



**LUCA MORETTI**  
*Barrister*

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## ADMISSIONS

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- 2022** Barrister, New South Wales Bar
- 2018** Solicitor, Supreme Court of New South Wales

## ACADEMIC

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- 2018 - 2019** **University of Oxford**  
*BCL (Distinction)*  
Vinerian Scholarship for Best Performance in the BCL (aeq)  
Law Faculty Prize for Law and Society in Medieval England  
Peter Birks Prize for Restitution of Unjust Enrichment  
Myers Scholarship (awarded by Christ Church, Oxford)  
Hannah Fullerton and Charles Herbert Currey Memorial Scholarships (awarded by University of Sydney)
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- 2012 - 2017** **University of Sydney**  
*LLB (First Class Honours) (2017); BA (History) (2014)*  
Nancy Gordon Smith Prize for Honours at Graduation – awarded to top five LLB graduates  
ED Roper Memorial Prize No 2 for Equity and Corporations Law  
University of Sydney Academic Merit Prizes for law and history  
LexisNexis Book Prize No 3 for Most Proficient in Combined Law III  
George and Matilda Harris Scholarship No IIB for Third Year of Combined Law

## EXPERIENCE

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- Since 2022** **Barrister**, Banco Chambers
- 2021 - 2022** **Counsel Assisting the Solicitor-General of the Commonwealth**  
Assisted Dr Stephen Donaghue KC with the provision of advice to the Commonwealth government and preparation of litigation on its behalf. Appeared as junior counsel in the High Court of Australia.
- 2020 - 2021** **Associate to the Hon Justice Virginia Bell AC**, High Court of Australia
- 2020** **Tutor**, ANU College of Law (torts, constitutional law)  
Awarded ANU College of Law Excellence in Education Award.

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**2017 - 2020**    **Solicitor, Herbert Smith Freehills**

Practice groups: disputes (commercial litigation, regulatory proceedings and class actions); corporate (equity capital markets and mergers and acquisitions)

## **SELECTED MATTERS**

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### **Commercial/regulatory law**

#### High Court

*Cessnock City Council v 123 259 932 Pty Ltd* (HCA file no. S115/2023; judgment reserved) – contract law, appeal concerning availability of reliance damages for breach of contract (led by JT Gleeson SC, instructed by Holding Redlich)

*Productivity Partners Pty Ltd v Australian Competition and Consumer Commission* (HCA file no. S118/2023; judgment reserved) – regulatory law, appeal concerning liability of VET provider for unconscionability under s 21 of the *Australian Consumer Law* (led by the Solicitor-General of the Commonwealth (SP Donaghue KC), O Bigos KC and S Patterson, instructed by Johnson Winter Slattery)

*Wills v Australian Competition and Consumer Commission* (HCA file no. S116/2023; judgment reserved) – regulatory law, appeal concerning accessorial liability for contravention of s 21 of the *Australian Consumer Law* (led by SP Donaghue KC, O Bigos KC and S Patterson, instructed by Johnson Winter Slattery)

*Laundry Hotels (Quarry) Pty Ltd v Dyco Hotels Pty Ltd* [2023] HCA 6; 97 ALJR 194 – contract law, interpretation, dispute concerning a contract for the sale and purchase of the property and assets of a hotel business that required the vendor to carry on business in the "usual and ordinary course as regards its nature, scope and manner", effect of public health orders introduced in response to the COVID-19 pandemic (led by JT Gleeson SC, instructed by JDK Legal)

*Boral Resources (Vic) Pty Ltd v RW & ME Smith Pty Ltd* [2023] HCASL 197 – contract law, special leave application concerning principles for assessing damages for repudiatory breach where the contract contains a right to terminate with notice that could have been exercised lawfully (led by RCA Higgins SC, instructed by Australian Business Lawyers & Advisors)

#### Intermediate appellate courts

*Transport for NSW v Hunt Leather Pty Ltd* (NSWCA file no. 2023/00242788; ongoing) – torts, claim for private nuisance arising from the construction of the Sydney Light Rail (led by B Walker SC, N Owens SC, N Simpson and E Bathurst, instructed by Lander and Rogers)

