

**JUSTIN GLEESON SC
COUNSEL AND ARBITRATOR**

**FELLOW OF THE CHARTERED
INSTITUTE OF ARBITRATORS.
FELLOW OF ACICA.
FELLOW OF THE AUSTRALIAN
ACADEMY OF LAW.**



BANCO CHAMBERS

Level 15, 60 Martin Place
Sydney, NSW 2000
Australia
Chambers: +61 2 8239 0200
Email: justin.gleeson@banco.net.au
Clerk: Jeh Coutinho
Mobile +61 422 499 580
Chambers: +61 2 8239 0201
Email: clerk@banco.net.au

ABOUT JUSTIN GLEESON

Justin has over 30 years legal experience, as solicitor (1985-1988), counsel (1989 onwards) and Senior Counsel (2000 onwards). He was the founding head of Banco Chambers Sydney (2005-2012) and the 10th Solicitor-General of the Commonwealth of Australia (2012-2016).

He is a Fellow of the Australian Academy of Law, of ACICA and of the Chartered Institute of Arbitrators. He specialises in international law, international arbitration, constitutional law and appellate law; and is available to appear as counsel, act as advisor or sit as arbitrator or expert determiner, particularly in international matters.

APPEARANCES IN INTERNATIONAL COURTS AND TRIBUNALS

As Solicitor-General of the Commonwealth of Australia between 2012 and 2016, Justin advised on numerous international law issues and was joint counsel for Australia in proceedings including:

International Court of Justice

2014: *Timor-Leste v Australia, Questions relating to the Seizure and Detention of Certain Documents and Data*.

2013: *Australia v Japan, Whaling in the Antarctic*.

Inter-State arbitration

2015: *Timor-Leste v Australia, Arbitration under the Timor Sea Treaty* (PCA case 2015-42).

2013: *Timor Leste v Australia, Arbitration under the Timor Sea Treaty* (PCA case 2013-16).

Inter-State conciliation

2016: *Timor-Leste v Australia, Compulsory Conciliation under the United Nations Convention on the Law of the Sea* (PCA case 2016-10).

Investor-State arbitration

2015: *Phillip Morris Asia Limited v Australia, Arbitration under the Hong Kong-Australia Business Investment Treaty concerning Tobacco Plain Packaging Legislation* (PCA case 2012-12).

RECENT AND CURRENT RETAINERS IN THE INTERNATIONAL AND AUSTRALIAN ARBITRATION SPACE

International

2020: Presiding arbitrator in LCIA arbitration.

2017-2020: Retained as counsel in various ISDS disputes for States and private investors.

2018-2019: Various retainers to give expert evidence before Courts in the United States and Singapore.

2017: Appointed as expert assessor in respect to funding of an ISDS case.

2017, 2020 Member Singapore International Arbitration Academy.

Australia

2019: Counsel in Tribunal hearing in *Rugby Australia v Israel Folau*.

2018: Arbitrator appointed by Australian Energy Regulator in dispute under Part 23 of National Gas Rules.

2017: Appointed Chair of a Panel of three to inquire and report on certain matters for a major public institution in Australia.

2017: Retained as counsel in an expert determination process over the construction of a major infrastructure project in Australia and as counsel in various commercial arbitrations including in *Australian Rugby Union v Western Force*.

RECENT AND FORTHCOMING APPEARANCES AS COUNSEL IN APPELLATE MATTERS

High Court of Australia

2020: *Berry v CCL Secure Pty Ltd v Berry* - assessment of damages under Australian Consumer Law.

2020: *Moore v Scenic Tours* - whether claims for distress and disappointment from loss of expectation are personal injury damages.

2019-2020: *Commonwealth v Helicopter Resources* - application of accusatorial principle to compulsory examination of officers of corporations.

2020: *Mackellar Mining v Urquhart* – principles governing anti-suit injunctions.

2019: *Westpac Banking Corporation v Lenthall* – [2019] HCA 45 – availability of common fund orders in class actions.

2019: *Connective Services Pty Ltd v Sleat Pty Ltd* [2019] 93 ALJR 1079 – prohibition on financial assistance by corporations.

2018: *Unions NSW v NSW* (2019) 93 ALJR 166 – validity of electoral expenditure laws under implied freedom of political communication.

2018: *ASIC v Lewski* (2018) 93 ALJR 145 – directors' duties and validity of amendment to scheme constitution.

