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BARRISTERS

Brendan J Avallone



Brendan Avallone practises in all areas of employment and industrial relations law.

QUALIFICATIONS

Master of Laws
Bachelor of Laws (Hons)
Bachelor of Commerce (Hons)

CORRESPONDENCE

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CHAMBERS

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Melbourne VIC 3000

EMPLOYMENT & INDUSTRIAL

Appellate | Employment Contracts | Industrial Disputes | Public Sector Appeals | Restraint of Trade | Statutory Employment Rights | Discrimination

COMMERCIAL LAW

Contractual Disputes

PUBLIC LAW

Discrimination

Brendan acts and advises in matters including industrial action, enterprise bargaining, industrial disputes, contractual disputes, executive employment, disciplinary and performance matters, general protections claims, unfair dismissal applications, underpayment claims and employment discrimination claims. He has appeared in a number of significant cases in the Federal Court of Australia, State Courts, and the Fair Work Commission.

Brendan's expertise has been recognised in leading peer review journals including:

> Doyle's Guide 2025 Leading Employment Law Junior Counsel – Australia (Preeminent) (listed since 2018) and Victoria (Preeminent) (listed since 2017)
> The Best Lawyers in Australia 2026 (Labour and Employment Law) (since 2018)
> Lawyer of the Year: Labour and Employment Law, Melbourne, 2023 and 2026 - The Best Lawyers in Australia
> Chambers and Partners 2025 (Employment: The Bar – Australia, Band 2) (since 2021)
> Legal 500 Asia Pacific – Commercial Disputes (Leading Junior Counsel)
> Doyle's Guide 2025 Workplace Health & Safety -Victoria (Recommended) (since 2017)

Prior to joining the Bar, Brendan was a Special Counsel in a national law firm where he advised private sector employers and government clients in high profile industrial relations and sensitive employment matters. He was also an Associate to a Member at the Australian Industrial Relations Commission.

Brendan regularly presents CPD presentations in areas relating to industrial and employment law.

Liability limited by a scheme approved under the Professional Standards Legislation

Recent Cases

SELECTED CASES SINCE JOINING THE VICTORIAN BAR

> Acting for Coles Supermarkets Australia Pty Ltd in a significant proceeding involving alleged underpayment of salaried employees – judgement reserved by Perram J (junior to Rachel Doyle S.C., Marc Felman KC and Jonathan Kirkwood S.C., also appearing with Anna Batrouney and James Page)
>
> *United Firefighters' Union of Australia v Fire Rescue Victoria* [2025] FWC 1030 – jurisdictional objection – dispute about Fire Services Implementation Monitor's Report is not a dispute about enterprise agreement: income protection insurance (leading Catherine Pase)
> *United Firefighters' Union of Australia v Fire Rescue Victoria* [2025] FWC 892 – dispute about discipline of two employees the subject of IBAC findings
> *United Firefighters' Union of Australia v Fire Rescue Victoria* [2025] FWCFB 54 - dispute about enterprise agreement: income protection insurance (junior to Robyn Sweet KC)
> *United Firefighters' Union of Australia v Fire Rescue Victoria* [2025] FCAFC 7 – opposing application to review Fair Work Commission decision about enterprise agreement – indemnity costs ordered against other party when they discontinued (junior to Robyn Sweet KC)
> *Fire Rescue Victoria v United Firefighters' Union of Australia and Peter Marshall* [2025] FCA 74 – interlocutory order to enforce Fair Work Commission order to produce (junior to Robyn Sweet KC)
> *United Firefighters' Union of Australia v Fire Rescue Victoria* [2024] FWC 2839 – successfully opposing stay

application on appeal of decision about application of agreement (junior to Robyn Sweet KC)

Kirkham v Monash University and others [2024] FWCFB 429 – appeal regarding certificate in general protections application relating to dismissal

Pilbrow v University of Melbourne [2024] FCA 1140 – appeal regarding general protections application relating to adverse action in employment (leading Chris McDermott)

United Firefighters' Union of Australia v Fire Rescue Victoria [2024] FWC 2619 – dispute about application of enterprise agreement – application for order to produce document

General Manager, Fair Work Commission v Construction, Forestry and Maritime Employees Union [2024] FCA 875 – Substituted service in relation to application to appoint Administrator to the CFMEU Construction & General Division (leading Daniel Fawcett)

Transport Workers' Union of Australia v Cleanaway Operations Pty Ltd [2024] FWCFB 305 – making of workplace determination (junior to Justin Bourke KC)

Transport Workers' Union of Australia v Cleanaway Operations Pty Ltd [2024] FWCFB 287 – making of workplace determination (junior to Justin Bourke KC)

Surveillance Australia Pty Ltd v Australian Federation of Air Pilots [2024] FWCFB 234 – appeal – dispute about enterprise agreement and FIFO annual leave arrangements

Transport Workers' Union of Australia v Cleanaway Operations Pty Ltd [2024] FWCFB 127 – application for intractable bargaining declaration

Transport Workers' Union of Australia v Cleanaway Operations Pty Ltd [2024] FWC 479 – application for order to produce documents

Royal Melbourne Institute of Technology v National Tertiary Education Industry Union and another [2024] FWCFB 20 – appeal – application that industrial action does not occur (leading Stephanie Cheligoy)

Transport Workers' Union of Australia v Cleanaway Operations Pty Ltd [2024] FWC 91 – application for intractable bargaining declaration

Royal Melbourne Institute of Technology v National Tertiary Education Industry Union and another [2023] FWC 3406 – application that industrial action not occur (leading Stephanie Cheligoy)

