

# Jesse Winton

~ Barrister ~

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## ADMITTED TO PRACTICE

Supreme Court of Western Australia (2013) and High Court of Australia (2013).

## EDUCATION

Juris Doctor (Hons), University of Melbourne (2011).

Master of Arts (Strategic Studies) (Hons), Australian National University (2008).

Bachelor of Arts (History/Politics) (Hons), University of Notre Dame (2006).

## EXPERIENCE

I practise predominantly in commercial and public law matters, although I have a wide-ranging litigation practice that encompasses both civil and criminal law. I have extensive experience as sole counsel, both at trial and on appeal.

Prior to being called to the bar in 2019, I was employed by the State Solicitor for Western Australia, ultimately as an Assistant State Solicitor, from 2012.

I have appeared as counsel in the High Court, Court of Appeal, the Supreme Court, the Federal Court, District Court, Magistrates Court, the Children's Court, the Family Court, the National Native Title Tribunal, the State Administrative Tribunal, the Coroner's Court, the Liquor Commission, the Warden's Court, and before Royal Commissions and other commissions of inquiry.

Between 2014 and 2017, I was the legal member of the Human Research Ethics Committee for Sir Charles Gairdner Hospital.

## SELECTED CASES

### Administrative Law & Judicial Review – Supreme Court

*Wilson v Dans, CEO of Department of Biodiversity, Conservation and Attractions* [2025] WASC (unled) – decision reserved; proper construction of s 76(3) of the *Swan and Canning Rivers Management Act 2006* (WA); proper test for approval of development in development control area and Riverpark.

*Richmond v Warden McPhee* [2025] WASC (led by E Heenan SC) – decision reserved; proper construction of s 58 of the *Mining Act 1978* (WA); whether valid statement accompanying application for licence is a jurisdictional fact.

*Liability limited by a Scheme approved under the Professional Standards Legislation.*

*Regis Resources Ltd v Warden Cleary* [2024] WASC 427 (led by E Heenan SC) – judicial review of decision involving the proper construction of s 102 of the *Mining Act 1978* (WA); relevance of pre-grant conduct to application for exemption from expenditure conditions.

*Accident Claims Lawyers v Legal Practice Board* [2024] WASC 249 (unled) – judicial review of decision involving the proper construction of s 256 of the *Legal Profession Uniform Law (WA)*; scope of power of the Legal Practice Board to appoint an auditor to a law practice.

*General Nominees Pty Ltd v The Metro Inner-North Joint Development Assessment Panel* [2022] WASC 114 (led by M Cuerden SC) – judicial review of the grant of conditional development approval for a housing complex involving the proper construction of a Local Planning Scheme and the R-Codes.

*Justice Legal Pty Ltd v Prosser* [2018] WASC 267 (unled) – judicial review concerning validity of provisions of *Magistrates Court (Civil Proceedings) Rules 2005* (WA).

### **Common Law Actions & Equitable Claims – Supreme & District Courts**

*Shen v Y Shen Pty Ltd* (WASC CIV 1877 of 2024) (unled) – defending an action seeking declarations of interests in property arising by reason of alleged constructive trusts and proprietary estoppel or, alternatively, advancing a claim of breach of contract and a restitution claim. Settled before trial.

*Prichard v M 6:8 Legal Pty Ltd* [2024] WADC 63; and *Prichard v M 6:8 Legal Pty Ltd* [2024] WADC 63 (S) (unled) – defending an action involving claim of negligence and breach of contract against legal practitioners by a former client.

*Portland Properties Pty Ltd v Dragon Alliance Pty Ltd* (WASC CIV 1553 of 2023 and 1807 of 2023) (unled) – two related actions alleging breach of contract and seeking declarations of proper construction of management and sales agreements in respect of commercial tower in Adelaide. Settled before trial.

*Austral Pacific Pty Ltd v Torque Metals Ltd* (WASC CIV 2116/2023) (unled) – action seeking damages after termination for repudiation of mine services agreements. Settled before trial.

