

Simone Bingham



Simone Bingham has extensive experience acting for both employers and employees in employment law matters

QUALIFICATIONS

Bachelor of Laws
Bachelor of Arts
Masters of Employment & Labour
Relations Law (Melb)

CORRESPONDENCE

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CHAMBERS

Castan Chambers
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COMMERCIAL LAW

Contractual Disputes | Wills & Probate

EMPLOYMENT & INDUSTRIAL

Appellate | Confidential Information | Discrimination | Employment Contracts | Industrial Disputes | Public
Sector Appeals | Restraint of Trade | Statutory Employment Rights | Work Health & Safety

PUBLIC LAW

Administrative Law | Civil & Human Rights | Constitutional Law | Discrimination | Freedom of Information |
Judicial Review

Simone has particular expertise in employment contract claims including breaches of restraints and confidentiality, sexual harassment, unfair and unlawful dismissals, discrimination and workplace bullying.

In addition to her employment law practice, Simone is briefed in relation to Testator's Family Maintenance claims under Part IV of the Administration and Probate Act Vic 1958; and in disciplinary tribunal matters.

Simone is also an experienced mediator, regularly achieving certainty of outcomes for parties in both informal and court ordered mediations. Her expertise also includes acting on behalf of parties in dispute, both informally and as part of court proceedings.

In 2003 the Human Rights and Equal Opportunity Commission presented Simone with a Law Award in recognition of her contribution to the delivery of pay equity to childcare workers and her legal work in work value cases.

Liability limited by a scheme approved under the Professional Standards Legislation

Recent Cases

EMPLOYEE RESTRAINTS AND CONFIDENTIAL INFORMATION

Interlocutory Injunctions in the Supreme Court and Industrial Magistrates Court (enforcement of post employment restraints both restraint of trade and misuse of confidential information and trade secrets); Lachlan Partners Advisory (now Shadforth Financial Group) v Sidon - achieving favourable outcome for Shadforth against former employee partners - 2014

Advice to senior executives (advice on rights and obligations under employment agreements and the enforceability of restraint and confidential information provisions)

SEXUAL HARASSMENT AND DISCRIMINATION

Sexual Harassment and Discrimination matters in VCAT and the Federal Court of Australia including representing a regional bus company with respect to claims of sexual harassment and discrimination which successfully settled; representing a regional real estate company with respect to claims of sexual harassment and discrimination which successfully settled; successfully representing a clothing trade employer with respect to sexual harassment and discrimination claims)

Sexual Harassment and Discrimination matters in VCAT (representing an international airline in a sexual harassment and sexual discrimination claim and successfully mediating a favourable outcome)

Sexual Harassment, Equal Opportunity and Sexual Discrimination matters in VCAT (representing Melbourne's Cheapest Cars in a sexual harassment, equal opportunity and sexual discrimination claim by an employee. Simone's success included being awarded costs for the employer due to the conduct of the litigant)

Unlawful Discrimination matters in VCAT, Federal Magistrates Court and Federal Court including drawing and settling complaints and responses, statements of claims and appearing at hearings and mediations/conciliations and appearing on strike out applications

DISCIPLINARY HEARING DECISIONS

Victorian Institute of Teaching (Counsel Assisting at formal hearing to determine fitness to teach of teacher following allegations of serious misconduct and lack of fitness to teach. The Panel determined that the teacher would remain a registered teacher)

Victorian Institute of Teaching (Counsel Assisting at formal hearing to determine fitness to teach where the teacher was charged with indictable offences, including attempting to traffic a drug of dependence and possession of a drug of dependence. The Panel decided to cancel the registration of the teacher)

Victorian Institute of Teaching (Counsel Assisting at formal hearing to determine fitness to teach of teacher who, whilst registered as a teacher, was charged with and convicted of intentionally causing serious injury. The Panel determined that the teacher's registration should be suspended for a period of six months and certain conditions placed on the teacher's registration thereafter)

VCAT review of Victorian Institute of Teaching decision (Appearing for the Victorian Institute of teaching in a review of a decision by the VIT to refuse registration of teacher, Mr Michael Suss. Simone was successful for the respondent in achieving affirmation of the original decision - 2011)

Acting on behalf of the Victorian Taxi Directorate with respect to administrative review of decisions to suspend or revoke the licenses of taxi drivers (Victorian Taxi Directorate v Botting, Magistrates Court of Victoria)

WORKPLACE INQUIRIES

Work place Inquiry – throughout 2014, conducted various workplace investigations for Victoria's largest disability organisation

