

## Jim Hartley



Jim Hartley practises in public, industrial, and commercial law.

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### QUALIFICATIONS

Bachelor of Laws (Hons)

Bachelor of Arts

### CORRESPONDENCE

**P** 03 9225 8558

**E** [jim.hartley@vicbar.com.au](mailto:jim.hartley@vicbar.com.au)

### CHAMBERS

Castan Chambers

Level 11 Room 13

460 Lonsdale Street

Melbourne VIC 3000

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### COMMERCIAL LAW

Bankruptcy | Competition | Contractual Disputes | Corporations & Securities | Taxation

### EMPLOYMENT & INDUSTRIAL

Appellate | Discrimination | Employment Contracts | Industrial Disputes | Statutory Employment Rights

### PUBLIC LAW

Administrative Law | Appellate | Civil & Human Rights | Constitutional Law | Discrimination | Environment | Immigration | Judicial Review | Native Title | Planning & Local Government

Jim also has considerable expertise in environment and planning and tax law. Before joining the Bar, Jim was Associate to the Hon. Justice R.R.S Tracey AM RFD, Federal Court of Australia (2016/17); Associate to the Hon. Justice Mordy Bromberg, Federal Court of Australia (2015/16) and a Senior Lawyer (previously Lawyer, previously Law Clerk) in the commercial litigation practice of Meyer Vandenberg Lawyers, Canberra (2009–2015).

Jim's experience at the Court was predominantly in industrial and public law. His private-practice experience was of a general commercial nature, including contractual, insolvency, leasing, trade practices, partnership, payroll tax, valuation, town planning, and personal property securities matters.

In 2021, Jim received the Ron Castan AM KC award for outstanding achievement in pro bono advocacy undertaken by barristers who are between one and six-years' call. He is a Sessional Tutor at Monash University.

Jim read with Claire Harris KC, and his senior mentor was Rachel Doyle SC.

*Liability limited by a scheme approved under Professional Standards legislation.*

## Recent Cases

### PUBLIC LAW

*Minister for Home Affairs v Benbrika* (Supreme Court of Victoria, S ECI 2021 03214, led by D Star KC and G Morgan) (first review of a continuing detention order made under the Commonwealth Criminal Code)

[\*Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs\* \[2022\] FCAFC 3](#) (led by O P Holdenson KC, N Wood SC, N Dragojlovic)

[\*Djokovic v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs\* \[2022\] FedCFamC2G 7](#) (led by O P Holdenson KC, N Wood SC, N Dragojlovic)

[\*The Commonwealth v AJL20\* \[2021\] HCA 21; 95 ALJR 567](#) (High Court of Australia, C16/2020, led by J Gleeson SC and N Wood) (matter in relation to whether the legality of immigration detention is conditioned by a requirement that a purpose of detention be pursued, for AJL20)

*Danila Dilba Biluru Butji Binnilutlum Health Service Aboriginal Corporation v Director of Liquor Licensing and Woolworths Group Ltd* (Northern Territory Supreme Court, 2021-00517-SC, led by A Wheatley KC and N Wood) (matter in relation to approval by the first respondent of a "Dan Murphy's" liquor store in Darwin, for Danila Dilba)

*Mostafa Azimitabar v Commonwealth of Australia* (Federal Court of Australia, VID177/2021, led by L De Ferrari SC) (matter in relation to legality of "alternative places of detention," for the detainee)

[\*Minister for Home Affairs v DMA18 as litigation guardian for DLZ18\* \[2020\] HCA 43; 95 ALJR 14; 385 ALR 16](#) (led by C Horan QC and L De Ferrari SC) (matter in relation to whether section 494AB of the *Migration Act 1958* (Cth) deprived (*inter alia*) the Federal Court of jurisdiction to hear (relevantly) matters alleging breach of a duty of care owed to asylum-seekers in regional processing countries, for two of the asylum-seekers)

[\*AJL20 v Commonwealth of Australia\* \[2020\] FCA 1305; 279 FCR 549](#) (led by N Wood) (an application for a writ of *habeas corpus* in regard to a person in immigration detention, for the detainee)

*Animals Australia Federation v. Secretary, Department of Agriculture, Water, and the Environment (Federal Court of Australia)* (Federal Court of Australia, VID 392 of 2020, led by D Star KC and N Wood)

[\*\*CFE16 v Minister for Immigration; CFD16 v Minister for Immigration\*\* \[2020\] FCCA 1083](#) (unled)

[\*\*Secretary, Department of Home Affairs v CCA19\*\* \(2019\) 273 FCR 271; \[2019\] FCAFC 209](#) (led by C Horan KC and E Bennett) (concerning the interpretation of the so-called "Medivac" legislation, for the asylum-seeker)