Surveillance Australia T/A Leidos - Airborne Solutions v Australian Federation of Air Pilots [2023] FWC 3078 – stay application pending appeal about enterprise agreement

Ventia Australia Pty Ltd v Martin Pelly [2023] FWCFB 201 – appeal re unfair dismissal decision (junior to Chris O'Grady)

National Tertiary Education Industry Union v Royal Melbourne Institute of Technology and RMIT Training Pty Ltd [2023] FWC 1729 - opposing application for protected action ballot order – meaning of "notification time" (with Stephanie Cheligoy)

Australian Education Union v State of Victoria (Department of Education) (PR762936) – 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 and Pelly v Ventia Australia Pty Ltd [2023] FWC 907 (Pelly decision is subject of an appeal)

Pilbrow v The University of Melbourne [2022] FedCFamC2G 1001 – opposing general protections application (decision subject of an appeal) (with Chris McDermott)

Airservices Australia v Civil Air Operations Officers' Association of Australia [2022] FCAFC 172 – appeal regarding jurisdiction, penalties and declarations – penalties reduced on appeal (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 - (junior to Paul O'Grady QC)

EnergyAustralia Yallourn Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union [2021] FWCFB 6037 – appeal regarding proper interpretation of enterprise agreement

Transport Workers' Union of Australia v Prosegur Australia Pty Ltd [2021] FWCFB 1562 – 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 – appeal regarding application to de-class employment class action (junior to Frank Parry QC and Dr Catherine Button QC, also with Daniel Snyder)

Ealwin Pty Ltd & Anor v Master Builders Association of NSW [2020] VCC 561 – 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 – application for prerogative relief quashing Fair Work Commission decision not to vary agreement to remove ambiguity/uncertainty (junior to Chris O'Grady QC)

Fair Work Ombudsman v NSW Motel Management Services Pty Ltd & Ors (No 2) [2018] FCCA 1935 – proceeding against employer and two directors for underpayments and other contraventions. See also [2019] FCCA 2638 and [2018] FCCA 2330

Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union (Geelong Grammar School Case) (No 2) [2019] FCA 1498 – penalties for contravention of Fair Work Act 2009 right of entry provision - see also [2018] FCA 1698 and Declarations dated 11 December 2018 and 24 December 2018

The Environmental Group Ltd v Bowd [2019] FCA 951 – appearing for employer (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 (with Dan Christie).

Sodexo Remote Sites Australia Pty Ltd v Construction, Forestry, Maritime, Mining and Energy Union & Australian Workers' Union [2019] FWCFB 690 – appeal natural justice

Specialist Diagnostic Services Pty Ltd t/a Dorevitch Pathology Workplace Determination [2018] FWCFB 5778 – making of a Workplace Determination

United Firefighters' Union of Australia v Emergency Services Telecommunications Authority t/a ESTA 000 [2018] FWCFB 5624 – appeal – dispute about application of enterprise agreement

Choppair Helicopters Pty Ltd and Anor v Bobridge [2018] FCA 325 and Choppair Helicopters Pty Ltd v Bobridge (No 2) [2018] FCA 700 – appeal – alleged award underpayments including superannuation – order for payment of compensation by person "involved" under s550

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

Minister for Industrial Relations for the State of Victoria v AGL Loy Yang Pty Ltd and others [2017] FWC 2533 – 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 and Halici v KDR Victoria Pty Ltd T/A Yarra Trams (No.2) [2016] FCCA 1391 – opposing an application alleging false imprisonment, contravention of an enterprise agreement and breach of contract (junior to Chris O'Grady QC)

Heading v Secretary of the Department of Education and Training on behalf of the State of Victoria [2017] FWCFB 1352 (7 April 2017) – opposing appeal regarding application of an enterprise agreement

Construction, Forestry, Mining and Energy Union v AGL Loy Yang Pty Ltd [2017] FWCFB 1019 - opposing appeal against termination of an enterprise agreement (junior to Frank Parry QC)

Winters v Fogarty and others [2017] FCA 51 (2 February 2017) – acting for second and third respondents to strike out of claim alleging contravention of discrimination laws during Court-ordered mediation (junior to Rachel Doyle S.C.)

Volunteer Fire Brigades Victoria v Country Fire Authority (Discovery ruling) [2016] VSC 573 – Discovery obligations - expedited hearing (junior to Chris O'Grady QC).

AGL Loy Yang Pty Ltd v Construction, Forestry, Mining and Energy Union and others (PR582599) – application for Order that industrial action (ban on overtime) stop, not occur and not be organised

Construction, Forestry, Mining and Energy Union v EnergyAustralia Yallourn Pty Ltd [2016] FWC 3961 - dispute about interpretation of enterprise agreement concerning ability of non-EBA employees to perform work also performed by EBA employees

Turner v Australia Post [2016] FWC 801 - 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 – 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 – judicial review of Fair Work Commission Full Bench decision, relating to 'acceptable alternative employment' and redundancy. See also Australian Commercial Catering Pty Ltd v Powell and Togia [2016] FWCFB 5467.

Memberships

Victorian Bar Continuing Professional Development Committee (2025-)

Industrial Bar Association Committee (Victorian Bar) (2017; 2024-)

Opening of the Legal Year Red Mass Committee (2019-)

Jesuit Mission Maytime Fair Committee (2024-)

Burke Hall Parents' Association Committee (2023-) and Vice President (2025-)

Xavier College Parents' Association Committee (2024-)

Previous positions include Chair of the Group Support Committee for 1st North Balwyn Scouts (2019-2023) and Treasurer of the Industrial Relations Society of Victoria from 2007-2012 (IRSV Executive Committee from 2007-2013).