*Lantrak Holdings Pty Ltd v Yammine* [2023] FCAFC 156 – appeals concerning misleading or deceptive conduct in relation to the sale of a business and principles applicable to the stay of a proceeding as an abuse of process (led by RCA Higgins SC and L Hawas, instructed by Baker & McKenzie)

*BCC Trade Credit Pty Ltd v Thera Agri Capital No 2 Pty Ltd* [2023] NSWCA 20 – insurance, construction of a trade credit insurance policy in respect of a Murabaha finance agreement (led by JT Gleeson SC and A Horvath SC, instructed by Kennedys (Australasia) Partnership)

#### First instance

*Australian Securities and Investments Commission v Bekier* (FCA file no. NSD 1082/2022; ongoing) – corporations law, alleged breach of directors' duties by current and former directors and officers of The Star Entertainment Group Ltd (led by RCA Higgins SC, J Arnott SC and S Patterson, instructed by Norton Rose Fulbright)

*Horizon Capital Fund (Luxembourg Business Registration No. B218924) v Insurance Australia Ltd* (NSWSC file no. 2022/00250607; ongoing) – insurance, dispute concerning trade credit insurance policy and authority of underwriter (led by A Horvath SC, instructed by Kennedys (Australasia) Partnership)

*Compumod Investments Pty Ltd v Universal Equivalent Technology Ltd* (FCA file no. NSD 917/2020; ongoing) – class action, allegations of misleading or deceptive conduct against company and its accounting advisers in respect of offer documents for an offer of simple corporate bonds (led by P Brereton SC, instructed by Ashurst)

*Playoust v Australian Enterprise Holdings Pty Ltd* (NSWSC file no. 2022/00387537; ongoing) – equity, dispute concerning family trust (led by DR Sulan SC, instructed by Arnold Bloch Leibler)

*Rinehart* litigation (ongoing) – equity and trusts, dispute concerning alleged breaches of trust and fiduciary duties (led by CH Withers SC and A Hochroth, instructed by YPOL Lawyers)

*Safari v Latitude Financial Services Australia Holdings Pty Ltd* (FCA file no. NSD 519/2023; ongoing) – acting for DXC Technology Australia Holdings Pty Ltd in relation to claims arising from data breach in respect of Latitude customers (led by JR Williams SC, instructed by Arnold Bloch Leibler)

*Timberwolf Planting Pty Ltd v Ferguson* (NSWSC file no. 2023/00171136) – practice and procedure, resisting an application to stay costs order made by the Local Court (unled, instructed by Holding Redlich)

*Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd* (FCA file no. NSD 1245/2016); *Harbour Fund II LP v Cashman* (FCA file no. NSD 715/2022); *Sanda v Maurice Blackburn Pty Ltd* (NSD 716/2022) – practice and procedure, acting for Maurice Blackburn in a number of proceedings arising out of the *Sanda v PTTEP* class action in which it was solicitor on the record (led by A Bannon SC, CA Moore SC and RA Yezerski, instructed by Arnold Bloch Leibler)

## **Public law**

### High Court

*Benbrika v Minister for Home Affairs* [2023] HCA 33; 97 ALJR 899 – constitutional law, validity of s 36D of the *Australian Citizenship Act 2007* (Cth), which provides for citizenship cessation following conviction for certain national security offences (led by SP Donaghue KC and FI Gordon SC, instructed by Australian Government Solicitor)

*Jones v Commonwealth of Australia* [2023] HCA 34; 97 ALJR 936 – constitutional law, validity of s 34(2)(b)(ii) of the *Australian Citizenship Act 2007* (Cth), which provides for revocation of citizenship following conviction for criminal offences committed prior to the acquisition of citizenship (led by SP Donaghue KC and FI Gordon SC, instructed by Australian Government Solicitor)

