



DR FIONA ROUGHLEY SC

Barrister

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OVERVIEW

I was admitted as a lawyer in 2008, called to the New South Wales Bar in October 2011, and appointed Senior Counsel in 2023.

I specialise in commercial and public law litigation. I am commonly briefed in cases involving significant opportunity or risk for the client – whether of a financial, strategic, political or reputational kind.

My cases include:

- commercial disputes between private parties;
- class actions;
- briefs to act for or advise multinationals, including in cases involving questions of foreign law or multi-jurisdiction disputes;
- cases for and against emanations of Australian government;
- briefs to act for or advise foreign States and/or state-owned entities;
- litigation raising difficult or novel questions of law, including appeals.

Whilst practising at the NSW Bar I have maintained an interest in research, completing a PhD on Australia's Attorney-General (conferred 2022, ANU) and authoring a range of publications and conference papers on various topics.

My wider service activities include leadership/Board roles in several legal and educational organisations.

PROFESSIONAL

NSW Bar since October 2011; appointed Senior Counsel in 2023. Ranked in:

Chambers and Partners Dispute Resolution: The Bar 2025, New Silks 2024, and as Junior Counsel 2016-2023.

Doyle's Guide to leading Senior Counsel in commercial litigation and dispute resolution (2024-2025) and Leading Competition Law Senior Counsel (2024). Also, as junior counsel in commercial litigation and dispute resolution (2015-2023), junior counsel in insolvency and restructuring (2018-2023), and junior counsel in competition (2018-2019, 2021-2023).

Principal Research Officer, Department of the Senate, Parliament of Australia (2010). Select Committee on the NBN; Select Committee on the Reform of the Australian Federation; Standing Committee on Legal and Constitutional Affairs.

Associate to the Hon. Justice Hayne AC, High Court of Australia (2009).

Allens Arthur Robinson. Lawyer (2008 – 2009). Competition and Litigation.

North Australian Aboriginal Justice Agency (intern) (Nov 2007 – Feb 2008).

Australian Law Reform Commission (intern) (July – Nov 2006).

EDUCATION**Doctor of Philosophy, The Australian National University (2022).**

Thesis topic: "Australia's Attorney General: Law, Politics and History". Supervised by Emeritus Professor Peter Cane with Professor Helen Irving and Professor James Stellios.

Australian Postgraduate Research Training Scholarship.

Graduate, AICD, Company Directors Course (2018).**Masters of Law (Hons I), The University of Cambridge (2011).**

Gates Cambridge Scholarship, funded by the Bill and Melinda Gates Foundation.

Australian Bicentennial Award for postgraduate study in the UK; Jesus College Foundation Scholarship.

First in Course: History and Philosophy of International Law.

The University of Sydney

Bachelor of Laws, Hons Class I and the University Medal in Law (2008).

Bachelor of Arts, Hons Class I and the University Medal in English (2006).

The University of Sydney Convocation Medal (2006) for exceptional contribution to the University and academic excellence.

Bachelor of Laws prizes

Winner, World 2007 Phillip C Jessup International Law Moot (Washington DC).

RG Henderson Memorial Prize (NSW Bar Association) for graduating first in class; Rose Scott Prize for Proficiency at Graduation by a Woman Candidate; The Joye Prize in Law for first placed student (Graduate and Combined Law); ED Roper Memorial Prize for First in Equity and Corporate Law; Ian Joye Prize in Law for the first placed student in law (penultimate year); George and Matilda Harris Scholarship No 1 for most distinguished student entering final year of a combined law degree; Lexis Nexis Prize No 5 for most proficient student in Combined Law IV; Minter Ellison Scholarship for top student commencing fourth year of the Combined Law Degree; Law Society of NSW Prize for placing first in Law, Lawyers and Justice; Lexis Nexis Prize No 3 for most proficient student in Combined Law III; The Margaret Dalrymple Hay Prize for Law, Lawyers and Justice; The Aaron Levine Prize for Criminal Law; Butterworths Prize for most proficient student in Combined Law I.