[\*\*BEL16 v Minister for Home Affairs\*\* \(2019\) 167 ALD 295; \[2019\] FCA 1678](#) (unled)

[\*\*Garbett v Liu\*\* \(2019\) 273 FCR 1; 375 ALR 117; \[2019\] FCAFC 241](#) (led by L De Ferrari SC) (concerning the display of purple-and-white corflutes in Melbourne electorates, for the petitioners)

[\*\*CCA19 v Secretary, Department of Home Affairs\*\* \[2019\] FCA 946; \(2019\) 165 ALD 503](#) (led by C Horan KC and E Bennett) (concerning the interpretation of the so-called "Medivac" legislation, for the asylum-seeker)

[\*\*CCA19 v Minister for Home Affairs\*\* \[2019\] FCA 939](#) (led by E Bennett) (interlocutory application seeking to have an asylum-seeker removed from Nauru for medical treatment, for the asylum-seeker)

[\*\*FRM17 v Minister for Home Affairs\*\* \(2019\) 271 FCR 254; \[2019\] FCAFC 148](#) for **DJA18 as litigation representative for DIZ18** and for **Marie Theresa Arthur as litigation guardian for BXD18** (led by C Horan QC and L De Ferrari SC) (matter concerning the jurisdiction of the Federal Court of Australia to hear applications for removal of persons from Nauru for medical treatment)

[\*\*AON15 v Minister for Immigration and Border Protection\*\* \(2019\) 269 FCR 184; \[2019\] FCAFC 48](#) (led by N Wood)

[\*\*AKH16 v Minister for Immigration and Border Protection\*\* \(2019\) 269 FCR 168; \[2019\] FCAFC 47](#) (led by N Wood)

**MZAAZ v Minister for Home Affairs** (Federal Court of Australia, VID1261/2017, unled)

**Animals Australia Federation v Sect., Dept. of Agriculture & Anor** (Federal Court of Australia, VID688/2018, led by D Star KC and N Wood) (judicial review application in relation to decision of Secretary to approve a particular live-export shipment of sheep to the Middle East)

[\*\*AGV17 v Minister for Immigration and Border Protection\*\* \[2018\] FCCA 225](#) (unled)

**Gumurdul v Northern Land Council** (Federal Court of Australia, VID626/2017, led by N Wood) (judicial review of a purported decision of a Land Council, on behalf of certain traditional Aboriginal owners of land)

**Ellis v Central Land Council** (Federal Court of Australia, VID20/2017, led by N Wood) (judicial review of a purported decision of a Land Council, on behalf of certain traditional Aboriginal owners of land)

**Rirratjingu Aboriginal Corporation & Ors v Northern Land Council & Ors**, NTD8/2017 (for the Third Respondent and Cross-claimant, **Djalu Gurruwiwi**, unled) (judicial review of a purported decision of, and private law action against, a Land Council, on behalf of a traditional Aboriginal owner of land)

#### INDUSTRIAL LAW

**Wong v National Australia Bank** (Full Court of the Federal Court of Australia, VID393/2021, led by R Doyle SC)

**The Australian Salaried Medical Officers' Federation & Anor v Western Health** (various matters in the Federal Court of Australia, VID419/2021 VID774/2021, VID700/2021, VID210/2021, VID115/2021, led by C Dowling SC and K Burke);

[\*\*Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v John Holland Pty Ltd\*\* \[2021\] FWCFB 5396](#) (for the Australian Workers' Union, unled);

*In re. Aged Care Award 2010 and Nurses Award 2010* (Fair Work Commission, AM2021/63, for the Australian Nursing and Midwifery Federation, led by J McKenna)

[\*Hobsons Bay City Council v Australian Municipal, Administrative, Clerical and Services Union\* \[2021\] FWC 6037 \(unled\)](#)

*Australian Municipal, Administrative, Clerical and Services Union v Hobsons Bay City Council* (Federal Court of Australia, VID31/2021, unled)

*Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Ventia Pty Ltd* (Federal Circuit Court of Australia, MLG4/2021, unled)

*Association for Employees with a Disability v The Commonwealth of Australia* (Full Court of the Federal Court of Australia, VID336/2020, led by M Harding SC)

[\*Construction, Forestry, Maritime, Mining and Energy Union v Abseal Pty Ltd\* \[2021\] FCA 1513 \(unled\)](#)

*Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU) v Glass Expansion Pty Ltd & Ors* (Federal Court of Australia, VID373/2020, unled)

*Australian Workers' Union v Ground Hog Civil (Vic) Pty Ltd* (Fair Work Commission, C2019/1064, unled)

