizenship* (No 2) [2007] FCAFC 106

***Supreme Court NSW, NSW Land and Environment Court, Supreme Court Vic, Supreme Court WA***

*Wright v Lemon* Supreme Court of WA – judgment pending, argued 2020

*Jin Nui Investments Pty Ltd v Wang* [2020] NSWSC 649

*Gloucester Resources Ltd v Minister for Planning* [2019] NSWLEC 7; 234 LGERA 257

*Crown Sydney Property Pty Limited v Barangaroo Delivery Authority* [2018] NSWSC 1931

*Donau Pty Ltd v ASC AWD Shipbuilder Pty Limited* [2018] NSWSC 1273

*AVWest Aircraft Pty Ltd v Bombardier Inc* [2018] WASC 139

*EPA v Dib Hanna* [2018] NSWLEC 80; 235 LGERA 114

*EPA v Wellington Council* [2017] NSWLEC 5; 222 LGERA 31

*Griffin Energy Group (subject to a Deed of Company Arrangement) v Laughland* [2016] NSWSC 1057

*Craig v Silverbrook* [2013] NSWSC 1687

*Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd (No 3)* [2013] NSWSC 1069

*Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd (No 2)* [2013] NSWSC 709

*Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd* [2013] NSWSC 536

*Perpetual Trustees v Knežević* [2012] NSWSC 956

*Re Atlantis Holdings Pty Ltd* [2012] NSWSC 112

*Ex Parte Attorney General* [2012] NSWSC 341

*Donnelly v Health Care Complaints Commission* [2011] NSWSC

*Ballard v Multiplex Limited* [2010] NSWSC 1038

*Hill End Gold Ltd v First Tiffany Resource Corporation (No 2)* [2010] NSWSC 555, [2010] NSWSC 375 and [2008] NSWSC 1044

*Microwave Safety Systems Pty Ltd v Commissioner for Fair Trading* [2008] NSWSC 37

*Secretary to the Department of Justice v Fletcher (No 1)* [2009] VSC 501; [2009] VSC 502; [2009] VSC 503

*Sabet v Medical Practitioners Board* (2008) VR 414

*Wharfside v McCormick* [2010] NSWSC 398; (2010) 8 ABC(NS) 510, [2011] ALMD 2807

*R v Baladjam* [2008] NSWSC 714

### **Federal Court**

*ACCC v Productivity Partners Limited t/a Captain Cook College* - judgment pending

*ACCC v Viagogo AG (No 3)* [2020] FCA 1423

*Clarence City Council v Commonwealth* [2019] FCA 1568

*Wang v ASIC* [2019] FCA 1178

*ACCC v Viagogo AG* [2019] FCA 544

*Glencore v FCT* [2019] FCA 1432

*ASIC v Westpac* [2018] FCA 1733; 132 ACSR 230

*Re Fairfax Media* [2018] FCA 161-

*Nithianantha v Commonwealth* [2018] FCA 2063

*ACCC v Birubi Art Pty Ltd* [2018] FCA 1595

*Caratti v Commissioner of the AFP (No 2)* [2018] FCA 1237

*Caratti v Commissioner of the AFP* [2018] FCA 907

*ACCC v ACM Group Limited (no 1)* [2017] FCA 799

*Buadromo v Minister for Immigration and Border Protection* [2017] FCA 1592

*Deputy Commissioner of Taxation v Binnetter* [2017] FCA 69; 104 ATR 858

*Selia v Commonwealth of Australia* [2017] FCA 7

*Abbey Laboratories v APVMA* [2016] FCA 704

*ACBF v Chief Executive, Centrelink* [2016] FCA 769

*ACCC v Multimedia International Services Pty Ltd* [2016] FCA 439

*Investrix v Commissioner of Taxation* [2015] FCA 1427

*King v Minister for Immigration and Border Protection* [2014] FCA 766

*ATS Pacific Pty Ltd v Federal Commissioner of Taxation* (2014) 219 FCR 302; [2014] FCAFC 33