Other prizes

University of Sydney Honours Scholarship; Janet Elspeth Crawford Prize for Honours results; Dean's List of Meritorious Students; The Public Service Association of NSW John S. D'Arcy Memorial Prize, Government II; Australian Federation of University Women - NSW Prize - for Proficiency in English II; Walter Reid Memorial Book Fund Grant (2003-2007); University of Sydney Continuing Undergraduate Scholarship (2003); E. Trenchard Miller Scholarship for proficiency in the HSC; Boston Consulting Group Undergraduate Scholarship (2006).

COMMUNITY

Advisory Committee Member, Gilbert+Tobin Centre of Public Law (2025)

Vice-President, Artarmon Public School P&C (2023-present).

Council member, Pymble Ladies' College Council (2019 - 2025).

Council member, Council of Law Reporting for New South Wales (2018-2024).

Cambridge University Pro-Bono Project (2010-2011).

Editorial: *Bar News* editorial committee (2012-2015); *Cambridge Student Law Review* (editor, 2010/11); *The Sydney University Law Review* (student editor, 2007); *Polemic*, the Sydney University Law Society's journal (2007); *Hermes*, the University of Sydney Union's literary journal (2004); *Honi Soit* (2003).

PUBLICATIONS AND PAPERS

Fiona Roughley, "Constitutional technique and the empowerment of legislative choice: a commentary on the papers of Mr Lenehan SC and Justice Howard" (Edited collection of papers presented at the Zines Conference 2024; Federation Press, forthcoming).

Fiona Roughley, "Applications for Special Leave to Appeal to the High Court", Commonwealth Law Conference, 28 February 2025.

Fiona Roughley, "A guide to writing submissions in commercial law cases" – NSW Bar Association CPD, 22 July 2024.

Fiona Roughley, "Respondent foreign States and service requirements: Applications for the recognition and/or enforcement of foreign awards or registration of foreign judgments" – NSW Bar Association CPD, 27 March 2024.

Fiona Roughley and Megan Caristo, 'Secret Ministries and the Constitution: an Implied Requirement of Publication?', (2023) 97 *Australian Law Journal* 1.

Fiona Roughley, "Who's In Charge? An Australian Perspective", Presentation for NY Arbitration Week, November 14-18, 2022

Fiona Roughley, "Recent Cases: Chapter III and the Kable Principle; MZAPC and other developments in judicial review", Paper for the 2022 Constitutional Law Conference (Gilbert+Tobin Centre of Public Law)

Fiona Roughley, 'Evaluating evidence in contested merger proceedings' in Stephen Puttick and Michael Gvozdenovic (eds), *Current Issues in Competition Law* (Federation Press, 2021).

Fiona Roughley, 'The Role of the Solicitor-General: Negotiating Law, Politics and the Public Interest' [Book Review] (2017) 24 *Australian Journal of Administrative Law* 205.

Fiona Roughley, 'Ian Hancock's *Tom Hughes QC: a Cab on the Rank*' [Book Review] (2016) 102 *Journal of the Royal Australian Historical Society* 244.

Fiona Roughley, 'Royal Commissions and Contempt of Court: The Effect of Curial Proceedings' (2015) 38 *UNSW Law Journal* 1123.

Fiona Roughley, 'Old Law, New Law: A Second Australian Miscellany' [Book review] *Bar News*, Autumn 2015, 59.

Fiona Roughley and Anya Poukchanski, 'Who said you could say "waiver"? Inadvertent disclosure of privileged communications', *Bar News*, Summer 2014, 22-23.

Fiona Roughley, 'The Development of the Conscience in Equity' in JT Gleeson SC, JA Watson, RCA Higgins and E Peden (eds) *Foundations of Australian Legal History* (Federation Press, 2013).

Fiona Roughley, '*The Byers Lectures 2000 – 2012*' [Book review] *Bar News*, Autumn 2013.

Sandy Dawson and Fiona Roughley, 'Suppression and Third Party Access: Part II – The How, When and Where of non-Party Access', *Bar News*, Autumn 2013.

Sandy Dawson and Fiona Roughley, 'Suppression and Third-Party Access: Part 1 – Keeping it Quiet', *Bar News*, Summer 2013.

Fiona Roughley, '*Eugenia* by Mark Tedeschi QC' [Book review] *Bar News*, Summer 2013.