*DP World Melbourne Limited v Construction, Forestry, Maritime, Mining and Energy Union* (Federal Court of Australia, VID810/2019, led by E White)

[\*Construction, Forestry, Maritime, Mining and Energy Union v DP World Melbourne Limited\* \[2019\] FWC 6430; \(2019\) 290 IR 128 \(led by E White\)](#)

[\*Maribyrnong City Council v Australian Municipal, Administrative, Clerical and Services Union & Ors\* \[2019\] FCA 773; \(2019\) 369 ALR 704 \(led by C Dowling SC\)](#)

[\*Applications by CPB Contractors Pty Limited & John Holland Pty Ltd\* \[2019\] FWC 1122 \(for the Australian Workers' Union, unled\)](#)

*Canfor v State of Victoria* (Federal Court of Australia, VID331/2018, led by R Doyle SC)

[\*Construction, Forestry, Maritime, Mining and Energy Union v CPB Contractors Pty Ltd and The Australian Workers' Union\* \[2018\] FWC 3702; 280 IR 293 \(led by S Moore QC \(as his Honour then was\)\)](#)

[\*MacKillop Family Services Pty Ltd T/A MacKillop Family Services\* \[2018\] FWC 617 \(for the Australian Municipal, Administrative, Clerical and Services Union, led by S Moore QC \(as his Honour then was\)\)](#)

#### COMMERCIAL LAW

*Luke (as co-executor of the estate of Luke) & Ors v Aveo Group Limited* (Federal Court of Australia, VID996/2017, led by R Attiwill QC and E Nekvapil, later by A Bell SC and E Nekvapil)

*API & Ors v Central Park & Anor; API & Ors v Lemon & Anor* (County Court of Victoria, CI-19-02418 and CI-19-02415, led by E Nekvapil)

*Kazar as Liquidator of HBMW Pty Ltd (in liq)* (Federal Court of Australia, ACD 9 of 2020, unled)

*In the matter of WTI Australia Pty Ltd (in liquidation)* (Supreme Court of Victoria, S ECI 2019 01301, unled) (asserted insolvent trading, breach of director's duties)

**Kazar**, in the matter of *Paragon Printers Australasia Pty Ltd (in liq)* (Federal Court of Australia, VID 262 of 2019, unled)

[\*\*Leda Commercial Properties Pty Ltd v Brenda Hungerford Pty Ltd\*\* \[2018\] ACTCA 17; 13 ACTLR 252; 337 FLR 252](#) (led by M Walsh SC) (commercial leasing; asserted misleading or deceptive conduct)

[\*\*Miller v Miller\*\* \[2018\] VSCA 1](#) (led by C Symons) (equity; employment claims)

**BSA Ltd v Victorian Workcover Authority** (Supreme Court of Victoria, led by C Harris KC)

## OTHER

**Kyle-Sailor v Heinke & Ors** (Federal Court of Australia, VID698/2021, led by R Merkel KC) (claim under section 18C of the *Racial Discrimination Act 1975* (Cth))

**DJA18 as litigation representative for DIZ18 v Minister for Home Affairs** (Federal Court of Australia, VID776/2018) (negligence claim by asylum seeker on Nauru against Minister and Commonwealth)

**Marie Theresa Arthur as litigation representative for BXD18 v Minister for Home Affairs** (Federal Court of Australia, VID412/2018) (negligence claim by asylum seeker on Nauru against Minister and Commonwealth);

**Tarabolsi v Burbank (Aust) Pty Ltd** (Federal Court of Australia, VID186/2021, unled) (disability discrimination);

Briefed to appear in the Hotel Quarantine Program Inquiry (led by D Star KC, J Davidson);

**Cumaiyi & ors v Northern Territory of Australia & Anor** (Federal Court of Australia, NTD36/2019, led by R Merkel KC and A Pound SC) (class proceeding in relation to allegations of race discrimination by the Respondents against the Applicants and group members in relation to provisions of services in Wadeye, Northern Territory)

## ADVISORY

Providing advice in relation to whether a particular instrument was inconsistent with the Constitutional implied freedom of political communication or otherwise inconsistent with its authorising Act;

Providing advice in relation to whether particular State legislation was invalid by operation of section 109 of the Constitution;

Providing advice in relation to whether particular proposed Commonwealth legislation was within the scope of a referral of power to the Commonwealth by a State for the purposes of section 51(xxxvii) of the Constitution;

Providing advice in relation to the intersection of the unfair preferences regime in the *Corporations Act 2001* (Cth) with the *Personal Property Securities Act 2009* (Cth).

## Memberships

Melbourne subcommittee of the Insolvency and Reconstruction Law Committee of the Law Council of Australia.

