

## Published judgments since coming to the Bar (Oct 2015).

The party Brendan acted for appears in **bold**

- [National Tertiary Education Industry Union v Royal Melbourne Institute of Technology and RMIT Training Pty Ltd \[2023\] FWC 1729](#) – 24 July 2023 - opposing application for protected action ballot order – meaning of “notification time” (appeared with Stephanie Cheligoy)
- [Australian Education Union v State of Victoria \(Department of Education\) \(PR762936\)](#) – 9 June 2023 – determination of dispute about application of enterprise agreement – off duty time while on school camps (junior to Chris O’Grady KC)
- [Thompson v Ventia Australia Pty Ltd \[2023\] FWC 904](#) – 18 April 2023 - opposing unfair dismissal application – application dismissed
- [Pelly v Ventia Australia Pty Ltd \[2023\] FWC 907](#) – 18 April 2023 - opposing unfair dismissal application – employee reinstated (decision subject of an appeal)
- [Pilbrow v The University of Melbourne \[2022\] FedCFamC2G 1001](#) – 1 December 2022 - opposing general protections application (decision subject of an appeal) (appeared with Chris McDermott)
- [Lonie v VGW Holdings Limited \[2022\] FedCFamC2G 923](#) – 31 October 2022 - application for costs to be paid by the Applicant to the **Third Respondent**
- [Airservices Australia v Civil Air Operations Officers' Association of Australia \[2022\] FCAFC 172](#) – 19 October 2022 – appeal in relation to jurisdiction, penalties and declarations (junior to Chris O’Grady KC)
- [Australian Manufacturing Workers' Union \(AMWU\) v Viva Energy Australia Pty Ltd \[2022\] FWC 668](#) - 29 March 2022 - dispute about the application of an agreement
- [Lendlease Building Contractors Pty Limited v Australian Building and Construction Commissioner \(No 2\) \[2022\] FCA 192](#) - 11 March 2022 – proper construction of the *Code for the Tendering and Performance of Building Work 2016* (Cth) (junior to Paul O’Grady QC)
- [McLeod v Forest Coach Lines Pty Ltd \[2022\] FWC 469](#) - 2 March 2022 - dispute about the application of an agreement
- [Transport Workers' Union of Australia v Jetstar Group Pty Ltd \[2022\] FWC 253](#) – 9 February 2022 - dispute about the application of an agreement
- [Menulog Pty Ltd \[2022\] FWCFB 5](#) – 28 January 2022 – application for modern award to cover the On Demand Delivery Services Industry – preliminary issue regarding current Award coverage
- [Johnson v CUB Pty Ltd and Chelgrave Contracting Australia \[2021\] FCAFC 219](#) – 3 December 2021 – second respondent to an appeal seeking to quash Fair Work Commission appeal decision – application dismissed. Application for Special Leave to Appeal refused: [\[2022\] HCASL 83](#)
- [Australian Rail, Tram and Bus Industry Union v KDR Victoria Pty Ltd t/a Yarra Trams and Purcell \[2021\] FCA 1377](#) – 22 November 2021 – second respondent to proceedings alleging proposed contravention of enterprise agreement and alleged misrepresentation as to workplace rights – application dismissed
- [EnergyAustralia Yallourn Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union \[2021\] FWCFB 6037](#) – 28 October 2021 – appeal against decision in relation to proper interpretation of enterprise agreement – appeal successful
- [Howard v National Patient Transport Pty Ltd \[2021\] FWCFB 5334](#) - 7 September 2021– appeal regarding dispute about the application of an enterprise agreement (junior to Chris O’Grady QC)

- [Civil Air Operations Officers Association of Australia v Airservices Australia \(No 2\)\[2021\] FCA 993](#) (20 August 2021) – setting of penalties and making declarations for breach of agreement (junior to Chris O’Grady QC) (penalties reduced on appeal - [\[2022\] FCAFC 172](#))