2018: *Parkes Shire Council v South West Helicopters* (2019) 93 ALJR 607 – exclusivity of Warsaw Convention in respect to nervous shock claim.

2018: *Work Health Authority v Outback Ballooning Pty Ltd* (2019) 93 ALJR 212 – inconsistency between Civil Aviation Law of Commonwealth and Territory workplace law.

2018: *Mighty River v Hughes* (2018) 92 ALJR 822 - scope of Deeds of Company Arrangement.

2018: *Amaca Pty Ltd v Latz* (2018) 92 ALJR 579 - assessment of personal injury damages for "lost years".

2018: *Commissioner of Taxation v Thomas* (2018) 264 CLR 382 - treatment of franking credits and principle in *Executor Trustee* case.

2018: *Re Gallagher* (2018) 263 CLR 460 - appearance for Senator Gallagher on referral of questions under s 44 of Constitution.

2017: *Plaintiff M174 v Minister* (2018) 264 CLR 217 - challenge to "fast track" provisions in Migration Act.

2017: *Re Canavan* (2017) 263 CLR 284 - appearance for Tony Windsor in opposition to Barnaby Joyce on referral of questions under s 44 of Constitution.

Intermediate Appellate Courts

2020: *ACCC v Pacific National (FFC)* – s 50 merger case.

2019: *Heinz Company Australia Ltd v Bega Cheese Ltd* (FFC) – assignability of common law trade marks.

2019: *AMP Ltd v Wigmans* (NSWCA) [2019] NSWCA 243 – regulation of overlapping class actions

2019: *Pitcher Partners v Neville's Bus Services* (FFC) [2018] FCA 2098 – principles governing assessment of damages in deceit and Australian Consumer Law.

2019: *Lenthall v Westpac Banking Corporation* (FFC) [2019] 265 FCR 21 – availability of common fund orders in class actions.

2019: *Mackellar Mining & Anor v Urquhart & Ors* (QCA) [2019] QCA 77– anti-suit injunctions.

2018: *Helicopter Resources Pty Ltd v Commonwealth of Australia* (2019) 264 FCR 174– application of accusatorial principle to compulsory examination of officers of corporations.

2018: *Daiwa Can & Anor v Knights Quest Pty Ltd* (VCA) [2018] VSCA 349 – companies/oppression.

2018 *Ulman & Ors v Live Group Pty Ltd* (NSWCA) [2018] NSWCA 338 – contempt of court by religious tribunal.

2018: *Racing NSW v Lewin* (NSWCA) (2018) 97 NSWLR 694 – construction of Racing Rules.

2018: *Karimbla Properties v City of Council of Sydney* (2018) 99 NSWLR 66 – construction of rating statute.

2018: *Mobis Parts Australia Pty Ltd v XL Insurance Company SE* (NSWCA) (2018) ALR 730 – rectification of insurance policy.

2018: *Warrie v Fortescue Metals* [2019] FCAFC 177 – exclusivity of native title established by spiritual sanctions.

2018: *Perera & Ors v Get Swift Pty Ltd* (2018) 363 ALR 394 – stay of overlapping class actions.

2017: *ASIC v Whitebox* (FFC)(2017) 251 FCR 448 – overlap of civil penalties and Criminal Code.

2017: *First Pacific Advisors LLC v Boart Longyear Ltd* (2017) 320 FLR 78 – company scheme of arrangement class composition.

OTHER PROFESSIONAL EXPERIENCE

Over my 35 years of professional practice, I have conducted multiple trials and appeals as counsel, and provided numerous written opinions across most areas of commercial, public and constitutional law.

In the area of insurance, I have advised and appeared in numerous disputes over professional indemnity, directors and officers', property and other policies.

I have extensive experience in corporations, equity, trade practices, intellectual property, competition, aviation and shipping law.

My qualifications in public, constitutional and international law are noted above.

RECENT AND FORTHCOMING ADDRESSES, BOOKS AND PUBLICATIONS

International law and arbitration

February 2020: Member of Singapore International Arbitration Academy.

November 2019: Presenter ACICA arbitration round table in Australian Arbitration Week.

August 2019: Moderator: Australian Academy of Law/Australian Academy of Sciences Climate Change Hypothetical.

November 2018: Panel discussion on International commercial arbitration at ABA conference.

July 2018: Address to ACICA on 60th anniversary of New York Convention.

November 2017: Singapore International Arbitration Academy, Speaker and Tribunal member.

