

JUSTIN CARTER

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EDUCATION

- 2018 **Professional Certificate in Arbitration**
The University of Adelaide, South Australia
- 2017 **Master of Laws (Chinese Business Law) (Global Scholar)**
The Chinese University of Hong Kong, Hong Kong SAR
- 2008 **Graduate Diploma of Legal Practice**
The College of Law, Sydney
- 2007 **Bachelor of Business Studies (Management)**
Monash University, Victoria
- 2006 **Bachelor of Laws (First Class Honours) and University Medal**
Griffith Law School, Queensland
- 2006 **Bachelor of International Business (International Relations)**
Griffith Business School, Queensland

PROFESSIONAL EXPERIENCE

- 2019+ **General Editor, *Australian Corporations and Securities Reports***
- 2018 **Called to Bar in Victoria**
- 2013-
2015 **Called to Bar in Solomon Islands *pro hac vice***
- 2011+ **Sub-editor, *Queensland Reports***
- 2010 **Called to Bar in Queensland**
- 2009 **Associate to Justice Patrick Keane**
Queensland Court of Appeal, Brisbane
- 2008 **Legal Research Associate**
Federal Court of Australia, Queensland Registry
- 2007-
2008 **Legal Associate to Justice Graham Bell and James Barry**
Family Court of Australia, Brisbane Registry
- 2007 **Legal Associate to Judges of the Trial Division**
Family Court of Australia, Brisbane Registry

PROFESSIONAL QUALIFICATIONS

- 2021 **Course in Legislative Drafting**
Sir William Dale Centre for Legislative Studies
Institute of Advanced Legal Studies, University of London UK
- 2020 **NMAS Mediation Training**
Resolution Institute, Australia
- 2020 **Auditeur, Winter Courses – January 2020**
The Hague Academy of International Law, The Hague NL
- 2020 **Diploma of International Commercial Arbitration**
Chartered Institute of Arbitrators Inc, London UK
- 2019 **Programme in Sports Arbitration**
Asian International Arbitration Centre, Kuala Lumpur Malaysia
- 2019 **Tribunal Secretary Training Programme**
Hong Kong International Arbitration Centre, Hong Kong SAR
- 2019 **Graded Arbitrator**
Resolution Institute, Australia
- 2015 **Advocate**
National Institute of Trial Advocacy, USA

PUBLICATIONS – MONOGRAPHS, ARTICLES AND PAPERS

- 2017 “Disguised Extradition and the Domestic Criminal Process: Comparative Insights” (Paper presented at Legal Eagles Criminal Law Conference; 11-14 August 2017; Lake Como, Italy)
- 2015 *Native Title and Land Law* (Thomson Reuters)
- 2015 “Communications by Counsel” (2015) 4 *Journal of Civil Litigation and Practice* 30 (with Richard Lilley QC)
- 2013 “The Role of the ‘Applicant’ in Native Title Disputes” (2013) 87 *Australian Law Journal* 761 (with Justice Darryl Rangiah)
- 2013 “Communications with the Court” (2013) 87 *Australian Law Journal* 12 (with Richard Lilley QC)
- 2009 “Adding Value for Lawyers, Clients and the Public: The Business Benefits of Ethically Informed Practice” (2009) 28 *University of Queensland Law Journal* 291 (with Dr Lillian Corbin)

2007 “Is Plagiarism Indicative of Prospective Legal Practice?” (2007) 17 *Legal Education Review* 53 (with Dr Lillian Corbin)

PUBLICATIONS – LAW REPORTS AND LEGAL ENCYCLOPAEDIAS

- 2013+ Law Reporter – New Zealand and Pacific
Fiji Law Reports
New Zealand Company and Commercial Law Reports
New Zealand Conveyancing and Property Reports
New Zealand District Court Reports
New Zealand Employment Law Reports
New Zealand Family Law Reports
New Zealand Resource Management Appeals
- 2010+ Author, *Halsbury’s Laws of Australia* including titles:
Civil and Political Rights Consumer Credit
Consumer Protection Employment
Family Law Leases and Tenancies
Practice and Procedure Real Property
- 2010+ Author, *The Laws of Australia* including titles:
Civil Procedure Constitutional Law
Contracts Customs
Native Title
- 2009+ Law Reporter – Australia
Administrative Law Decisions *Australian Law Reports*
Butterworths Property Reports *Family Law Reports*
Intellectual Property Reports
- 2010- Contributing Author, *Queensland Civil Practice* loose-leaf service
2018