- [EnergyAustralia Yallourn Pty Ltd v CFMMEU \[2021\] FWC 3681 - 20 July 2021](#) – application to vary enterprise agreement to remove ambiguity or uncertainty – dispute about application of an enterprise agreement ([decision overturned on appeal](#))
- [Australian Education Union v Bendigo Kangan Institute of TAFE \[2021\] FWCFB 3649 \(13 July 2021\)](#) – appeal regarding dispute about the application of an enterprise agreement (junior to Chris O’Grady QC)
- [Caliskan v Ilim College \[2021\] FWC 3061 \(30 June 2021\)](#) – opposing unfair dismissal application – finding that employment not terminated because fixed term ended
- [Howard v National Patient Transport Pty Ltd \[2021\] FWC 3488 \(29 June 2021\)](#) – dispute about the application of an enterprise agreement (junior to Chris O’Grady QC) ([upheld on appeal](#))
- [Commonwealth Bank of Australia - Re Commonwealth Bank Group Enterprise Agreement 2020 \[2021\] FWCFB 3635 \(23 June 2021\)](#) and [\[2021\] FWCFB 4074 \(14 July 2021\)](#) – Full Bench decision regarding application to approve agreement – better off overall test and “make good” clause – whether agreement “genuinely agreed” (junior to Chris O’Grady QC)
- [Coles Supermarkets Australia Pty Ltd v Tapier \[2021\] FWCFB 2559 \(6 May 2021\)](#) – appeal against decision of FWC to extend time re unfair dismissal application
- [Australian Education Union v Bendigo Kangan Institute of TAFE \[2021\] FWC 1683 \(26 March 2021\)](#) – dispute about the application of an enterprise agreement (junior to Chris O’Grady QC) ([upheld on appeal](#))
- [Transport Workers' Union of Australia v Prosegur Australia Pty Ltd \[2021\] FWCFB 1562 \(23 March 2021\)](#) – appeal regarding degree of particularity required as to nature of industrial action in ballot questions for a protected action ballot order
- [ISG Management Pty Ltd v Mutch \[2020\] FCAFC 213 \(30 November 2020\)](#) – appeal regarding application for declaration that proceeding not properly commenced as representative proceeding pursuant to s 33C Pt IVA *Federal Court of Australia Act 1976* , and related relief on behalf of the respondent (junior to Frank Parry QC and Dr Catherine Button QC, also with Daniel Snyder)
- [Civil Air Operations Officers Association of Australia v Airservices Australia \[2020\] FCA 1665](#) (17 November 2020) – application to set aside originating application (junior to Chris O’Grady QC) (see also appeal - [\[2022\] FCAFC 172](#))
- [Bianco Walling Pty Ltd T/A Bianco Precast \[2020\] FWCA 5777 \(29 October 2020\)](#) - application to vary agreement to remove ambiguity/uncertainty (junior to Chris O’Grady QC)
- [Viva Energy Refining Pty Ltd v Australian Workers' Union \[2020\] FWC 4781 \(7 September 2020\)](#) – dispute about the application of an enterprise agreement
- [Molini v S J Display Group Pty Ltd \[2020\] FCCA 2390 \(20 August 2020\)](#) – opposing application to extend time to bring *Fair Work Act 2009* general protections court application
- [Hole v Secretary of The Department Of Health And Human Services, on behalf of the State of Victoria \[2020\] FCCA 2090 \(30 July 2020\)](#) – opposing application to extend time to bring *Fair Work Act 2009* general protections court application
- [CFMMEU v Bianco Walling Pty Ltd T/A Bianco Precast \[2020\] FWC 2995 \(9 June 2020\)](#) – opposing application for production of documents
