Justin Gleeson SC, Solicitor-General of the Commonwealth

General

Justin Gleeson SC is the Solicitor-General of the Commonwealth of Australia. He was formerly a barrister practising at the NSW Bar and founding head of Banco Chambers in Sydney. He graduated from Sydney University with a Bachelor of Arts (BA) in 1981 and a Bachelor of Laws (LLB) with Honours and the University Medal in 1983, and subsequently from the University of Oxford with a Bachelor of Civil Law (BCL) in 1985. He was called to the Bar in 1989 and took Silk in 2000.

As Solicitor-General, he appears as counsel for the Commonwealth and related entities, particularly in international courts and tribunals and in the High Court of Australia, and provides opinions on questions of law on referral from the Attorney-General.

He is an Australian member of the Permanent Court of Arbitration (PCA) in The Hague.

Recent CourtAppearances

International

Whaling in the Antarctic (Australia v Japan), International Court of Justice, Judgment 31 March 2014.

Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v Australia), Request for Indication of Provisional Measures, International Court of Justice, Order 3 March 2014.

Timor-Leste v Australia (Timor Sea Treaty), ongoing PCA arbitration.

Philip Morris Asia Ltd v Australia (Tobacco Plain Packaging laws), ongoing PCA arbitration.

High Court of Australia

2012


2013

Fortescue Metals Group Ltd v The Commonwealth of Australia (2013) 250 CLR 548, constitutional validity of the minerals resource rent tax.

Magaming v The Queen (2013) 252 CLR 381, constitutional validity of mandatory minimum detention.

Commonwealth v Australian Capital Territory (2013) 250 CLR 441, constitutional validity of same-sex marriage law.

Leo Akiba on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth of Australia (2013) 250 CLR 209, extinguishment of native title right to take fish and other aquatic resources in the Torres Strait.

New South Wales v Kable (2013) 252 CLR 118, validity of a detention order made by the NSW Supreme Court under legislation later held to be invalid.

Plaintiff M76/2013 v Minister for Immigration and Citizenship (2013) 251 CLR 322, whether the Migration Act 1958 (Cth) authorised the continued detention of an unlawful non-citizen including where prospects of removal to another country were low.

Plaintiff M79/2012 v Minister for Immigration and Citizenship (2013) 252 CLR 336, power of Minister to grant visa of particular class.

Kline v Official Secretary to the Governor-General (2013) 249 CLR 645, access to documents held by the Governor-General relating to the making of official Australian awards.

Comcare v PVWY (2013) 250 CLR 246, scope of compensation for employee injury away from workplace.

Director of Public Prosecutions (Commonwealth) v Keating (2013) 248 CLR 459, whether social security legislation retrospectively imposed a duty on a recipient of payments under the legislation to inform Centrelink of increases in income.

Minister of Immigration and Citizenship v Li (2013) 249 CLR 332, principle of unreasonableness in administrative law.

Australian Competition and Consumer Commission v TPG Internet Pty Ltd (2013) 250 CLR 640, application of misleading and deceptive provisions of consumer protection law.

2014

*Australian Electoral Commission v Johnston* (2014) 251 CLR 463, validity of Western Australian Senate Election.


*Plaintiff S-156 v Minister for Immigration and Border Protection* (2014) 309 ALR 29, constitutional and statutory validity of designation of PNG as a regional processing centre.

*Howard v Commissioner of Taxation* (2014) 253 CLR 83, whether equitable compensation received by a company director was held on trust for the company and whether part of the director’s assessable income.


*CPCF v Minister for Immigration and Border Protection,* (2015) 316 ALR 1, whether *Maritime Powers Act 2013* (Cth) or the executive power of the Commonwealth authorised the detention on board an Australian vessel of the plaintiff and the taking of the plaintiff to another country.

*State of Queensland v Tom Congoo on behalf of the Bar-Barrum People No 4* (2015) 89 ALJR 538, whether Commonwealth military orders in WWII taking possession of certain land extinguished native title in those areas.

*Australian Communications and Media Authority v Today FM (Sydney)* (2015) 317 ALR 279, constitutional validity of provision of the *Broadcasting Services Act 1992* (Cth) allowing ACMA to find that a licence holder has breached a condition of their licence on the basis of a finding of the commission of an offence.

*Commissioner of the Australian Federal Police v Zhao,* (2015) 316 ALR 378, proper test for a stay of civil forfeiture proceedings, where subject matter overlapped with parallel criminal proceedings.
2015

_CEPU v Queensland Rail_ (2015) 318 ALR 1, meaning of concept of constitutional corporation.


_Duncan v New South Wales; NuCoal Resources Limited v NSW; Cascade Coal Ltd v NSW_ (2015) 89 ALJR 462, whether NSW Act cancelling licences following ICAC finding constituted exercise of judicial power and, if so, whether NSW Parliament can exercise such power.

_AstraZeneca AB v Apotex Pty Ltd; AstraZeneca AB v Watson Pharma Pty Ltd; AstraZeneca AB v Ascent Pharma Pty Ltd_ [2015] HCATrans 106 and 107, heard on 13-14 May 2015, correct test to apply when considering the obviousness/inventive step of a claimed patent under the _Patents Act 1990_.

McCloy & Ors v New South Wales [2015] HCATrans 141 and 142, heard on 10-11 June 2015, constitutional validity of NSW legislation making it unlawful for certain classes of people (property developers) to make political donations.

**Other Courts**


_R v OC_ [2015] NSWCCA 212, whether the _Australian Securities and Investments Commission Act 2001_ (Cth) allows for ASIC to provide transcripts of compulsory examinations to the Commonwealth Director of Public Prosecutions for the purposes of commencing and continuing prosecutions.

_Apotex Pty Ltd v Sanofi-Aventis; Sigma Pharmaceuticals (Australia) Pty Ltd v Wyeth_ (Full Federal Court), heard on 3 June 2015, whether provisions of the _Therapeutic Goods Act 1989_ constitute a statutory code for the claiming of damages following interlocutory injunctions, preventing the Commonwealth from claiming against the usual undertaking as to damages.

**Recent speeches and addresses**

**2013**


**2014**


“The Role of the Solicitor-General”, speech delivered to Seven Wentworth Chambers, Sydney, 27 February 2014.


“(Un)reasonableness and (Dis)proportionality: the constitutional underpinnings of one important aspect of the relationship between the Courts and the Parliament/Executive”, paper presented to the Public Law Conference, University of Cambridge, 15-17 September 2014.

Seminar paper on “Chapter II of the Constitution” given to the NSW Bar Association (jointly with Anna Mitchelmore), 28 October 2014.

Paper presented on “(Un)reasonableness and Minister for Immigration v Li: observations and implications for practitioners” at the Australian Government Solicitor Administrative Law Forum, 6 November 2014.


Address given on “International Law and the Work of the Solicitor-General”, at the Attorney-General’s Department International Law Colloquium, 28 November 2014.

**2015**


After dinner speech on the ICJ Whaling Case at the NSW Land and Environment Court Annual Conference 28 May 2015.

Presentation to ANU Law Masters Course, session entitled “Constitutional Power Over International Affairs” 12 June 2015.

Upcoming Speeches and Addresses

Speaking at the 2015 Australian Academy of Forensic Sciences on “Improving legal responses in civil and/or criminal proceedings” 18 November 2015.


Recent books and publications


Constituting Law - Legal Argument and Social Values, Federation Press, co-editor with Dr R Higgins, 2011.


**Other Interests**

Justin Gleeson’s interests outside the practice of law include classics, rhetoric, philosophy, legal history, and history generally.

Current: 18 August 2015