SCHEDULE OF NOTABLE DISPUTES

Corporate and commercial law

Lewis v Martinez (HWL Ebsworth) (2020+, NSWSC) (ongoing)

This is a claim for AU\$5m for the unlawful expulsion of an equity partner of the largest law firm in Australia. The plaintiff alleges breaches of the partnership deed, duty of utmost good faith, procedural fairness, and exercise of a power for an improper purpose.

State of Queensland v Morecroft (2023-2024, QCA) [2024] QCA 11

This was a claim for AU\$2.7m in compensation to be paid from a statutory fund for loss of an interest in land because of fraud. This appeal involved questions of the nature of an equitable interest, the history of Torrens legislation, and statutory construction.

Price v Spoor (2020-2021, HCA) (2021) 270 CLR 450; [2021] HCA 20

This was an appeal to the High Court of Australia on the question of law whether a person can “contract out” of the limitation on actions in the standard form statute in a case involving a claim for AU\$4m owing under a mortgage over land.

Farah Custodians Pty Ltd v Federal Commissioner of Taxation (2021, FCA)

This was a test case disputing the applicant’s liability for AU\$1m claimed by the FCT incurred by reason of the fraudulent conduct of the applicant’s tax agent. The applicant alleged the FCT was negligent because it knew of that conduct. It settled favourably.

QB4 Capital Pty Ltd v Guardian Securities Ltd (2020-2022, FCA)

This was a claim by the investment manager of a managed investment scheme against its responsible entity seeking equitable compensation of ~AU\$2.5m for breaches of trust by the entity applying investment moneys to an opportunity it was interested in.

Mio Art Pty Ltd v Mango Boulevard Pty Ltd (2018-2021, QSC)

This was a claim for ~AU\$20m for breach of a multiparty share sale agreement. The dispute centred on when the obligation to pay for the shares arose, and the proper approach to the valuation of the shares. It settled favourably.

Emperor Investment Group Pty Ltd v Delta Law Pty Ltd (2019, QSC) [2019] QSC 307

This was an application to the Court to end the voluntary administration of the respondent, a legal practice, because it was commenced for an improper purpose on the basis that it was commenced to prevent a rival faction from controlling it.

Cargill Inc v Viterro Malt Pty Ltd (2018-2019, VSC, VSCA) (various)

This was a claim for in excess of AU\$200m for breach of contract relating to the sale and purchase of a business by reason of breaches of the sale agreement and misleading and deceptive conduct. It presented many questions of first impression.

*ERO Georgetown Gold Operations Pty Ltd v Henry (2015, QLAC)
(2015) 212 LGERA 342*

This was a claim for additional compensation arising from a material change of circumstances under a mining lease whereby the lessee erected a fence with a locked gate across a dirt road. The additional compensation was affirmed on appeal.

Public law

Mouflih v Minister for Home Affairs (2019) 168 ALD 148; [2019] FCA 1744

This was an application to set aside a decision of the Minister because the Minister had failed to consider documents relevant to the decision that the applicant had posted. At issue was whether the Minister had received those documents and reviewed them.

Kum Sing v Queensland South Native Title Services Ltd (2017, FCA)

This was a claim by a member of a native title claim group for a declaration that she was entitled to all the anthropological research relevant to a native title claim. The matter settled favourably after objections were raised on *O'Reilly v Mackman* grounds.

Martens v Stokes (2016, FCA)

The applicant claimed ~AU\$45m for civil conspiracy, malicious prosecution, breaches of duty, defamation, and misfeasance in public office against AFP officers arising from the arrest of the applicant for child sex offences that were later quashed. It settled.