- [Ealwin Pty Ltd & Anor v Master Builders Association of NSW \[2020\] VCC 561 \(21 April 2020\)](#) – action for breach of contract and negligence relating to employer association’s drafting of enterprise agreement
- [Bianco Walling Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union \[2020\] FCAFC 50](#) (24 March 2020) – application for prerogative relief quashing Fair Work Commission Full Bench and single Member decision – application successful – matter remitted to single Member to determine application to vary agreement to remove ambiguity/uncertainty (junior to Chris O’Grady QC)

- [Mutch v ISG Management Pty Ltd \[2020\] FCA 362](#) (18 March 2020) – application for declaration that proceeding not properly commenced as representative proceeding pursuant to s 33C Pt IVA *Federal Court of Australia Act 1976*, and related relief on behalf of the respondent (junior to Frank Parry QC and Dr Catherine Button QC, co-counsel with Daniel Snyder). See also costs decision: [Mutch v ISG Management Pty Ltd \(No 2\) \[2020\] FCA 954](#) (8 July 2020)
- [Lendlease Building Contractors Pty Ltd v Australian Building and Construction Commissioner and another \[2020\] FCA 240](#) (3 March 2020) – acting for employer in challenge to compliance notice issued by ABCC regarding union logos, mottos and indicia (junior to Paul O’Grady QC)
- [Milford v Coles Supply Chain Pty Ltd \[2019\] FWCFB 7658](#) (26 November 2019) – opposing appeal against decision to refuse extension of time in general protections (decision [quashed by Full Court of Federal Court](#))
- [Fair Work Ombudsman v NSW Motel Management Services Pty Ltd & Ors \(No 2\) \[2019\] FCCA 2638](#) (20 September 2019) - penalties for contravention of *Fair Work Act 2009* - underpayments and other contraventions
- [Sodexo Remote Sites Australia Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union & Australian Workers’ Union \[2019\] FWC 6496](#) (18 September 2019) – application to approve enterprise agreement – whether agreement “genuinely agreed”
- [Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union \(Geelong Grammar School Case\) \(No 2\) \[2019\] FCA 1498](#) (13 September 2019) – penalties for contravention of *Fair Work Act 2009* right of entry provision
- [United Firefighters’ Union of Australia v Emergency Services Telecommunications Authority t/a ESTA 000 \[2019\] FWC 5048](#) (5 August 2019) – dispute about application of enterprise agreement
- [AMWU v Broadspectrum \(Australia\) Pty Ltd \[2019\] FWC 4913](#) (15 July 2019) – opposing application for a scope order – application refused (decision determined on basis of evidence and submissions previously provided before in 2018)
- [The Environmental Group Ltd v Bowd \[2019\] FCA 951](#) (21 June 2019) – appearing for ASX listed company and managing director to oppose claim by former CEO of adverse action contrary to *Fair Work Act 2009* and victimisation contrary to the *Corporations Act 2001* – claim dismissed (appeared with Dan Christie). See also costs decision [The Environmental Group Ltd v Bowd \(No 2\) \[2019\] FCA 1227](#) (9 August 2018)
- [Sodexo Remote Sites Australia Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union & Australian Workers’ Union \[2019\] FWCFB 690](#) (7 February 2019) – appeal against decision to refuse extension of time to lodge enterprise agreement – appeal upheld on natural justice grounds
- [Construction, Forestry, Maritime, Mining and Energy Union v Wagstaff Piling Pty Ltd \[2019\] FWCFB 102](#) (17 January 2019) – appeal in relation to dispute about application of enterprise agreement (junior to Richard Dalton S.C.)