*Emmett v Network Aviation Pty Ltd* (WADC CIV 3656 of 2023) (unled) – defending an action for personal injuries sustained during a commercial flight, pursuant to the *Civil Aviation (Carriers' Liability) Act 1961* (WA). Settled before trial.

*Phoenix Eagle Company Pty Ltd v Tom McArthur Pty Ltd* [2022] WASC 345 (leading C Terren) – defending an action involving claims of breach of fiduciary duty, *Barnes v Addy* accessory liability, breach of confidence, breach of contract, and breach of s 183 of the *Corporations Act 2001* (Cth).

*Meyer v Solomon* [2021] WASCA 168 (led by R Young SC) – appeal involving proper construction of s 40 of the *Limitation Act 2005* (WA) in the context of an action for defamation.

*Collett v Forrest* [2021] WASC 112 (unled) – defending an action involving claims of breach of contract, negligence, debt, and quantum meruit.

*Raphael v Core International Pty Ltd* (WASC CIV 2216 of 2020) (unled) – defending an action alleging breach of contract, misleading or deceptive conduct, breach of fiduciary duty, and *Barnes v Addy* accessory liability. Settled before trial.

*Disability Services Commission v Lin & Ors* (WASC CIV 2378/2019) (led by W Keane SC) – resisting injunction for restraint of, and defending underlying action alleging, disclosure of confidential information alleged to be contrary to the *Declared Places (Mentally Impaired Accused) Act 2015* (WA), but which was alleged to be a public interest disclosure by the defendant. Settled before trial.

*Meyer v Solomon* [2019] WASC 458 (led by J Gilmour QC) – defending an action involving claim of defamation and concerning proper construction of ss 15 and 40 of the *Limitation Act 2005* (WA).

*Rayney v State of Western Australia* [2019] WASCA 23 (led by G Watson SC and R Young SC) – application for stay of appeal pending determination of a related appeal.

*Focused Recruitment Pty Ltd v Maloney* (WASC CIV 2653 of 2017) (unled) – action alleging breach of contract and seeking recovery of debts. Settled before trial.

*Albrecht v Commissioner of Police* [2015] WASC 248 (unled) – defending an action alleging unlawful imprisonment, trespass on land, and malicious prosecution.

### **Constitutional Law – High Court**

*Minogue v State of Victoria* (2018) 264 CLR 252 (led by P Quinlan SC) – special case stated determining whether sections of the *Corrections Act 1986* (Vic) exceeded the legislative power of the Parliament on the basis of an implied limitation in Ch III of the Constitution of the principle of the rule of law.

### **Contempt Proceedings – Supreme Court & State Administrative Tribunal**

*Perpetual Trustee Company Ltd v Pascoe Partners Custodian Services Pty Ltd* [2025] WASC 82 (unled) – prosecuting and convicting the defendant and its sole director of contempt of court.

*Re: Helen Barratt* [2024] WASAT 138 (unled) – defending referral of possible contempt of court to the Supreme Court.

*Re: Ruah Legal Services Ltd t/a Mental Health Law Centre* [2023] WASAT 132 (unled) – defending possible referral of contempt of court to the Supreme Court.

### **Corporations & Insolvency – Federal & Supreme Courts**

*Psomas (Trustee), in the matter of Moran (Bankrupt)* [2024] FCA 1259 (unled) – setting aside a summons to examine a bankrupt on grounds of invalidity.

*H2 Migration & Education Pty Ltd v Gu* [2023] WASC 199 (unled) – action alleging insolvent trading against director of company recoverable by way of an assignment of the chose in action to the plaintiff by the liquidator of the company. Settled before trial.

*Siu v Smartlink Corporation* [2021] WASC 405 (led by M Cuerden SC) – defending an appeal against a liquidator's rejection of a proof of debt.

*Bellaire Pty Ltd v Roselink Enterprises Pty Ltd atf The Ice Nemesis Unit Trust* [2020] WASC 115 (unled) – defending an application to wind up a corporation on grounds of insolvency.

## **District Court Appeals**

*Blampain v Telstra Corporation* [2020] WADC 166 (unled) – defending an appeal against judgment in an action for misleading or deceptive conduct, unconscionable conduct, and breach of contract.