Fiona Roughley, 'Section 249D and the activist member: *GetUp!* Told to lie down (for a while)' (2012) 16 *Butterworths Corporation Law Bulletin* 6-8.

Fiona Roughley, 'Surveillance and reasonable expectations of privacy: *US v Jones* 564 US _ (2011)', Recent Developments, *Bar News*, Autumn 2012.

Karinne Coombes and Fiona Roughley, 'Thematic Analysis: Human Rights and the 2010/11 UK Supreme Court', (2011) 7(2) *Cambridge Student Law Review* 26-35.

Emily Gladden and Fiona Roughley, 'Let Them Vote', (2011) 8(1) *The Gates Scholar* 14.

Fiona Roughley, 'Revolution behind bars may come at too high a price', (Op Ed), *The Sydney Morning Herald*, 20 November 2010, p.24.

Fiona Roughley, 'Spatialising experience: Gail Jones' *Black Mirror* and the Contending of Postmodern Space' (2007) 23 *Australian Literary Studies* 58.

Fiona Roughley, 'Textual Legitimacy when thinking global, acting local: The role of international conventions in judicial review of administrative action' (2006) 2 *Polemic* 4.

Participant writer and researcher for ALRC, 'Review of Privacy' (Issues Paper 31) (2006).

SELECT CASES

CLASS ACTIONS

Consumer law;
superannuation; continuous
disclosure; insurance; medical
devices

Capic v Ford Motor Company of Australia Pty Ltd proceedings (ongoing; acting for the lead Applicant):

- Remitter on damages: [2025] FCA 670.
- High Court: [2024] HCA 39; [2024] 98 ALJR 1333; 419 ALR 437.
- Full Court of the Federal Court of Australia (liability and quantum): [2023] FCAFC 179.
- Initial trial on common questions and Ms Capic's own claim in the Federal Court of Australia (Perram J): [2021] FCA 715 (primary judgment), [2021] FCA 1320 (common questions) [2021] FCA 1411 (costs).
- Prior decisions on class action practice and procedure: [2020] FCA 486; [2018] FCA 1631; [2018] FCA 982; [2019] FCA 1065; [2019] FCA 1958; 140 ACSR 432; [2020] FCA 884; [2020] FCA 885; [2019] FCA 1065; [2020] FCA 982; [2020] FCA 885; [2020] FCA 884; [2020] FCA 1117; [2018] FCA 771.

Watters v Iplex Pipelines Australia Pty Ltd (ongoing FCA proceedings; acting for the lead Applicant).

Lewis v Philips Electronics Australia Ltd trading as Philips Healthcare (ongoing FCA proceedings; acting for the Respondents):

- Practice and procedure: [2023] FCA 1486.

Hansen v Tesla Motors Australia Pty Ltd & Anor (ongoing FCA proceedings; acting for the lead Applicant).

Brady v NULIS Nominees (Australia) Limited ATF the MLC Super Fund (for the Respondent):

- Initial hearing on common questions and the claim of the lead applicant and a sample group member in the Federal Court of Australia (Markovic J): [2024] FCA 1374.
- Prior decisions on practice and procedure: [2022] FCA 224; [2021] FCA 999; [2021] FCA 1517.

Quirk v Suncorp Portfolio Services Limited (as trustee for the Suncorp Master Trust) & Ors proceedings (for the Third Defendant, a director):

- Initial trial on common questions (May 2022; settled at hearing).
- Practice and procedure: [2022] NSWSC 398.

Parkin v Boral Limited proceedings (for the Respondent):

- Full Court (class closure): [2022] FCAFC 47; 291 FCR 116.
- Other practice and procedure: [2022] FCA 1467; [2021] FCA 350; [2021] FCA 478; [2021] FCA 914; [202] FCA 914.

GENERAL COMMERCIAL LAW

Contracts; corporations and shareholder rights; equity; financial services; unconscionable conduct; real property; professional services / negligence

Harris Health Care Pty Ltd (receivers and managers appointed) (in liq) v Hayes – winding up and the rule in *Cherry v Boulton*:

- Appeal: [2024] NSWCA 301 (Bell CJ, Leeming and McHugh JJA).
- Special leave to appeal refused: [2025] HCADisp 80.

