

Daniel Clarry

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Call 2012 (first admitted as a legal practitioner in 2008)

Practice Barrister, February 2012–to date
Litigation Lawyer, Office of Fair Trading (London), 2009–10
Lawyer, Trade Practices and Competition, Australian Government Solicitor, 2008–09
Associate to Justice AP Greenwood, Federal Court of Australia, 2007
Associate to Justice AM Lyons, Supreme Court of Queensland, 2006

Education PhD in Law, University of Cambridge, 2015
LLM, McGill University, 2011
BCom/LLB (Hons), University of Queensland, 2006

Awards Fellowship in Law, London School of Economics, 2016–18
Fellowship in Private Law, Harvard Law School, 2015–17
PhD Scholarship (full), Cambridge Commonwealth Trust, 2012–15
Association des professeurs de droit du Québec (APDQ) Prize, 2012
Provost's Graduate Fellowship, McGill University, 2011
Institute of Comparative Law Essay Prize, McGill University, 2011
LLM Scholarship (full), Quebec Research Centre of Private and Comparative Law, 2010–11
Gaire Blunt Scholarship, Business Law Section of the Law Council of Australia, 2008
Best Oralist – Third Place, Philip C Jessup Moot Court Competition, Washington, DC, 2006
(competing for Denmark while on exchange to the University of Copenhagen)

Member Academic Review Board, Cambridge Journal of International Law
Competition & Consumer Law Committee, Law Council of Australia
Society of Legal Scholars
Society of Trust & Estate Practitioners

Practice as a barrister (representative selection)

- *LM Investment Management Ltd (in liq) v Whyte* (acting for company in liquidation in various capacities concerning a trustee indemnity claim by receiver in respect of an adverse cost liability (~\$8.5 million) following unsuccessful litigation taken without judicial advice) [2023] QSC 132 (for parties opposing strike out) [2023] QSC 147 (indemnity costs) (led by John Peden KC)
- *Cameron v Cameron* [2023] QSC 61 (for moving parties striking out a counterclaim) (unled)
- *Hamer v Parity Partners Pty Ltd* [2022] QSC 232 (acting to oppose the appointment of a receiver to trust property in respect of an unregistered managed investment scheme) (led by John Peden KC)
- *Compass Marinas Australia Pty Ltd v State of Queensland* (common law and equitable estoppel; guarantees and limitations) [2021] QCA 293 (led by Graham Gibson QC)
- *The Presbyterian Church of Queensland Incorporated by Letters Patent v Attorney-General for the State of Queensland* (acting for a real estate investment trust in dispute with PCQ and its receivers) [2021] QSC 219 (confidentiality on receivers' application for judicial advice to sell assets) (unled)
- *Run Capital Investments Pty Ltd v P5K Pty Ltd* (just and equitable winding up and oppression) (led by Michael Stewart QC) [2021] FCA 1156 (interlocutory issues: discovery, confidentiality, privilege)

- *Hookey v Whitelaw* (commercial lease and joint venture dispute, recovery of possession of land, account of profits, estoppel by convention, equitable estoppel, fiduciary duties, termination of lease, relief against forfeiture) (led by Michael Stewart QC) ([2020] QSC 63 (trial); [2020] QSC 147 (indemnity costs and relief against forfeiture); [2020] QSC 284 (release of trust security); [2020] QSC 298 (costs); [2021] QCA 181 (appeal); [2021] QCA 213 (indemnity costs of appeal))
- *LM Investment Management Ltd (rec apptd) (in liq) v Drake* (for liquidator opposing receiver's application for judicial advice that he would be justified in appealing the dismissal of his damages claim against directors) ([2020] QSC 265 (merits); [2020] QSC 311 (costs)) (led by John Peden QC)
- *Broozac Pty Ltd v ASP Aluminium Holdings Pty Ltd* (acting for ex-employees in multiple proceedings in the Supreme Court of Queensland and the Federal Court of Australia) (led by Graham Gibson QC) ([2020] FCA 1345 (acting for 12 applicants to release undertakings given to the Federal Court))
- *Berg Engineering Pty Ltd v Tivity Solutions Pty Ltd* (confidential information alleged to be held by ex-employees, acting to uphold *ex parte* search order obtained by other counsel) (led by Declan Kelly QC) ([2019] QSC 68 (first instance); [2019] QSC 224 (costs); [2019] QCA 305 (appeal))
- *Waller Projects Pty Ltd v FW Estate Pty Ltd* (joint venture dispute concerning 1,200 lot real estate development) (led by Michael Stewart QC) ([2019] QSC 221 (releasing ~\$24m paid into Court))
- *Talbot v Boyd* (acting for one of the beneficiaries in a claim for negligence in the administration of an international trust estate) (2018-2020) (led by Graham Gibson QC)
- *Australian Competition and Consumer Commission v Flight Centre Ltd* (defending allegations of attempted price-fixing by travel agent with Emirates, Malaysia Airlines and Singapore Airlines (led by Shane Doyle QC, with Peter Franco) ([2012] FCA 1161 (intervention); [2013] FCA 1313 (trial))