Work place Inquiry (Investigator in an inquiry into the behaviour of employees in a department in a major non-government organisation on the issues of workplace bullying, sexual harassment and inappropriate workplace behaviour)

Work place Inquiry (Investigator in an inquiry into the behaviour of senior employees at a workplace function of a large not for profit organisation. The terms of reference of the inquiry required a determination as to whether the conduct was in contravention of policy, the Bullying Guidance Note and the Occupational Health and Safety Act 2004 and the making of recommendations based upon the findings)

Work place Inquiry (Investigator in an inquiry into the workplace behaviour of a managerial employee in a large retailer. The terms of reference of the inquiry required a determination as to whether the conduct was in contravention of policy, the Bullying Guidance Note and the Occupational Health and Safety Act 2004 and the making of recommendations based upon the findings)

Workplace Inquiry (Investigator in inquiries appointed by a public sector organisation into workplace behaviour of employees. The terms of reference of the inquiry required a determination by the investigator as to whether the conduct complained of occurred and if so whether it was in contravention of the Public Sector Standards, organisation policy, the Bullying Guidance Note and the Occupational Health and Safety Act 2004 and the making of recommendations based upon the findings.)

Representation in Bullying Inquiry (Representing and advising a public official alleged to have engaged in bullying. The finding of the investigator was that the allegations against the client were unfounded.)

UNFAIR AND UNLAWFUL DISMISSALS

Unfair dismissal application in the Fair Work Commission (extra-territorial jurisdictional argument regarding the application of the *Fair Work Act* (achieving favourable outcome for Helicopter Service Australia - 2014)

Unfair dismissal application in the Fair Work Commission (Stuart v Kalari, successfully representing Kalari Trucking Company against a former employee dismissed for tailgating in a triple road train - dismissal upheld - 2014)

Unfair and Unlawful dismissals in the Federal Court of Australia (Cutler v Donric Pty Ltd [2010] FCA 1387, Cutler v Donric Pty Ltd [2011] FCA 396, Rodrigues v Spear and Jackson - achieving successful settlement for the employer - 2011)

Unfair and Unlawful dismissals in the County Court of Victoria (representing individuals and employers in unfair and unlawful dismissal claims including in Davis v Nissan Motor Company (Australia) Pty Ltd [2010] VCC 1192 and Goddard v Mowbray College achieving favourable settlement outcomes - 2011)

Unfair and Unlawful dismissals in Fair Work Australia (Steven Petkovski v SMS Management FWA 2297- successfully representing SMS Management and Technology in an application for an unfair dismissal remedy by an employee which was dismissed - 2010)

Unfair and Unlawful dismissals (for example Powerlab v Georgiadis PR963162 (junior to Michael McDonald QC); Barrett v Fyna Foods PR 966476; Bastecky v Investa [2007] AIRC 776; Sattout v Toyota Corporation [2009] AIRC 412)

EMPLOYER AND EXECUTIVE ADVICE

Advice to senior executives of a publicly listed company on exit strategies and exit packages (advice on and negotiating outcomes and appearing at mediations for senior executives exiting high profile publicly listed companies) (junior Counsel to Dr Kris Hanscombe KC)

Advice on the application of Public Administration Act 2004 and the Public Sector Employment Principles Standard (No1) 2006 and Guidelines to employers who are public entities (junior to Herman Borenstein KC)

GENERAL PROTECTIONS CLAIMS (FAIR WORK ACT)

Representing Employers in General Protections Claims under the Fair Work Act in the Federal Court and the Federal Magistrates Court Sanfit v Mission Australia (achieving successful settlement for Mission Australia) Cugura v Frankston City Council [2011] FMCA 195 (jurisdictional issues relating to defending general protections court application), Cugura v Frankston City Council No.2 [2011] FMCA 259 (application for costs relating to defending general protections court application), Peter Stevens Motor Cycle Retail Group Pty Ltd ats McLaren-Gates (achieving favourable settlement for the employer 2015)

Representing Employers in General Protections Claims under the Fair Work Act in the Federal Court, Federal Circuit Court and High Court of Australia – Led Technologies Pty Ltd v Vink (successful at first instance and on appeal in defeating an adverse action claim by a former employee claiming discrimination on the basis of age, 2012 – 2013) (successful in defeating special leave application to the High Court of Australia – 2014)

Memberships

Prior service on the Law Institute of Victoria's Workplace Relations Specialisation Advisory Committee (12 years)

Industrial Law Bar Association