

## **ERIC HEENAN**

Francis Burt Chambers  
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**Dates of Admission** 2 March 2007 (WA), 5 June 2007 (HCA)

### **Main practice areas**

- Administrative and public law
- Arbitration
- Commercial law
- Constitutional law
- Contested probate & family provision
- Corporate insolvency
- Environment and planning law
- Equity
- Trade practices and competition law
- Private international law
- International extradition

### **Selected cases**

#### ***Administrative and constitutional law***

- *Tsvetnenko v United States of America* [2019] FCA 206 and on appeal [2019] FCAFC 74 – representing the United States in defending an application for judicial review of a decision refusing the applicant bail under the *Extradition Act 1998* (Cth)
- *Wintawari Guruma Aboriginal Corporation RNTBC v Wyatt* [2019] WASC 33 – application for judicial review of conduct by the Aboriginal Cultural Material Committee and a decision by the Minister for Aboriginal Affairs to grant consent under s 18(3) of the *Aboriginal Heritage Act 1972* (WA).
- *El Khouri v Attorney-General (Cth)* [2018] FCA 1488 – representing the Attorney-General in defending an application for an injunction restraining a request for extradition and mutual assistance.
- *Lobban v Minister for Justice* [2015] FCA 1361; and on appeal [2016] FCAFC 109; [2016] HCASL 266 – representing the Minister in an application for judicial review of decision to surrender applicant for extradition to the United States of America.
- *Francuziak v Minister for Justice* [2015] FCA 464; and on appeal [2015] FCAFC 162 – representing the Minister in an application for writ of certiorari to quash decision of the Minister to surrender the applicant for extradition to the Republic of Poland.
- *Williams v Commonwealth (No 2)* (2014) 252 CLR 416; [2014] HCA 23 – led by D F Jackson QC with J A Thomson SC – whether regulations funding the National School Chaplaincy and Student Welfare Program were within Commonwealth power.

- *Galati-Rando and Commissioner of State Revenue* [2014] WASAT 164 – construction of exemption provisions in the *Land Tax Assessment Act 2002* (WA).
- *Australian Electoral Commission v Johnston* (2014) 251 CLR 463; [2014] HCA 5; *Ludlam v Johnston* (2014) 305 ALR 319; [2014] HCA 1 – led by A D Lang – Commonwealth electoral law concerning the 2013 Western Australian half Senate election.
- *Commissioner of State Revenue and Aveland Pty Ltd* [2013] WASAT 180 – construction of exemption provisions in the *Land Tax Assessment Act 2002* (WA).
- Coronial investigation into the sinking of Suspected Illegal Entry Vessel (SIEV) 69 (Ref 30/12) – counsel for relatives of the deceased.
- *Schaefer v Department of Housing (No 2)* [2012] WASCA 229 – administrative law, residential tenancies.
- *Betfair Pty Ltd v Racing New South Wales* (2012) 249 CLR 217; [2012] HCA 12 and *Sportsbet Pty Ltd v New South Wales* (2012) 249 CLR 298; [2012] HCA 13 – led by the Acting Solicitor General (R M Mitchell SC) for the Attorney General (WA) (intervening) – whether fees and conditions of licences imposed by NSW racing regulators contravened s 92 of the *Commonwealth Constitution*.

### ***Commercial litigation***

- *Seacress Nominees Pty Ltd and Kimbriki Nominees Pty Ltd* [2017] WASAT 95; *Seacress Nominees Pty Ltd and Kimbriki Nominees Pty Ltd (No 2)* [2017] WASAT 128 – commercial tenancy dispute concerning construction of terms of the lease and deeds by which the lease was assigned to the current tenant.
- *Payne and Owners of Strata 39733* [2017] WASAT 157 – defending application for orders requiring the Strata Company to undertake certain actions desired by minority group of proprietors.
- *Murray v MyDomaine Pty Ltd* [2016] WADC 109 – defending claims for breach of contract, breach of fiduciary duty, negligent misstatement, and fraudulent misstatement relating to sale of an investment property in Queensland.
- *Apache Oil Australia Pty Ltd v Santos Offshore Pty Ltd* [2015] WASC 318 – with B Dharmananda SC and D J Jackson – construction of joint operating agreement for joint venture to develop petroleum discoveries.
- *Johnstone v Patersons Securities Ltd* (2014) FCA – led by P Quinlan SC – professional negligence, financial services advice concerning margin lending and share lending agreements. Resolved after hearing.
- *Electricity Generation Corporation v Woodside Energy Ltd* (2014) 251 CLR 640; [2014] HCA 7 – led by D F Jackson QC with B Dharmananda SC and J K Taylor – contract law, duress, restitution, rescission.
- *Unsworth v Debsan Pty Ltd* [2014] WASC 46 – concerning the nature of a personal right to occupy residential units in a term of a commercial lease, and whether it was assignable with the lease.