*Alexander v Minister for Home Affairs* [2022] HCA 19; 96 ALJR 560 – constitutional law, validity of s 36B of the *Australian Citizenship Act 2007* (Cth), which provides for citizenship cessation for certain foreign terrorist fighters (led by SP Donaghue KC, PD Herzfeld SC and JD Watson, instructed by Australian Government Solicitor)

*Galuak v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2024] HCASL 22 – constitutional law, responding to an application to remove a challenge to the validity of s 34(2)(b)(ii) of the *Australian Citizenship Act 2007* (Cth) into the High Court of Australia (led by FI Gordon SC, instructed by Australian Government Solicitor)

*Spall v Minister for Home Affairs* (HCA file no. M11/2023; discontinued) – constitutional law, application to remove a challenge to the validity of s 34(2)(b)(ii) of the *Australian Citizenship Act 2007* (Cth) into the High Court of Australia (led by FI Gordon SC, instructed by Australian Government Solicitor)

*AIO21 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2023] HCATrans 17 – migration law, special leave application concerning operation of s 501CA(4) of the *Migration Act 1958* (Cth) (led by DJ Hooke SC and SH Hartford-Davis, instructed by Hearn Legal)

*Goldsmith v Stinson* [2023] HCASL 112 – practice and procedure, special leave application (for the respondent), power of the Federal Circuit and Family Court of Australia (Div 1) to stay or vary property settlement orders made under s 79 of the *Family Law Act 1975* (Cth) (led by MP Kearney SC, instructed by Phillips Family Law)

#### Other courts and tribunals

*Murray Lower Darling Rivers Indigenous Nations v Commonwealth* (FCA file no. NSD 1201/2023; ongoing) – administrative law, challenge to the validity of the *Water (Accredited Water Resource Plan – NSW Murray Darling Basin Fractured Rock) Instrument 2022* (Cth) (led by FI Gordon SC, instructed by Australian Government Solicitor)

*Blanch v Smith* (Local Court file no. 2023/75275) – constitutional law, application for an apprehended domestic violence order under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW), appearing for the Attorney-General of New South Wales responding to an argument that the legislative scheme for apprehended violence orders infringes the implied freedom of political communication (unled, instructed by NSW Crown Solicitors' Office)

*Hall v New South Wales Rural Assistance Authority* (NSWSC case no. 2023/00084252; settled) – administrative law, judicial review proceeding concerning applications to the Authority for a "drought freight subsidy" (unled, instructed by NSW Crown Solicitors' Office)

*Smit Lamnalco Towage (Australia) Pty Ltd v Newcastle Port Corporation t/as Port Authority of New South Wales* (NSWSC case no. 2022/00325467; settled) – administrative law, judicial review proceeding concerning licences issued to tugboat operators (led by SJ Free SC, instructed by Herbert Smith Freehills)

*Harper and Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (Migration)* [2022] AATA 3148 – migration law, review of a decision not to revoke the cancellation of a visa pursuant to s 501CA of the *Migration Act 1958* (Cth) (unled, instructed by Australian Government Solicitor)

#### **Opinions**

I have provided various opinions (with and without silk) on questions concerning statutory construction, constitutional law, insurance law, electoral law, employment law and professional discipline for companies, statutory agencies, professional associations and Commonwealth and State governments.

#### **PUBLICATIONS & OTHER EXPERIENCE**

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"Book review: M Barnes QC, *The Law of Estoppel* (Hart Publishing, 2020)" (2020) 36 *Journal of Contract Law* 292

"Certainty and Promissory Estoppel after *Crown Melbourne Ltd v Cosmopolitan Hotel (Vic) Pty Ltd*" (2017) 31(3) *Commercial Law Quarterly* 3

"Determining pecuniary penalties under the National Credit Act and Code: *Make it Mine Finance Pty Ltd, in the matter of Make it Mine Finance Pty Ltd (No 2)* [2015] FCA 1255", *Corporate Law Bulletin*, Bulletin No. 220 (17 December 2015)

Assisted Professor Emeritus John Carter and Professor Luke Nottage on various books and articles

Refugee Advisory Case Service, volunteer (2017 - 2019)