October 2017: IBA Annual Conference Sydney, Keynote Address to Under 40's Arbitration Workshop.

August 2017: Australian Academy of Law Conference, Sydney: *"Can Australian Lawyers of the future afford not to be internationalist?"*

July: Centre for Comparative Constitutional law conference, Melbourne: *"Demystifying Proportionality in Australian Constitutional Law"*.

July 2017: CIArb Australia lunch Melbourne: *"International Arbitration – What can Australia learn from current developments overseas?"*.

May 2017: Keynote address, Global Pound Alternative Dispute Resolution Conference, Sydney.

October 2016: *"The increasing internationalisation of Australian Law"*, Australian Academy of Law Annual Patron's Lecture (published in (2017) 28 PLR 25-40).

August 2016: *"Australia's recent involvement in International Dispute Resolution: Tobacco Plain Packaging and beyond"*, address to NSW Supreme Court Annual Judges' conference.

July 2016: *"Australia's enmeshment in International Law Dispute Resolution: Implications for sovereignty"*, Annual Michael Kirby Lecture in International Law, Australian National University (published in *The Australian Year Book of International Law* 2016).

June 2016: *"The internationalisation of Australian Law"*, launch of International Negotiation and Dispute Resolution series hosted by NSW Young Lawyers (published in *The Arbitrator and Mediator*, December 2016 28-35).

May 2016: *"Australia's Interests in Investor-State Dispute Settlement under the UNCITRAL framework"*, address to the Second Annual UNCITRAL Seminar, Canberra.

April 2015: *"International Law and the Australian Constitution"*, Annual Sir Maurice Byers address to NSW Bar Association (published in (2015) 40 *Australian Bar Review* 149).

Comparative law

May 2017: Sydney PEN Free Voices Lecture, Sydney Writers Festival, *"Freedom of Expression, United States and Australian perspectives"*, published in Sydney PEN November 2017.

"Held on Trust" Griffith Review 57 Perils of Populism.

February 2017: Address to Singapore Academy of Law, *"Evolving Judicial Attitudes to Executive Power: The United Kingdom, Singapore and Australia"*.

March 2016: *"Recent Developments in Administrative Law in the United States and Australia"*, address to Australian Government Solicitor Law Conference, Canberra.

Constitutional law

2018: *"The Rule of Law and the Crown"* in Hinton and Williams (eds), *The Crown*, University of Adelaide Press, co-author with Ms C Winnett.

2018: *"Economic Union"* in Saunders and Stone (eds), *Oxford Handbook of the Australian Constitution*.

February 2018: *"The High Court on Constitutional Law: the 2017 Term"*, Keynote Address to 2018 Gilbert +Tobin Constitutional Law Conference.

January 2018: *"The Modern Executive in Australia – Rule Taker or Rule Maker?"* – Address to Annual Conference of Federal and Supreme Court Judges.

2017: *"Chapter II of the Constitution"*, joint chapter with Anna Mitchelmore in Williams (ed), *Key Issues in Public Law*, Federation Press.

May 2017: Annual Blackburn Lecture, ACT Law Society, *"Law, Morality and the Public Trust"*.

Books

Rediscovering Rhetoric – Law, Language and the Practice of Persuasion (Federation Press, 2008, co-edited with Dr R Higgins).

Constituting Law – Legal Argument and Social Values (Federation Press 2011, co-edited with Dr R Higgins).

Historical Foundations of Australian Law – Volume I: Institutions, Concepts and Personalities; Volume II: Commercial Common Law (Federation Press 2013, co-edited with Dr J Watson, Dr R Higgins and Dr E Peden).

QUALIFICATIONS AND EDUCATION

2017: Fellow of ACICA.

2016: Fellow of the Chartered Institute of Arbitrators.

2012-2016: Solicitor-General of Commonwealth of Australia.

2005: Founding Head Banco Chambers, Sydney.

2000: Appointed Senior Counsel, NSW Bar.

2000: Editor of NSW Bar News.

1993, 2000-2002, 2007, 2008, 2012: Member Council of NSW Bar Association.

1989: Called to NSW Bar.

1985: Admitted as a Solicitor.

1985: BCL (Oxon).

1983: LLB (Sydney) First Class Honours and University Medal. First in year.

1981: BA (Sydney). Majoring in ancient and modern history.

1978: Higher School Certificate, NSW. First in State.

Current: January 2020.