*CSL v Minister for Infrastructure and Transport* [2014] FCA 1160

*CSL v Minister for Infrastructure and Transport* [2013] FCA 152; (2013) 133 ALD 507

*Green v Bradbury (No 2)* [2011] FCA 469

*Griffiths v Rose* [2011] 192 FCR 130

*Parker v Minister for Sustainability, Environment, Water, Population and Communities* [2012] FCA 263; [2011] FCA 1325

*Peebles v Honourable Tony Burke (No 2)* [2010] FCA 861

*Alyssa Treasury Services Limited v Commissioner of Taxation* [2010] FCA 967; (2010) 80 ATR 84, 118 ALD 494

*Pharm-a-Care Laboratories Pty Ltd v Commonwealth of Australia (No 5)* [2010] FCA 1204

*Charlie v Minister for Immigration and Citizenship* (2008) 171 FCR 44

*Telstra Corporation Ltd v Minister for Broadband, Communications and the Digital Economy* (2008) 166 FCR 64

*v Federal Commissioner of Taxation* (2008) 69 ATR 567

*Different Solutions Pty Ltd v Commissioner, Australian Federal Police (No 2)* (2008) 190 A Crim R 265

*Crocker v Federal Commissioner of Taxation* [2009] FCA 275

*Telstra Corporation Ltd v Minister for Communications, Information Technology and the Arts* [2007] FCA 1567

*BAE Systems Australia (NSW) Pty Ltd v Commissioner of Taxation* [2008] FCA 48

*Charlie v Minister for Immigration and Citizenship* [2008] FCA 1025

### ***Tribunals and District Court***

*HCCC v Grygiel* [2020] – decision pending

*HCCC v Von Marburg* [2018]

*McGrath v DG National Archives* [2020] AATA 1790

*Cash World Gold Buyers Pty Ltd v Commissioner of Taxation* [2020] AATA 1546

*RBPK v Innovation and Science Australia* [2018] AATA 1404; 74 AAR 566

*Secretary, Department of Defence v Thomas* [2018] AATA 604; 74 AAR 379

*Wang v ASIC* [2018] AATA 1405

*VYMF v Director-General of Security* [2018] AATA 891

*O'Sullivan v ASIC* [2017] AATA 644

*Eastwin Trade Pty Ltd v Commissioner of Taxation* [2017] AATA 140

*VDRZ v Innovation Australia* [2016] AATA 729; 70 AAR 282

*Cosbott v ASIC* [2014] AATA 677

*Levi v Companies Auditors and Liquidators Disciplinary Board and ASIC* [2013] AATA 463

*Frangie v Takchi* [2014] NSWDC 58

*DBTL v Innovation Australia* (2013) 137 ALD 88; [2013] AATA 573

*Axiome Pty Ltd v Food Standards Australia New Zealand* (2012) 129 ALD 681; [2012] AATA 551

*McKinnon v Nepean Blue Mountains Local Health Network* [2012] NSWADT 86

*Wang v Zheng* [2010] NSWDC 135

*Caines v ASIC* [2012] AATA 289

*R v USB*

*Montgomery Wools Pty Ltd v Commissioner of Taxation* (2012) 87 ATR 282; 128 ALD 406; [2012] AATA 61

*Dezfouli v Corrective Services* [2011] ASWADT 11

*Petroulias v Commissioner of Taxation* (2010) 81 ATR 853; [2010] AATA 1060

*Health Care Complaints Commission v Baez* [2014] NSWCATOD 26

*Health Care Complaints Commission v Balafas* [2010] NSWMT

*Health Care Complaints Commission v Holmes* [2010] NSWMT 19

*Health Care Complaints Commission v Taylor* [2010] NSWMT 10

*Health Care Complaints Commission v Gatenby, Zhang and Horn* [2011] NSWNMT 18

*Health Care Complaints Commission v Greenwood* [2011] NSWNMT 13

*Health Care Complaints Commission v Dene & Donnelly (No 2)* [2010] NSWPSST 4

*Health Care Complaints Commission v Clarke-Saunders* [2010] NSWPSST 8

*Health Care Complaints Commission v Pembroke* [2010] NSWMT

### **Arbitrations**

*Globecast Holding SA v Cosgrove and ors* (ICC Arbitration before David Williams QC, led by T Bathurst SC. Hearing as to relief and costs without leader against N Hutley SC with Richard Scruby, and I Davidson SC, instructed by Sophie Dawson of Blake Dawson)