*Department of Transport v RSR* [2018] WADC 140 (unled) – appeal concerning the proper construction of s 30 of the *Road Traffic (Authorisation to Drive) Act 2008* (WA).

*Kent v Ellement* [2014] WADC 149; *Re: PK (by her next friend The Public Trustee)* [2014] WADC 139; *Miniter v Bolton* [2014] WADC 135; *Re: Esmayili* [2014] WADC 38; *Re: Jackamarra* [2014] WADC 9 (all unled) – appeals under the *Criminal Injuries Compensation Act 2003* (WA).

## **Liquor Law – Liquor Commission & Other Tribunals (acting for Woolworths Group)**

*Endeavour Group Ltd v Director of Liquor Licensing* (LC 07/2023) (unled) – review of refusal to grant application for a liquor store licence for BWS Falcon.

*Endeavour Group Ltd v Commissioner of Police* (LC32/2022) (unled) – review of refusal to grant application for a liquor store licence for BWS Kelmscott.

*Australian Leisure and Hospitality Group Pty Ltd v Commissioner of Police* (LC3/2022) (unled) – review of refusal of application to grant liquor store licence for Dan Murphy’s Rockingham.

*Woolworths Group Ltd v Northern Territory Liquor Commission* (2020) NTCAT (led by A Wyvill SC) – review of refusal to grant application for a liquor store licence for Dan Murphy’s Darwin.

*Woolworths Ltd v Director of Liquor Licensing* (LC23/2016) (unled) – review of refusal to grant liquor store licence for BWS Falcon.

## **Planning & Mining Law – State Administrative Tribunal & Warden’s Court**

*Geopolymer Industries Pty Ltd v Farm Lease Australia Pty Ltd* [2025] WAMW (unled) – decision reserved; trial regarding validity and proper construction of land access and compensation deeds; whether compensation agreement enforceable against successor in title to property.

*Richmond v Regis Resources Ltd [No 2]* [2023] WAMW 23 (led by G Cobby SC) – objection to an application for exemption involving the determination of the proper construction of s 58 of the *Mining Act 1978* (WA).

*Future Design Holdings v City of Kalamunda* [2022] WASAT 114 (unled) – review of decision to impose conditions limiting patron numbers on development approval of large restaurant.

*JJ Corporate v City of Sterling* [2021] WASAT 100 (unled) – review of decision to impose a heritage conservation notice, pursuant to a Local Planning Scheme, over a residential property that was the subject of a freezing order made under the *Criminal Property Confiscation Act 2000* (WA).

*Steele v Owners of Cocos Beach Strata* [2021] WASAT 101 (unled) – application for a declaration that by-laws governing strata property were invalid, pursuant to s 46 of the *Strata Titles Act 1985* (WA).

### **Restraint of Vexatious Litigants – Supreme Court**

*Attorney General v Glew* [2014] WASC 100 (led by A Sefton SC) – application to have defendant declared a vexatious litigant.

### **Royal Commissions & Coronial Inquests**

Counsel for Crown Resorts Ltd and its subsidiaries in the Perth Casino Royal Commission (2021-2022) (led by S K Dharmananda SC, M N Solomon SC, and J Garas SC).

*Re: Cleveland Dodd* [2025] WACOR (for Department of Justice) (led by T Russell SC & K Pedersen) – decision reserved.

*Re: Robert Lavars* [2025] WACOR (for Wilson Security Pty Ltd); *Re: Frank Mikbail* [2024] WACOR 53 (for St John of God Health Care Inc); *Re: Peter Bolton* [2024] WACOR 37 (for St John of God Health Care Inc); *Re: Baby A* [2018] WACOR (for West Australian Country Health Service); and *Re: Alexander Mackenzie* [2013] WACOR (for Department of Corrective Services) (all unled).

### **Supreme Court Appeals**

*Leighton v Nelson* [2016] WASC 354 (unled) – defending an appeal against sentence of imprisonment for aggravated common assaults.

*Fox v Vinicombe* (2016) 78 MVR 320; [2016] WASC 349 (unled) – defending an appeal against sentence of imprisonment for traffic offences; relevance of diagnosis of ADHD to sentence.