- [Bianco Walling Pty Ltd T/A Bianco Precast v Construction, Forestry, Maritime, Mining and Energy Union \[2019\] FWCFB 161](#) (11 January 2019) – appeal against decision not to vary an enterprise agreement to remove ambiguity or uncertainty (decision [quashed by Full Court of Federal Court](#))
- [United Firefighters’ Union of Australia v Metropolitan Fire and Emergency Services Board \[2019\] FWC 59](#) (11 January 2019) – dispute about application of enterprise agreement
- [United Firefighters’ Union of Australia v Emergency Services Telecommunications Authority T/A ESTA \[2018\] FWC 7454](#) (11 December 2018) – application for Order to Produce Documents in context of dispute about application of enterprise agreement

- [\*Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union \(Geelong Grammar School Case\)\* \[2018\] FCA 1698](#) (9 November 2018) – contravention of s500 (right of entry) of the *Fair Work Act 2009* – see also Declarations dated [11 December 2018](#) and [24 December 2018](#)
- [\*Kurucuk v Mining One Pty Ltd\* \[2018\] FWC 6620](#) (2 November 2018) – opposing application alleging unfair dismissal – application dismissed on jurisdictional grounds (no dismissal) – see also decision on costs application [\[2019\] FWC 1236](#).
- [\*Specialist Diagnostic Services Pty Ltd t/a Dorevitch Pathology Workplace Determination\* \[2018\] FWCFB 5778](#) (13 September 2018) – making of a Workplace Determination by a Full Bench of the Fair Work Commission
- [\*Energy Australia Yallourn Pty Ltd v Automotive, Food, Metal, Engineering, Printing and Kindred Industries Union\* \[2018\] FCAFC 146](#) (31 August 2018) – appeal against decision to set aside application, and on the question of costs (junior to Chris O’Grady QC)
- [\*United Firefighters' Union of Australia v Emergency Services Telecommunications Authority t/a ESTA 000\* \[2018\] FWCFB 5624](#) (24 August 2018) – appeal – dispute about enterprise agreement
- [\*Brierley & Chuck v Victoria Police\* \[2018\] FWC 4305](#) (8 August 2018) – dispute about enterprise agreement
- [\*Tan v Ikon Communications Pty Ltd\* \[2018\] FCA 1240](#) (6 August 2018) – application for extension of time (general protections dispute)
- [\*Emergency Services Telecommunications Authority T/A ESTA 000 v United Firefighters' Union of Australia\* \[2018\] FWC 4351](#) (1 August 2018) dispute about enterprise agreement (decision upheld on [appeal](#))
- [\*Fair Work Ombudsman v NSW Motel Management Services Pty Ltd & Ors \(No 2\)\* \[2018\] FCCA 1935](#) (20 July 2018) and [\*Fair Work Ombudsman v NSW Motel Management Services Pty Ltd & Ors \(No.3\)\* \[2018\] FCCA 2330](#) (22 August 2018) – proceeding against employer and two directors for underpayments and other contraventions
- [\*Vai v ALDI Stores \(A Limited Partnership\)\* \[2018\] FWC 4118](#) (11 July 2018) – opposing application alleging unfair dismissal – application dismissed
- [\*AMWU v Broadspectrum \(Australia\) Pty Ltd\* \[2018\] FWC 3974](#) (4 July 2018) – opposing application for a scope order – application refused (decision subsequently overturned on appeal, but then remitted and determined again in favour of Broadspectrum: [\[2019\] FWC 4913](#))
- [\*Australian Nursing and Midwifery Federation v Japara Healthcare Limited\* \[2018\] FWC 3918](#) (3 July 2018) – opposing application for urgent interim orders – dispute about an enterprise agreement – interim application refused and substantive application dismissed
- [\*Fair Work Ombudsman v First Group Of Companies Pty Ltd \(Deregistered\) & Others\* \[2018\] FCCA 1228](#) (23 May 2018) – penalties for underpayment of employees, sham contracting, and penalties for involvement by principal contractor in underpayments by contractor
- [\*Choppair Helicopters Pty Ltd and Anor v Bobridge\* \[2018\] FCA 325](#) (15 March 2018) and [\*Choppair Helicopters Pty Ltd v Bobridge \(No 2\)\* \[2018\] FCA 700](#) (18 May 2018) – appeal against decision of Federal Circuit Court – alleged award underpayments including superannuation – order for payment of compensation by person “involved” under s550 – appeal partially successful
- [\*Bateman v Aldi Foods Pty Ltd\* \[2018\] FCCA 415](#) (23 February 2018) – opposing general protections application – termination was because of employee conduct, not an unlawful reason
- [\*Fair Work Ombudsman v NSW Motel Management Services Pty Ltd & Ors\* \[2018\] FCCA 508](#) (21 February 2018) – application for costs under s570 of the *Fair Work Act 2009*