Michael Hill Jeweller (Australia) Pty Ltd v Gispac Pty Ltd - contract law:

- Appeal: [2024] NSWCA 211 (Bell CJ, Payne and Basten JJA).
- Appeal costs: [2024] NSWCA 274.
- Interlocutory (stay of return of security): [2024] NSWSC 356.

Binqld Finances Pty Ltd (in liq) & Ors v Steven Binetter [2024] FCA 361 (alleged knowing assistance in breaches of fiduciary duties).

DTZ v AIG & Ors [2025] NSWSC 12 (Warranty & Indemnity Insurance claim in respect of \$1.2bn transaction).

Hoho Property Pty Ltd & Ors v Bass Finance No 37 Pty Ltd & Anor.

- Appeal: 2024, resolved shortly prior to hearing.
- First instance: [2023] NSWSC 720; [2023] NSWSC 411; [2023] NSWSC 493; [2022] NSWSC 1062.

Farrell v Super Retail Group Limited – ongoing FCA proceedings.

Qantas Airways Limited v L3 Training Solutions Limited – contract law dispute in the Supreme Court of NSW; settled 2023 shortly before hearing.

Seed Partnerships Pty Ltd v L1 Capital Pty Ltd – contract law dispute in the Supreme Court of NSW; settled 2023.

Kearney v Amirbeaggi & Anor – professional negligence claim (ongoing):

- Final hearing: [2025] NSWSC 455.
- Pre-trial: [2025] NSWSC 260; [2025] NSWSC 196; [2025] NSWSC 147
- Appeal: [2022] NSWCA 130.
- Earlier practice and procedure decisions: [2022] NSWSC 805; [2020] NSWSC 1035; [2020] NSWSC 853.

Enares Pty Limited v Nimble Money Limited – shareholder access to books:

- Appeal: [2022] FCAFC 126.
- First instance: [2021] FCA 1596; [2021] FCA 1616.

Energy World Corporation Limited v Standard Chartered Private Equity (Singapore) Pte Ltd [2020] NSWSC 1348; [2021] NSWSC 8.

Beta ACT Pty Ltd ATF the Brendas Family Trust v FTI Consulting Pty Ltd [2021] ACTSC 293.

Kossaiji v ACN 111 804 383 Pty Ltd [2020] NSWSC 853; 147 ACSR 143.

Poulos v Commonwealth Bank of Australia:

- Appeal: [2020] NSWCA 72; [2019] NSWCA 241; [2019] NSWCA 290.
- First instance: *Poulos v Elliott* [2019] NSWSC 423.

FOREIGN STATES AND FOREIGN LAW

Enforcement of foreign arbitral awards; foreign state immunity; foreign merger law; claims against Australia by foreign state-owned entities

Davis & Bell v Archbishop Peter Comensoli & His Holiness, Pope Francis I in his capacity as the Supreme Pontiff of the Roman Catholic Church and as Representing his predecessor Popes, including Pope Benedict XVI and the Holy See. (Judgment reserved; acted for Pope Francis).

- Hearing of summons claiming head of State / foreign State immunity: March-April 2025 (Keogh J, decision reserved).
- Practice and procedure: [2025] VSC 163; [2024] VSC 668

CC/Devas (Mauritius) Ltd & Ors v Republic of India (ongoing; acting for India):

- High Court: appeal pending (S90/2025).
- Appeal (foreign state immunity): [2025] FCAFC 2 (S Derrington, Stewart and Feutrill JJ).
- First instance (foreign state immunity): [2023] FCA 1266.
- Practice and procedure: [2023] FCA 1400.

Petersen Energia Inversora, SAU & Ors v Argentine Republic (ongoing; acting for Argentine Republic):

- Application to set aside initiating process on basis service not effected: 2025, NSWSC (Bell CJ, decision reserved).

Tethyan Copper Company Pty Ltd v Islamic Republic of Pakistan – application for recognition and enforcement of foreign arbitral award in the Federal Court of Australia – proceedings settled, 2022 (acted for Pakistan).

Naval Group v Commonwealth of Australia – dispute with the Commonwealth for cancellation of a multi-billion dollar submarine contract. Settled 2022 (acted for Naval group, wholly owned company of France).

