

## **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***

- *The President of the Legislative Council of Western Australia v Corruption and Crime Commission* – [2021] WASC 223 – led by S Vandongen SC – concerning the scope and nature of parliamentary privilege and the powers of the Corruption and Crime Commission to compel the production by the Department of Premier and Cabinet of email accounts of former members of Parliament and their staff and to search and seize items from the residence of such members under warrant.
- *Crawford v Quail* (2021) WASC – led by D Grace QC with T Pontré – construction of statutory powers of the Chief Magistrate and the President of the Children’s Court of Western Australia to direct magistrates of the Children’s Court. Resolved during trial.
- *Tsvetnenko v United States of America* [2019] FCA 206 and on appeal (2019) 269 FCR 225; [2019] FCAFC 74; [2019] HCASL 260 – 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 from Australia for the extradition of the applicant and mutual assistance from Singapore.

- *Lobban v Minister for Justice* [2015] FCA 1361; and on appeal (2016) 244 FCR 76; [2016] FCAFC 109; [2016] HCASL 266 – representing the Minister in defending an application for judicial review of a decision to surrender the applicant for extradition to the United States of America.
- *Francuziak v Minister for Justice* [2015] FCA 464; and on appeal (2015) 238 FCR 332; [2015] FCAFC 162 – representing the Minister in defending an application for a writ of certiorari to quash the 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, validity of eviction of a Homeswest tenant.
- *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***

- *Perth Airport Pty Ltd v Qantas Airways Limited (No 3)* [2022] WASC 51 – led by J Sheahan QC with B Kremer – quantum meruit claiming the reasonable value of aeronautical services provided at Perth Airport.
- *Trimat Holdings Pty Ltd v Investment Club Pty Ltd (No 2)* [2021] WADC 26 and on appeal (2022) WASCA (reserved) – defence of claim for restitution of mistaken payments of operating expenses under a commercial tenancy, defence of good consideration.
- *City of Wanneroo v Tah Land Pty Ltd* [2020] WASC 249 and on appeal (2021) WASCA (reserved) – construction of contract, town planning and development, waiver, approbation and reprobation.
- *EIT Kwinana Partner Pty Ltd v Electricity Generation and Retail Corporation* [2020] WASC 238 and on appeal [2022] WASCA 3 – with S K Dharmananda SC – construction of a power purchase agreement in the context of the Wholesale Electricity Market Rules.
- *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 a 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.
- *Soia v Bennett* (2014) 46 WAR 301; [2014] WASCA 27 – appeal concerning failed business relationship between appellant and his solicitor; whether solicitor’s costs of the trial incurred by the incorporated legal practice of which he was the only principal and shareholder were recoverable.
- *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.

### **Regulation**

- *Emanuel Exports Pty Ltd & EMS Rural Exports Pty Ltd and Secretary, Department of Agriculture, Water and the Environment* [2021] AATA 4393 – led by M Feutrill SC – application for review of the Secretary’s decision to cancel live export licences under the *Australian Meat and Live-stock Industry Act 1997* (Cth).
- *Panegyres v Medical Board of Australia* [2020] WASCA 58 – led by M Cuerden SC – appeal of finding of professional misconduct and imposition of penalty by the State Administrative Tribunal in a medical professional disciplinary proceeding.
- *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 an application for judicial review of access arrangement decision for the Goldfields Gas Pipeline.
- *Co-operative Bulk Handling Limited and Brookfield Rail* (2017) – led by S K Dharmananda SC for Brookfield Rail – access agreement arbitration under the *Railways (Access) Code 2000* (WA) concerning the price and terms of access to the State’s rail network for grain transportation.
- *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 recognition**

### ***Doyles Guide***

- 2019-2021**      Leading commercial litigation & dispute resolution junior counsel – Australia.
- 2021**            Leading administrative & public law junior counsel – Australia.
- 2017-2021**      Preeminent commercial litigation & dispute litigation junior counsel – WA.
- 2021**            Preeminent insolvency & restructuring junior counsel – WA.

## **Professional history**

### **Francis Burt Chambers (2012-present)**

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

**2011**            Assistant State Solicitor.

#### **The Law School, The University of Western Australia (2008-2015, 2020-2021)**

- 2020-2022**      Visiting lecturer in Unjust Enrichment & Restitution.
- 2009-2015**      Unit co-ordinator and lecturer in Unjust Enrichment & Restitution, and Personal Property. Visiting lecturer in Remedies.
- 2008**            Sometime visiting lecturer in Evidence, and tutor in Contract and Equity.

## **Professional associations**

### **Francis Burt Chambers**

- 2021**            Director of the Board of WA Bar Chambers Ltd.
- 2012-present**   Member.

### **The Western Australian Bar Association**

- 2020**            Member of Bar Council.
- 2012-present**   Member.

### **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.