### ***Competition law***

- *Application by DBNGP (WA) Transmission Pty Ltd* [2018] ACompT 1 – with N J O'Bryan SC for the Economic Regulation Authority – limited merits review of access arrangement for the Dampier to Bunbury Natural Gas Pipeline.

- *Goldfields Gas Transmission Pty Ltd v Economic Regulation Authority* [2018] WASC 104 - led by N J O'Bryan SC for the Economic Regulation Authority – defence of application for judicial review of access arrangement decision for the Goldfields Gas Pipeline.
- *Co-operative Bulk Handling Limited and Brookfield Rail* – led by S K Dharmananda SC for Brookfield Rail – access agreement arbitration under the *Railways (Access) Code 2000* (WA).
- *Application by ATCO Gas Australia Pty Ltd* [2016] ACompT 10 – with N J O'Bryan SC for the Economic Regulation Authority – limited merits review of access arrangement for the Mid-West and South-West Gas Distribution Systems.

### ***Arbitration***

- *Duro Felguera Australia Pty Ltd v Samsung C&T Corporation* [2019] WASC 90 – led by D J Jackson SC – application for a stay and reference to international arbitration
- *Samsung C&T Corporation v Duro Felguera Australia Pty Ltd* [2016] WASC 193 – led by A S Bell SC – construction of choice of jurisdiction clause and application for stay and reference to international arbitration.
- *Roy Hill Holdings Pty Ltd v Samsung C&T Corporation* [2015] WASC 458 – led by A S Bell SC – application for a stay and reference to international arbitration.

### **Professional history**

#### **The State Solicitor's Office for Western Australia (2006-2012)**

Assistant State Solicitor

#### **The Law School, The University of Western Australia (2009-2015)**

Honorary Fellow

Unit co-ordinator and lecturer in Unjust Enrichment & Restitution, and Personal Property.  
Visiting lecturer in Remedies.

Sometime visiting lecturer in Evidence, and tutor in Contract and Equity.

### **Professional Associations**

#### **The Law Society of Western Australia**

**2018** Ordinary member of the Council of the Law Society.

Member of the Professional Indemnity Insurance Management Committee

Director of Law Access Limited

**2012-2013** Ordinary member of the Council of the Law Society.

**2010-2011** Junior member of the Council of the Law Society.

**2006** Articled clerk representative on the Council of the Law Society.

### **Academic qualifications**

#### **The University of Oxford, Magdalen College (2007-2008)**

Bachelor of Civil Law (Distinction).

Read Evidence, Restitution, Conflict of Laws, and Principles of Corporate Insolvency.

#### **The University of Western Australia (2003-2005)**

Bachelor of Laws with Honours (H1).

Jean Rogerson Studentship awarded to the top five students accepting an invitation into the Honours programme.

Peter Birks Prize for Unjust Enrichment & Restitution.

Allens Arthur Robinson Trust Law Prize.

Freehills Prize for second-year law (Property, Trusts, Equity, Administrative Law & Constitutional Law).

LBC Information Services Prize in Evidence.

Law Book Company Prize for Contract.

UWA Graduates Association Prize for first-year law (Contract, Torts, Criminal Law & Legal Process).

**The University of Melbourne (1999-2002)**

Doctor of Philosophy in high-energy physics.

**The University of Western Australia (1995-1998)**

Bachelor of Science with Honours (H2A) in Physics