

# CHRISTOPHER J. TRAN

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Clerk: List A

## Professional background

### **Barrister** (2014 – present).

Doyle's Guide 2020, 2021, 2022 – Recommended Junior Counsel (Employment Law – Victoria)

Doyle's Guide 2021, 2022 – Junior Counsel (Administrative and Public Law – Australia)

Human Rights Committee (2014 – 2017)

Bar Readers' Course Sub-committee (2014 – 2019)

Student Engagement Committee (2014 – 2016)

Daniel Pollack Readers Award for pro bono work (2016)

### **Law Council of Australia, National Security Committee** (2022 – present)

### **Reporter, *Commonwealth Law Reports*** (2014 – 2020).

### **King & Wood Mallesons, Solicitor** (2011, March 2013 – July 2013).

### **Associate to the Hon K M Hayne AC, High Court of Australia** (March 2012 – March 2013).

## Education

### **Harvard Law School**

Master of Laws (2013-2014).

Menzies Scholarship to Harvard.

Dean's Scholar Prize for Administrative Law (Prof. Cass Sunstein).

Dean's Scholar Prize for Constitutional Analysis (Prof. Larry Tribe).

Senior Editor, *Harvard Human Rights Journal*.

### **University of Melbourne**

Bachelor of Arts (2010)

Bachelor of Laws (Hons) and the Supreme Court Prize (2010).

Subject prizes for Competition Law, Trusts and Remedies, Remedies, WTO Moot Team, Property, Legal Theory, Obligations, Legal Method and Reasoning and Torts.

Melbourne University National Scholarship (2006-2010).

Editor, *Melbourne University Law Review* (2010).

Editorial Assistant, *Public Law Review* (2008-2009).

Winner, European Law Students' Association Moot Court Competition on the Law of the World Trade Organization (2009), including prizes for Best Overall Written Submissions and Best Oralist in the Semi-Finals.

## Representative cases in principal areas of practice

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### Administrative law

*Daley v Child Support Registrar* [2020] FCAFC 161; [2020] FCA 862; [2019] FCA 1097 – for the Child Support Registrar

*Lucas v Secretary, Department of Health* [2020] FCA 1603 – for the Secretary

### Class actions

*Shimshon v MLC Nominees* (S ECI 2020 00306) – for the defendants

*Ridge v Hays Specialist Recruitment (Australia) Pty Limited* (VID1661/2018) – for the employer

### Commercial law

*Leeda Projects Pty Ltd v Zeng* [2021] VCAT 488; (2020) 61 VR 384; [2020] VSCA 244; [2019] VSC 106; [2019] VSC 184 – for the builder

*Impact Funds Management Pty Ltd v Roy Morgan Research Ltd* [2016] VSC 221 – for the landlord

### Common law

Numerous matters in the VSC and FCA for the Commonwealth in claims for negligence or false imprisonment, for example *Tran v Commonwealth* [2021] FCA 580

### Competition Law

*ACCC v Tasmanian Ports Corporation Pty Ltd* [2021] FCA 482 – for the ACCC

*ACCC v Pacific National Pty Limited* [2020] HCATrans 213; (2020) 277 FCR 49 – for the ACCC

### Constitutional law

*Commonwealth of Australia v AJL20* (2021) 95 ALJR 567 – for the Commonwealth

*Minister for Home Affairs v Benbrika* (2021) 95 ALJR 166 – for Mr Benbrika

*Spence v Queensland* (2019) 268 CLR 355 – for the Commonwealth

### Consumer protection

*ACCC v Quantum Housing Group Pty Ltd* (2021) 285 FCR 133 – as contradictor

*ACCC v Sony Interactive Entertainment Network Europe Ltd* (2020) 381 ALR 531 – for the ACCC

### Criminal law

*R v Abdirahman-Khalif* (2020) 271 CLR 265 – for the prosecution

*R v David McBride* – for the prosecution

### Customs and anti-dumping

*Wilson Transformer Company Pty Ltd v ADRP [No 2]* [2022] FCAFC 4 – for the intervening companies

*Downer Utilities Australia Pty Ltd v Commissioner of the Anti-Dumping Commission* (2019) 165 ALD 595 – for the Commissioner

**Employment law**

*Knowles v BlueScope Steel Ltd* (2021) 284 FCR 118 – for the employee

*BP Refinery (Kwinana) Pty Ltd v Tracey* (2020) 276 FCR 9 – for the employee

*Milam v University of Melbourne* (2019) 285 IR 309 – for the employee

**Financial services**

*ASIC v Westpac Banking Corporation* (NSD386/2021) – for ASIC

*ASIC v Westpac Banking Corporation* (2018) 266 FCR 147 – for ASIC

**Industrial relations**

*ABCC v Australian Workers' Union* (2021) 308 IR 195 – for the union

*CEPU v Registered Organisations Commissioner* [2020] FCAFC 232; [2020] FCA 96 – for the union

**Migration**

Numerous matters in the AAT, FCCA, FCA and FCAFC principally for the Minister, for example *Minister for Home Affairs v DMA18* (2020) 95 ALJR 14

**Practice and procedure**

*Victoria International Container Terminal Ltd v Lunt* (2021) 271 CLR 132 – for the employee

*SMEC Holdings Pty Ltd v Commissioner of the Australian Federal Police* [2018] FCA 609 – for the discovery applicant

**Royal Commissions**

Royal Commission into Aged Care Quality and Safety – for a service provider

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry – for ASIC

**Tax**

Numerous matters for the State Revenue Office in the VCAT and VSC, for example *Lotus Projects Pty Ltd v Commissioner of State Revenue* (2017) 105 ATR 252

## Publications, presentations and other academic engagements

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### Edited collections

*Anti-Cartel Enforcement in a Contemporary Age: The Leniency Religion* (Hart Publishing, 2015) (co-editor with Caron Beaton-Wells).