- [\*Energy Australia Yallourn Pty Ltd v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union and others \(No 2\) \[2018\] FCA 47\*](#) (6 February 2018) – costs – whether s570 of the *Fair Work Act 2009* applies (overturned on appeal) (junior to Chris O’Grady QC)
- [\*Freeman v State of Victoria \[Department of Education & Training\]\*](#) [2018] FWC 212 (11 January 2018) – opposing dispute notification under two enterprise agreements – no jurisdiction to deal with the dispute
- [\*Fair Work Commission referral re right of entry permit of Stephen Long \[2017\] FWC 6867\*](#) (19 December 2017) - intervening on behalf of the **Australian Building and Construction Commissioner**, in relation to suspension of the right of entry permit of a CFMEU official
- [\*Sensis Pty Ltd v Gundi \[2017\] FCA 1519\*](#) (15 December 2017) – appeal against decision that employee redundant when focus of duties changed – “reasonable alternative position” and “suitable position” – appeal successful (junior to Michael Wheelahan QC)
- [\*Fair Work Ombudsman v NSW Motel Management Services Pty Ltd and others \[2017\] FCCA 2759\*](#) (14 November 2017) – opposing application for a suppression order and an objection under s128 of the *Evidence Act 1995* (junior to Chris O’Grady QC)
- [\*Energy Australia Yallourn Pty Ltd v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union and others \[2017\] FCA 1245\*](#) (23 October 2017) – opposing application to set aside application for declaration as to meaning of enterprise agreement (decision upheld on appeal) (junior to Chris O’Grady QC)
- [\*Fair Work Commission referral re right of entry permit of Mohammed Kalem \[2017\] FWC 5086\*](#) (18 October 2017) - intervening on behalf of the **Australian Building and Construction Commissioner**, in relation to suspension of the right of entry permit of a CFMEU official
- [\*EnergyAustralia Yallourn Pty Ltd v Construction, Forestry, Mining and Energy Union \[2017\] FWCFB 3574\*](#) (10 July 2017) – appeal against decision in relation to decision about the application of an enterprise agreement – appeal successful
- [\*Victorian WorkCover Authority T/A WorkSafe Victoria v CPSU, the Community and Public Sector Union \[2017\] FWC 3645\*](#) – application for an [Order](#) to stop industrial action
- [\*Monash University v National Tertiary Education Industry Union \[2017\] FWCFB 2420\*](#) (7 June 2017) – appeal against decision in relation to decision to vary agreement – appeal successful (junior to Justin Bourke QC)
- [\*Adams v Department of Education and Training \[2017\] FWC 2942\*](#) (5 June 2017) – opposing application alleging unfair dismissal – application dismissed
- [\*Davidson v Health Communications Network t/a Medical Director \[2017\] FWC 2951\*](#) (30 May 2017) – dispute about modern award coverage – jurisdictional objection
- [\*Mohammed v City Of Whittlesea Council \(No.2\) \[2017\] FCCA 1283\*](#) and [\*Mohammed v City Of Whittlesea Council \[2017\] FCCA 1282\*](#) (both 15 May 2017) – opposing an application alleging contravention of the general protections of the *Fair Work Act 2009*
- [\*Minister for Industrial Relations for the State of Victoria v AGL Loy Yang Pty Ltd and others \[2017\] FWC 2533\*](#) (9 May 2017) – application for an [Order](#) to terminate protected industrial action (junior to Frank Parry QC)
- [\*Halici v KDR Victoria Pty Ltd T/A Yarra Trams \(No.3\) \[2017\] FCCA 764\*](#) (28 April 2017) – opposing an application alleging contravention of an enterprise agreement and breach of contract (junior to Chris O’Grady QC)
- [\*Construction, Forestry, Mining and Energy Union v EnergyAustralia Yallourn Pty Ltd \[2017\] FWC 2298\*](#) (27 April 2017) - decision about the application of an enterprise agreement ([overturned on appeal](#))
- [\*Heading v Secretary of the Department of Education and Training on behalf of the State of Victoria \[2017\] FWCFB 1352\*](#) (7 April 2017) – opposing an appeal against a decision about the application of an enterprise agreement



- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2017\] FWCFB 1019](#) (2 March 2017) - opposing an appeal against decision to terminate enterprise agreement (junior to Frank Parry QC)
- [Winters v Fogarty and others \[2017\] FCA 51](#) (2 February 2017) – acting for **second and third respondents** seeking strike out of claim alleging contravention of discrimination laws during Court-ordered mediation (junior to Rachel Doyle S.C.)
