

ERIC HEENAN

Francis Burt Chambers
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Dates of admission 2 March 2007 (WA), 5 June 2007 (HCA)

Senior Counsel 26 October 2022

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***

- *Panesar v Attorney-General of the Commonwealth of Australia* [2025] FCA 477 – defence of an application that the use by prosecuting authorities in the United Kingdom in a criminal trial in the Crown Court of evidence supplied by Australia in the prosecution of the applicant was unlawful pursuant to Australian law as contrary to the *Mutual Assistance in Criminal Matters Act 1987* (Cth) or an agreement (treaty) between the governments of the United Kingdom and Australia.
- *Shire of Mount Magnet v Atlantic Vanadium Pty Ltd* [2025] WASC 274 – appeal concerning whether occupied Crown land the subject of a miscellaneous licence granted under the *Mining Act 1978* (WA) is “rateable land” and thus susceptible to local government rates under the *Local Government Act 1995* (WA).
- *Medical Board of Australia v Will* (2024) WASC – questions of law referred to the Supreme Court of Western Australia concerning the interaction of confidentiality and admissibility of provisions of the *Health Insurance Act 1973* (Cth) with the powers and duties of a health practitioner Board performing functions under the *Health Practitioner Regulation National Law (Western Australia)*.
- *Richmond v Warden McPhee* (2024) – application for judicial review of a decision of the mining warden concerning the conditions required to be satisfied for jurisdiction to arise to consider an application to grant an exploration licence under s 58 of the

Mining Act 1978 (WA) and the jurisdiction to award costs pursuant to r 165(4) of the *Mining Regulations 1981* (WA) (reserved).

- *Regis Resources Limited v Warden Cleary* [2024] WASC 427 – defence of an application for judicial review of a decision of the mining warden concerning the functions of a warden under s 102 of the *Mining Act 1978* (WA).
- *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 give administrative directions to 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).
- *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.

Commercial litigation

- *Crossley v English* (2025) WASCA – appeal against decision dismissing claim by downstream owner of riparian land against owner of upstream riparian land for taking water in excess of entitlements under the *Rights in Water and Irrigation Act 1914* (WA).
- *Wise v Wise* [2025] WASCA 98 – defence of appeal against decision dismissing a proprietary estoppel claim premised on an alleged promise that certain farming land would be left by will to the appellants.
- *Fremantle Port Authority v Martin* [2025] WASC 301 – application to set aside arbitrator’s award on grounds of denial of procedural fairness and for purporting to deal with a dispute not contemplated by and not falling within the terms of the parties’ submission to arbitration, and challenge to arbitrator’s implicit finding on jurisdiction.
- *Milne Agigroup Pty Ltd v Toovey* (2025) – defence of breach of confidence claim involving alleged misuse of trade secrets. Resolved prior to trial.
- *Capper v Burrows* (2025) WASC – defence of claim for a proprietary estoppel and argument concerns whether various farming assets were partnership or personal assets.
- *Le v Plummer (No 2)* [2023] WASC 377 and on appeal [2023] WASCA 178 – strike out of statement of claim alleging malicious prosecution by defendant barrister who conducted a criminal trial against the plaintiff.
- *Woodhouse v NKH Pty Ltd* (2023) WASC – defence of claim by former client of breach of fiduciary duty against defendant firm of accountants (judgment reserved).

- *Morrison v Woodthorpe (No 3)* [2022] WASC 454 – rectification of company registers maintained by ASIC where parent company director purported to act as de facto managing director.
- *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 29 – defence of claim for restitution of mistaken payments of operating expenses under a commercial tenancy, defence of good consideration.
- *EIT Kwinana Partner Pty Ltd v Electricity Generation and Retail Corporation* [2020] WASC 238 and on appeal [2022] WASCA 3 – led by S K Dharmananda SC – construction of a power purchase agreement in the context of the Wholesale Electricity Market Rules.

Regulation and crime

- *Alinta Sales Pty Ltd v Economic Regulation Authority and ATCO Gas Australia Pty Ltd* (2025) WASC – application for judicial review of access arrangement decision for the mid-west and south-west gas distribution system.
- *The State of Western Australia v Mauk & ors* (2024) – criminal prosecution of husband and wife for disposition and receipt (respectively) of property of the subsequently bankrupt husband with intent to defraud his creditors, contrary to ss 263 & 266 of the *Bankruptcy Act 1966* (Cth).
- Extensive experience representing foreign countries including the United States of America, the United Kingdom, the Republic of Ireland, the Czech Republic, and the Republic of Indonesia in proceedings under s 19 of the *Extradition Act 1988* (Cth) to determine the eligibility for surrender for extradition of a requested person to the foreign state.
- *Ayton v Mode 2 Group* (2022) – represented the prosecutor in a prosecution of a labour hire company for alleged contravention of ss 19 and 19A of the *Occupational Safety and Health Act 1984* (WA).
- *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).
- Briefed for a Market Generator in a proceeding before the Electricity Review Board brought by the Economic Regulation Authority concerning alleged breach of the Wholesale Electricity Market Rules (2019) – led by N J O’Bryan SC.
- *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.

- Briefed for a Market Generator in a proceeding before the Electricity Review Board brought by the Independent Market Operator concerning alleged breach of the Wholesale Electricity Market Rules (2017) – led by S K Dharmananda SC.
- *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.

Professional history

Francis Burt Chambers (2012-present)

The State Solicitor's Office for Western Australia (2006-2012)

2011 Assistant State Solicitor.

Professional associations

Francis Burt Chambers

2021, 2024-25 Director of the Board of WA Bar Chambers Ltd.

2025 Treasurer of the Board of WA Bar Chambers Ltd.

2012-present Member.

The Western Australian Bar Association

2020, 2023-25 Member of Bar Council.

2025 Treasurer, Bar Council

2012-present Member.

The Law Society of Western Australia

2012-2013, Ordinary member of the Council of the Law Society.

2018, 2025

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).

The University of Western Australia (2003-2005)

Bachelor of Laws with Honours (H1).

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.