### Articles

'Act is a Remedy, not a Weapon', *Law Institute Journal* (October 2015) (with David O'Callaghan QC)

'New Perspectives on Australian Constitutional Citizenship and Constitutional Identity' (2012) 33 *Adelaide Law Review* 199.

'Facts and Evidence in Litigation under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Human Rights Act 2004* (ACT)' (2012) 36 *Melbourne University Law Review* 287.

'Revisiting Allegiance and Diplomatic Protection' [2012] *Public Law* 197.

'Just Another Fish in the Sea? The WTO Panel Decision in *US - Tuna III*' (2012) 29 *Environmental and Planning Law Journal* 45.

'"Trading or Financial Corporations" under Section 51(xx) of the *Constitution*: A Multifactorial Approach' (2011) 37 *Monash University Law Review* 12.

'The 'Fatal Conundrum' of 'No-Consideration' Clauses after *Plaintiff M61*' (2011) 39 *Federal Law Review* 303.

'*Wong v Commonwealth*: Missed Opportunities, Contemporary Meaning and the People' (2011) 13 *Constitutional Law & Policy Review* 76.

'Government Duties to Provide Diplomatic Protection in a Comparative Perspective' (2011) 85 *Australian Law Journal* 300.

'Using GATT, Art XX to Justify Climate Change Measures in Claims under the WTO Agreements' (2010) 27 *Environmental and Planning Law Journal* 346.

'The Consistency of the European Union Renewable Energy Directive with World Trade Organization Agreements: The Case of Biofuels' (2010) 1 *Renewable Energy Law and Policy Review* 33 (with Andrew Mitchell).

### Book chapters

'Undertakings: Constitutionality, Commerciality, and Other Considerations' in Michael Gvozdenovic and Stephen Puttick (eds), *Volume 2 – Current Issues in Competition Law: Practice and Perspectives* (Federation Press, forthcoming) (with Justin Gleeson SC)

### Other contributions

Updating Author for chapter on 'Freedom of Information' in CCH's *Local Government Service Victoria*.

Updating Author for subtitle on 'Possession' in *The Laws of Australia* (Update 256).

Australian Recent Developments Correspondent for *Public Law* (2008 – 2009) (with Cheryl Saunders).

### Invited presentations

'Judicial Review Procedures: Grounds, Remedy and Discovery' (Paper presented at the Legalwise Seminar – Administrative Law Review, 14 September 2021)

CLE on the *Crimes Legislation Amendment (Economic Disruption) Act 2021* (Cth) (CLE presented to the CDPP, 14 July 2021) (with Naomi Wootton)

CLE on appellate authorities (CLE presented to the CDPP, 16 June 2021) (with Julia Wang)

'Statutory interpretation' (CLE presented to Maurice Blackburn, 26 August 2019) (with Sophie Clapin)

'AAT General – How to Run an AAT Case' (Paper presented at the Law Council of Australia, Immigration Law Conference 2019, 22 March 2019)

'Jurisdictional Error after *SZVFW*, *TTY167*, *Hossain* and *Shrestha*' (Paper presented to the Australian Association of Constitutional Law, 12 December 2018)

'What Is a Decision?' (Paper presented at the Legalwise Seminar – Administrative Law: Decisions, Decisions, Decisions...', 27 November 2018) (with Sophie Clapin)

'Updates and Trends in Statutory Interpretation' (Paper presented to the Government Lawyers Conference, Law Institute of Victoria, 22 June 2018) (with Sophie Clapin).

Administrative Law training for Justice Connect (5 August 2016).

'The *Civil Procedure Act* in 2015-2016' (Paper presented to the Law Institute of Victoria, 2 March 2016) (with David O'Callaghan QC).

'*Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Queensland Rail* [2015] HCA 11' (Paper presented at the Gilbert + Tobin Centre for Public Law 2016 Constitutional Law Conference, 12 February 2016).

House of Representatives Standing Committee on Social Policy and Legal Affairs Roundtable on Citizenship and the Constitution (Canberra, 20 March 2015).

'A Pathology of Civil Litigation and the *Civil Procedure Act* in Victoria' (Paper presented to the Law Institute of Victoria, 17 March 2015) (with David O'Callaghan QC).

## Other

Reviewer for the *Melbourne University Law Review*, the *University of New South Wales Law Journal* and the *Monash University Law Review*.

Coach, Melbourne Law School team in the Sir Harry Gibbs Law Moot (2016-2020).