- [AGL Loy Yang Pty Ltd v Construction, Forestry, Mining and Energy Union and another \[2017\] FWC 432](#) (20 January 2017) - application for Order that industrial action (a ban on overtime and practices in relation to sick leave) stop, not occur and not be organised (junior to Chris O’Grady QC)
- [AGL Loy Yang Pty Ltd v Construction, Forestry, Mining and Energy Union and another \[2017\] FWC 306](#) (16 January 2017) - application for order that industrial action (a ban on overtime) stop, not occur and not be organised (junior to Chris O’Grady QC)
- [Construction, Forestry, Mining and Energy Union v Kane Constructions Pty Ltd \[2016\] FWC 8002](#) (9 November 2016) - opposing an application for a protected action ballot order – time period for ballot to occur
- [National Tertiary Education Industry Union v Monash University \[2016\] FWCA 7945](#) (8 November 2016) – opposing application to vary an agreement to remove an ambiguity or uncertainty (junior to Justin Bourke QC) (decision overturned on appeal)
- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2016\] FWC 7839](#) (28 October 2016) - opposing an application for a protected action ballot order – opposing order for ballot agent other than Australian Electoral Commission - application to extend period of notice of industrial action to seven working days (junior to Frank Parry QC)
- [Volunteer Fire Brigades Victoria v Country Fire Authority \(Discovery ruling\) \[2016\] VSC 573](#) (29 September 2016) – Discovery obligations in circumstances of expedited hearing in the Supreme Court of Victoria (junior to Chris O’Grady QC)
- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2016\] FWCFB 6332](#) (21 September 2016) - opposing an appeal against refusal to grant a protected action ballot order (junior to Chris O’Grady QC)
- [Australian Commercial Catering Pty Ltd v Powell and Togia \[2016\] FWCFB 5467](#) (12 August 2016) – FWC appeal relating to ‘acceptable alternative employment’ and redundancy
- [Construction, Forestry, Mining and Energy Union-Construction and General Division, Victoria-Tasmania Divisional Branch \[2016\] FWC 4256; \[2016\] FWC 4180](#) (15 July 2016) – intervening on behalf of the **Director of the Fair Work Building Industry Inspectorate**, in relation to CFMEU applications for right of entry permits to be granted to officials
- [Construction, Forestry, Mining and Energy Union v Director of the Fair Work Building Industry Inspectorate \[2016\] FWC 4593](#) (12 July 2016) – opposing a stay application in relation to a decision not to grant a right of entry permit
- [AGL Loy Yang Pty Ltd v Construction, Forestry, Mining and Energy Union and others](#) (PR582599, 10 July 2016) – application for Order that industrial action (a ban on overtime) stop, not occur and not be organised
- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2016\] FWC 4364](#) (1 July 2016) - opposing an application for a protected action ballot order (junior to Chris O’Grady QC)
- [Construction, Forestry, Mining and Energy Union v EnergyAustralia Yallourn Pty Ltd \[2016\] FWC 3961](#) (17 June 2016) - dispute about interpretation of enterprise agreement concerning ability of non-EBA employees to perform work also performed by EBA employees
- [Halici v KDR Victoria Pty Ltd T/A Yarra Trams \(No.2\) \[2016\] FCCA 1391](#) (16 June 2016) - successful strike out of pleadings which alleged false imprisonment by employer of its employee (junior to Chris O’Grady QC)
- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2016\] FWC 3376](#) (2 June 2016) - opposing an application for good faith bargaining orders (junior to Chris O’Grady QC)

- [Construction, Forestry, Mining and Energy Union-Construction and General Division, Victoria-Tasmania Divisional Branch \[2016\] FWC 3322; \[2016\] FWC 3190; \[2016\] FWC 3110](#) (31 May 2016) – intervening on behalf of the **Director of the Fair Work Building Industry Inspectorate**, in relation to CFMEU applications for right of entry permits to be granted to officials
- [Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd \[2016\] FWCFB 2878](#) (11 May 2016) - opposing an application for a protected action ballot order (junior to Frank Parry QC)
- [EnergyAustralia Yallourn Pty Ltd v Construction, Forestry, Mining and Energy Union \[2016\] FWC 2133](#) (5 April 2016) – dispute about interpretation of enterprise agreement concerning ability to outsource work
- [Turner v Australia Post \[2016\] FWC 801](#) (2 March 2016) – jurisdictional objection to unfair dismissal application (applicant was not an employee – company was an independent contractor)
- [Australian Nursing and Midwifery Federation v Ryman HealthCare \[2015\] FWC 8790](#) (22 December 2015) – opposing a majority support determination under the *Fair Work Act 2009*
- [Australian Commercial Catering Pty Ltd v Fair Work Commission and Powell and Togia \[2015\] FCAFC 189](#) (22 December 2015) – judicial review of Fair Work Commission Full Bench decision, relating to ‘acceptable alternative employment’ and redundancy

## Proceedings where Brendan appeared as an advocate while a solicitor before coming to the Bar (pre-Aug 2015).

### The party Brendan acted for appears in **bold**

- *ANMF re State reference public sector transitional award modernisation* (Local Government Awards) (FWCFB, 27 April 2015) - Appeared for the **Victorian Minister for Industrial Relations** in relation to modernisation of awards applying to Victorian local government employers and employees.
- Proceedings to modernise enterprise awards and State reference public sector modern awards (Various FWC conferences, 2015) – Appearing for the **Victorian Minister for Industrial Relations** and **Australia Post**
- *Madden v Woolworths Supermarkets* [2014] FWC 4338 (27 August 2014) – Successfully opposed extension of time for unfair dismissal application.
- *Yarra Valley Water Corporation re Yarra Valley Water Enterprise Agreement 2012* [2013] FWCA 3816 (4 July 2013) – Successful application to approve enterprise agreement, with opposition by both relevant unions arguing that the employer had not complied with the relevant pre-approval requirements contained in subsection 180(5) of the *Fair Work Act 2009*. (Decision was subsequently upheld on appeal)
- *CPSU v State of Victoria (Department of Education and Early Childhood Development)* [2012] FWA 6355 (26 July 2012) – Successful application for order under section 443(5) of the *Fair Work Act 2009* that non-teaching staff in Victorian government schools provide five working days' notice of protected industrial action (rather than the normal three).
- *Victorian Hospitals Industrial Association v HSU* (FWC, 28 May 2012) – Successful application to FWC to set aside an interim order, made by the Full Bench, preventing an enterprise agreement from being put to an employee ballot.
- *Victorian Hospitals' Industrial Association v HSU & ANF* (FWC, 3 May 2012) – Successful application for single interest employer authorisation in relation to the *Victorian Public Sector Nurses and Midwives Agreement 2012*.