*O'Reilly v Harris* (2016) 78 MVR 273; [2016] WASC 328 (unled) – defending an appeal against sentence of imprisonment for aggravated dangerous driving and related offences arising from lengthy police pursuit.

*Inglis v Pinch* (2016) 256 A Crim R 502; [2016] WASC 30 (unled) – appeal against sentence by police officer convicted of unlawfully using a restricted-access computer system for personal purposes.

*Evans v Richards* (2015) 248 A Crim R 489; [2015] WASC 53 (unled) – defending an appeal against sentence by a police officer convicted of assault committed while on duty.

*Rendell v Douglas* [2015] WASC 36 (unled) – defending an appeal against conviction for traffic offences.

*Frewen v Dalgreen* [2014] WASC 407 (unled) – defending an appeal against sentence for possession of cannabis and drug paraphernalia.

*Mead v Mulligan* [2013] WASC 460 (led by G Tannin SC) – defending an appeal seeking declarations that the adverse findings made by a Coroner against a medical practitioner after inquest were void.

### **Trustee Matters/Judicial Advice – Supreme Court**

*Harris v Public Trustee* [2025] WASC 128 (unled) – application for approval of an arrangement vesting trust in beneficiaries, pursuant to s 90 of the *Trustees Act 1962* (WA).

*Public Trustee as trustee for the Estate of Byatt v St Mary's Anglican Girls' School Foundation Inc* (WASC TRU 6 of 2024) (unled) – application for substitution of trustee of a charitable trust pursuant to s 77 of the *Trustees Act 1962* (WA); application for approval of scheme to amend trust deed to remove a direction to trustee to accumulate income beyond the perpetuity period.

*Rundell v Palermo* [2023] WASC 318 (unled) – application for judicial advice to a trustee, pursuant to s 92 of the *Trustees Act 1972* (WA). Subsequent appeal by beneficiary discontinued.

*Rojoda Pty Ltd v Scolaro* [2023] WASC 210 (unled) – application for judicial advice to a trustee, pursuant to s 92 of the *Trustees Act 1972* (WA).

*Westerman v Attorney General* [2017] WASC 369 (led by C Bydder SC) – defending an application for the appointment of forensic auditors to a charitable trust, pursuant to s 21 of the *Charitable Trusts Act 1962* (WA).

### **Vocational Regulation & Professional Discipline – Supreme Court & State Administrative Tribunal**

*Legal Services and Complaints Committee v Dangubic* [2024] WASAT 7 (unled) – determination of the proper construction of the provisions of the *Legal Profession Act 2008* (WA) governing applications for compensation for loss caused by legal practitioner's misconduct.

*Legal Services and Complaints Committee v Lourey (No 2)* [2023] WASAT 77 (S) (unled) – application for determination that a legal practitioner engaged in professional misconduct and for an order referring the practitioner to the Supreme Court for the removal of his name from the roll.

*Gandini v Legal Practice Board* [2023] WASAT 103 (unled) – defending a review of decision to appoint a manager to a law practice; proper construction of s 334 of the *Legal Profession Uniform Law* (WA).

*Legal Services and Complaints Committee v Lo* [2023] VR 59 (unled) – defending an application for determination that a legal practitioner engaged in professional misconduct.

*Legal Profession Complaints Committee v Winkler* [2018] VR 231 (led by M Cuerden SC) – defending an application for determination that a legal practitioner engaged in professional misconduct.

*Bekhit v Department of Transport* (2017) 79 MVR 387; [2017] WASC 50 (unled) – defending an appeal against decision of the State Administrative Tribunal to cancel a taxi licence for offences committed in course of employment.

*Legal Practice Board v Mezger* [2024] VR 43; *Legal Services and Complaints Committee v Camm* [2023] VR 41; *Legal Services and Complaints Committee v Dangubic* [2022] VR 113; *Legal Services and Complaints Committee v Galic* [2022] VR 74; *Legal Services and Complaints Committee v Mezger* [2021] VR 47 (all unled) – application for determination that a legal practitioner engaged in professional misconduct.