Practice as a solicitor (London) (competition and consumer law litigation)

- eg acting to obtain warrants in High Court of England and Wales for dawn raids on behalf of the European Commission relating to competition law investigations in the pharmaceutical industry
- eg *Balfour Beatty PLC (and 25 others) v Office of Fair Trading* — acting for the UK competition regulator before the Competition Appeal Tribunal to defend 26 appeals to an infringement decision fining 103 companies over £139 million for bid-rigging/cover-pricing in the construction industry

Practice as a solicitor (Brisbane) (competition and consumer law litigation)

- *Australian Competition and Consumer Commission v Qantas Airways Ltd* (alleged price-fixing in relation to cargo and fuel surcharges in the international airline industry)
- *Australian Competition and Consumer Commission v April International Marketing Services Australia Pty Ltd* (alleged price-fixing in the paper industry, interlocutory steps, including leave to serve originating process on six corporate respondents and four individuals outside Australia)

Publications

Books

- *The Irreducible Core of the Trust* (Bloomsbury forthcoming 2024) (author)
- *The Supervisory Jurisdiction Over Trust Administration* (Oxford University Press 2018) (author) (cited, e.g.: Supreme Court of New South Wales, Trial Division ([2021] NSWSC 574) and Court of Appeal ([2022] NSWCA 66); Supreme Court of South Australia ([2023] SASC 65); Chief Justice of the High Court of Australia (extra-judicially))

- *The UK Supreme Court Yearbook* Vols 1–10 (2009-2020) (Appellate Press) (editor-in-chief) ([Wildy & Sons’ “Book of the Month”](#) (various volumes); cited, e.g.: England and Wales Court of Appeal ([2020] EWCA Crim 575); High Court of Australia ([2018] HCA 43); High Court of New Zealand ([2023] NZHC 633); Hong Kong Court of First Instance ([2016] HKCFI 2394)); Scottish Law Commission ([2018] SLC 252); Court of Appeal of Singapore ([2020] SGCA 119); in argument in UK Supreme Court (*Secretary of State for Exiting the European Union v R (Miller)*); Australian Law Reform Commission ([2021] ALRCBP 3; [2021] ALRCBP 5; [2022] ALRC 138))

Book chapters and journal articles (representative selection)

- ‘Mandatory and Default Rules in Fiduciary Law’ in Evan Criddle, Paul Miller and Robert Sitkoff (eds), *Oxford Handbook of Fiduciary Law* (Oxford University Press 2019)
- ‘The Removal of Trustees by Arbitration’, in Stacie Strong and Tony Molloy QC (eds), *Arbitration of Trust Disputes* (Oxford University Press 2016)
- ‘Fiduciary Ownership and Trusts in a Comparative Perspective’ (2014) [63 International and Comparative Law Quarterly](#) 901-933 (cited by the UK Supreme Court ([2017] UKSC 6, [2017] 1 AC 424); reprinted in Antonio Gambaro (ed), *Comparative Property Law* (Edward Elgar 2017))
- ‘Exclusions and Exemptions in Onshore and Offshore Trusts’ (2014) [12 Trusts Q Rev](#) 31-43
- ‘The Offshore Trustee *en bon père de famille*’ (2014) [17 Jersey & Guernsey L Rev](#) 5-53
- ‘Contemporary Approaches to Market Definition: Taking account of international markets in Australian competition law’ (2009) [37 Australian Business L Rev](#) 143-183 (cited by: High Court of New Zealand ([2011] NZHC 1285); Chief Justice of New South Wales ([extra-judicially](#)))

Papers

Papers given at law schools and research institutes, including Harvard Law School (Cambridge, Massachusetts), Max Planck Institute for Comparative and International Private Law (Hamburg, Germany), McGill University (Montreal, Canada), University of Cambridge (UK), University of Oslo (Norway), University of Oxford (UK) and Yale Law School (New Haven, Connecticut); papers also given at practitioner conferences, including annual conferences for Society of Trust and Estate Practitioners (St Peter’s Port, Guernsey) and the National Tax Practitioners Forum (Sydney, Australia)

Peer review

Invited peer reviewer for law book publishers and legal journals, including *Oxford University Press* (book manuscripts/proposals for academic and practitioner titles and new editions), *Oxford Journal of Legal Studies*, *Cambridge Journal of International Law*, *Trusts Quarterly Review* and *Journal of Equity*

Lecturing

E.g. Lecturer on Law at Harvard Law School; Affiliated Lecturer in Law and LLM Assessor at the Faculty of Law, University of Cambridge; Supervisor in Law at Gonville & Caius College, Cambridge

Lectures chaired at the UK House of Commons, the UK House of Lords and the [UK Supreme Court](#)