- *Customs Officers Association of Australia v Australian Customs and Border Protection Service* (FWC, 20 July 2011) - Successfully opposed application for protection action ballot order.
- *CPSU v Australian Customs and Border Protection Service* [2011] FWA 3919 (22 June 2011) – Successful application for order that Customs Officers provide seven working days' notice of protected industrial action (rather than the normal three).
- *Award Modernisation – Termination of Instruments which are Modernisable under item 3 of Schedule 5* [2011] FWAFB 3773 (16 June 2011) – Appeared for **News Corporation Group of Companies** to oppose termination of enterprise awards applying to various News companies.
- *AWU v Fonterra Australia Pty Ltd* (FWC, 20 December 2010) – Dispute about application of agreement – pay cycles over the public holiday period.
- *CPSU v Australian Customs and Border Protection Service* [2010] FWA 8293 (26 October 2010) – CPSU application for protected action ballot order – submissions regarding permissibility of a 'rolled up' question seeking a single yes/no answer to whether multiple forms of industrial action are approved.
- *Fonterra Australia Pty Ltd re Fonterra (Farm Milk Collection – Tasmania) Agreement 2010* (FWC, 21 October 2010) – Successful application to approve enterprise agreement, requiring undertakings to meet better off overall test.
- *Thomas v Little Sisters of the Poor Aged Care Limited* (FWC, 8 July 2010) - Successfully appeared for the employer in the arbitration of this unfair dismissal application.



- **Australian Postal Corporation v CEPU** (AIRC, 1 June 2009) – Application for orders under section 496 that industrial action not occur and not be organised.
- **State of Victoria (Department of Education and Early Childhood Development) v CPSU and AEU** (AIRC, 9 December 2008) – Successful application to vary and extend the *Victorian Government School Services Offices Agreement 2004*.
- **Thales Australia Limited v AMWU** (AIRC, 4 June 2008) – Application for section 496 that industrial action stop, not occur and not be organised.
- **Australian Principals Federation v Department of Education and Early Childhood Development** [2008] AIRC 396 (8 May 2008) – Application by the APF to extend time allowed for voting in a protected action ballot. Successfully opposed the extension of time on jurisdictional and discretionary grounds.
- **Free (a workplace inspector) v Colin's Carpentry Services Pty Ltd and Bonnici** (Magistrates' Court of Victoria, 19 December 2007) - Appeared for a workplace inspector, successfully seeking the imposition of a penalty for underpayments, including penalties paid by the director of the company for involvement in the company's breach.
- **Bradford (a workplace inspector) v Taylor Lakes Family Hotel Pty Ltd** (Magistrates' Court of Victoria, 7 November 2007) - Appeared for a workplace inspector, successfully seeking the imposition of a penalty for underpayments.
- **Hawker de Havilland Aerospace Pty Ltd v AMWU** (FWC, 7 September 2007) - Successful application for order under section 496 that industrial action stop and not occur.
- **CEPU v Australia Post** [2007] AIRC 130 (21 February 2007) – Application for the Commission to withdraw an earlier finding that there was a dispute about the application of the enterprise agreement, on the basis that the Commission had erred as to jurisdiction and was therefore not *functus officio*. Commission accepted it was not *functus officio*.
- **CPSU v State of Victoria (Department of Education and Training)** (AIRC, 4 October 2006) – Appeared for the Department in relation to the CPSU's claim that non-teaching staff should be reimbursed for their costs in relation to applying for a Working with Children check under the *Working With Children Act 2005*
- **SDAEA and others re Application to vary Victorian Minimum Wage Orders** (AIRC, 24 April 2006) - Appeared for the **Commonwealth Minister for Employment and Workplace Relations**, to put submissions explaining the legislative status of Victorian Minimum Wage Orders.
- **FSU v Ace Insurance Agencies Pty Limited and others** (AIRC, 16 March 2006 and 21 March 2006) – Application to adjourn roping-in award application, to test whether a union log of claims was properly approved.