*Spirit Pharmaceuticals Pty Ltd v Apotex Pty Ltd* (arbitration before Rowan Darke SC, led by D Studdy SC, against J Sackar SC and David Thomas, instructed by Raymond McGuinness of Watson Mangioni)

### **Cases in the United Kingdom (not exhaustive)**

Junior Counsel in the *Hutton Inquiry* (led by Jonathan Sumption QC)

### **House of Lords**

*R(L) v Secretary of State for Justice* [2008] 3 WLR 1325 (House of Lords, led by Ben Emerson QC)

*Bolitho v City and Hackney Health Authority* [1997] 3 WLR 1151 (House of Lords)

*Chester v. Afshar* [2004] 3 WLR 1325 (House of Lords, led by Martin Spencer QC)

*R v. East London & City Mental Health NHS Trust ex parte von Brandenburg* [2003] 3 WLR 1265 (House of Lords)

*R(West) v Parole Board* [2005] 1 WLR 350 (House of Lords)

*R(H) v Secretary of State for the Home Department* [2003] 3 WLR 1278 (House of Lords, not led)

## **Court of Appeal**

*Gedow v. SSHD* [2006] EWCA 1342 (Court of Appeal, led by Robert Jay QC)

*Graham v. Entec* [2003] 2 All ER (Comm) 811 (Court of Appeal, not led)

*R(Buddington) v. Secretary of State* [2006] Crim LR 765 (Court of Appeal, not led)

*Attorney General's Reference No 2 of 2003* [2004] 1 WLR 2062 (Court of Appeal, not led)

*R(Brooks) v Parole Board* [2004] EWCA Civ 80 (Court of Appeal, not led, against Edward Fitzgerald QC and Philippa Kaufman)

*R v North and East Devon Health Authority, ex parte Coughlan* [2000] 2 WLR 622 (Court of Appeal, led by Philip Havers QC)

*Daoud v Secretary of State for the Home Department* [2005] EWCA Civ 755 (Court of Appeal, not led)

*Arzpeyma v Secretary of State for the Home Department* [2004] EWCA Civ 1101 (Court of Appeal, not led)

*R(L) v Secretary of State for the Home Department* [2008] 1 WLR 158 (Court of Appeal, not led, against Nigel Giffin QC)

*R(D) v Secretary of State for the Home Department* (2006) 3 All ER 946 (Court of Appeal, led by Andrew Nicol QC)

*R(South West Yorkshire Mental Health NHS Trust) v Crown Court at Bradford* [2004] 1 WLR 1664 (Court of Appeal, not led)

*R(M) v Islington London Borough Council* [2005] 1 WLR 884 (Court of Appeal, not led)

*R(Munjaz) v Mersey Care NHS Trust* [2003] 3 WLR 1505 (Court of Appeal, led by Robert Francis QC)

*R(Jasarevic) v Secretary of State for the Home Department* [2005] EWCA Civ 1784 (Court of Appeal, not led)

*S v Secretary of State for the Home Department* [2002] EWCA Civ 539 (Court of Appeal, with Sean Wilken)

*R(Mongoto) v Secretary of State for the Home Department* [2005] EWCA Civ 751 (Court of Appeal, not led)

## ***Selection only of other reported cases in High Court***

*R(Sinn Fein) v Secretary of State for Northern Ireland and Independent Monitoring Commission* [2007] EWHC 12 (Divisional Court, led by John Larkin QC)

*Hadley & Evans v. Amicus and others* [2004] 2 WLR 713 (Family Div, not led, against Robin Tolson QC and Susan Freeborn)