La Mancha Group International B.V. v Commissioner of Taxation [2020] FCA 1799; 112 ATR 660.

REGULATORY PROCEEDINGS

Competition; superannuation; corporations

ASIC v Web3 Ventures Pty Ltd: 2025 application for special leave to appeal to the High Court (decision pending; acting for Respondent).

ACCC & Anor v Meta Platforms, Inc (formerly Facebook, Inc.) & Anor (ongoing; acting for Meta):

- Second application to strike out the Applicants' pleading: 2025, FCA (Abraham J, decision reserved)
- Application to strike out the Applicants' pleading: [2024] FCA 890.
- Stay application: [2023] FCA 1234.
- Non-publication orders: [2022] FCA 1062.

ACCC v HealthEngine Pty Ltd [2020] FCA 1203.

APRA v Kelaher & Ors [2019] FCA 1521; 138 ACSR 459.

ACCC v Cascade Coal Pty Ltd (No 3) [2018] FCA 1019; 12 ARLR 1.

ASIC v Westpac Banking Corporation [2018] FCA 1733; 132 ACSR 230.

ACCC v Prysmian Cavi E Sistemi S.R.L. [2017] FCA 851.

PUBLIC LAW

Administrative law;
constitutional law; judicial
power; parliamentary
procedure; claims by the
Commonwealth on
undertakings as to damages;
health law; statutory
construction; patents

Commonwealth of Australia v Sanofi (formerly Sanofi-Aventis) & Ors:

- High Court: [2024] HCA 47; (2004) 99 ALJR 213; 421 ALR 1.
- Special leave granted: [2023] HCATrans 184.
- Full Court of the Federal Court: [2023] FCAFC 97; 411 ALR 315.
- Full Court (stated case): [2015] FCAFC 172; 237 FCR 483.
- Other decisions: [2017] FCA 382; [2015] FCA 384; 325 ALR 528; [2015] FCA 1457; 352 ALR 146.

Double Bay Aged Care Pty Ltd v Aged Care Quality and Safety Commissioner [2023] AATA 2673.

Novartis Pharmaceuticals Australia Pty Ltd v Minister for Health and Aged Care - Pharmaceutical Benefits Scheme:

- Final hearing – 2022, resolved shortly before hearing.
- Interlocutory application – 2022, resolved at hearing.

Health Management Services Pty Ltd v Transport for NSW [2023] NSWSC 291 [2022] NSWSC 1516.

The Children's Guardian v EQE [2022] NSWSC 871.

Ono Pharmaceuticals Co v Commissioner of Patents proceedings:

- Appeal: [2022] FCAFC 39; 291 FCR 1.
- First instance: [2021] FCA 643; (2021) 165 IPR 1.

Merck Sharp & Dohme Corp v Sandoz Pty Ltd proceedings:

- Appeal: [2022] FCAFC 40; 291 FCR 26.
- First instance: [2021] FCA 947; (2021) 162 IPR 409.

La Mancha Group International B.V. v Commissioner of Taxation [2020] FCA 1799; 112 ATR 660.

Palmer Leisure Coolum Pty Limited v Magistrates Court of Queensland [2020] HCASL 157; [2020] HCASL 156.

NDIA v WRMF [2020] FCAFC 79; 276 FCR 415.

Treasury Wine Estates v Maurice Blackburn & Ors: [2020] FCAFC 226; 282 FCR 95; (No 2) [2021] FCAFC 38; 388 ALR 540.

**COMPULSORY LICENCES FOR
INTELLECTUAL PROPERTY**

In the matter of FreeTV Australia Ltd and Phonographic Performance Company of Australia Ltd: ongoing proceedings (CT, No 2 of 2022).

In the matter of Phonographic Performance Company of Australia Limited:

- Appeal: [2019] FCAFC 95; [2019] FCAFC 192.
- Copyright Tribunal: [2017] ACopyT 1; 125 IPR 1.

INQUIRIES AND ROYAL COMMISSIONS

Review of the actions of the Department of Parliamentary Services (DPS) in relation to an incentive to retire (ITR) payment made to a previous DPS Deputy Secretary. Appointed by DPS as independent investigator in 2024; report provided early 2025.

Counsel assisting, Royal Commission into Trade Union Governance and Corruption (2014).