Wyman (Bidjara People) v State of Queensland (2016, FCA)

This was summary judgment given on the basis that re-litigation by a native title claim group, which had previously claimed native title to land and was found not to have continued their traditional laws and customs, of that issue was an abuse of process.

Berenyi v Maynard (2015, QSC) [2015] QSC 370

This was an application for judicial review of a disciplinary decision made by the director of a government agency. The question presented was whether the decision arose under contract or statute and whether, in any event, it was reviewable.

SMM Solomon Ltd v Attorney General (2013-2015, SBHC, SBCA) (various)

This was five-year litigation in Solomon Islands involving the allocation of mining rights to lateritic nickel ore deposits, and raising issues as to tenders, mining rights, customary land, conversion to registered land, and constitutional rights.

Australian Workers' Union of Employees, Qld v Queensland (2014, QCA)

[2014] 1 Qd R 257; [2012] QCA 353

The question of law was whether a State law that amended the industrial instruments governing public service workers was unconstitutional because it involved the Industrial Relations Commission exercising judicial power contrary to its separation.

Brooks (Mamu People) v State of Queensland (2013, FCA) [2013] FCA 741

This was a native title claim in which the State had originally consented to a determination of native title being made, but thereafter purported to withdraw its consent before the Court made its determination. The State could not withdraw it.

Gajjar v Minister for Immigration and Border Protection (2013, FCA)

(2013) 281 FLR 370; [2013] FCCA 1859

This was a judicial review application of a decision by the Minister refusing the applicant's visa application on the basis that it was improperly lodged. At issue was whether the applicant was in the "migration zone" by being in a plane above it.

Private client law

Goldenwater Pty Ltd v Chan (2020-2021, QSC)

This was a claim for ~AU\$30m advanced by a Chinese woman to a Chinese man who, while married to others, were involved. She claimed in deceit and in equity. At issue was the approach of the court to alleged misrepresentations made in a foreign language.

QB4 Capital Pty Ltd v CE Lawyers Ltd (2021, FCA)

This was a claim by a third party challenging the validity of a costs agreement between a solicitor and her client in circumstances where the incurring of legal costs would inure to the detriment of the applicant. The question was the standing of the applicant.

Zhang v Davies (2020, QSC)

This was a claim for the recovery of AU\$500,000 for breach of contract involving the failure to transfer shares in a proprietary company in circumstances where the contract was written in both English and Chinese. It settled favourably.

Clayton v Bant (2015, FamCA) [2018] FamCA 736

This was an application for a stay of Australian divorce proceedings on the basis of a divorce decree obtained by the husband in Dubai. It raised the question whether the local court could recognise the Dubai decree as raising a cause of action estoppel.

King v King (2012, QCA) [2012] 2 Qd R 448; [2012] QCA 39

The bankrupt appellant claimed a licence to occupy certain real property for life and sought declaratory relief to that end. At issue was whether the appellant's right to occupy the property was a personal right or privilege that did not vest in his trustee.

Whung v Whung (2010-2012, FamCA) (2011) 258 FLR 452; [2011] FamCA 137

This was an anti-suit injunction application restraining the husband from continuing Taiwan divorce proceedings. The case settled after two years of litigation. The case raised the issue of the recognition in Australia of "blind trusts" under Taiwanese law.

SCHEDULE OF NOTABLE ADVICES AND OPINIONS

Advices to major trading corporation in tobacco industry regarding various commercial and governmental operations in Pacific countries (Papua New Guinea, Solomon Islands, Samoa), including tobacco licensing, anti-illicit trading, excise duty, legislative drafting, and trade practices

Advice to local government regarding impact of constitutional freedom of political communication on powers regarding protestors

Advice to former judicial officer regarding constitutional aspects of judicial pensions

Advices to large agricultural holding with respect to agistment contracts, supplier contracts, price comparison advertising, and injurious falsehood

Advices to native title body regarding operation and regulation of Aboriginal and Torres Strait Islander corporations, funding decisions, and its statutory powers

Advice to accountant regarding post-conviction review of historical taxation offences