



## JUSTIN CASTELAN

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### PROFILE

Justin was admitted to practice in 1996. He practiced as a solicitor at Holding Redlich and Minter Ellison before he signed the Victorian Bar Roll in 2000. He has worked in media law since 1995 and currently a substantial part of his practice as a Barrister is in defamation. He has appeared in many of the leading cases relating to social media publications. In the meantime, Justin also has a general commercial and common law practice. He has acted for Powercor Australia Ltd for more than a decade and has run many trials in all Courts in the commercial, negligence and intellectual property areas.

### ARE AS OF PRACTICE

- Commercial Law
- Economic Torts
- Defamation, Media & Entertainment
- Sports Law
- Intellectual Property
- Trade Practices

### DEFAMATION & MEDIA LAW CASES

Justin has advised and appeared for a wide range of individuals and corporations in defamation and media law matters. He has advised parties in relation to television broadcasts, impending news and current affairs broadcasts, newspaper articles and publications online.

A number of Justin's recent media law cases are as follows.

***Google LLC v Defteros (2022) 403 ALR 434; [2022] HCA 27; [2021] VSCA 167*** (High Court of Australia; Victorian Supreme Court of Appeal); appeared for the respondent with David Gilbertson KC and Ted Guthrie in the appeals from the judgment of Her Honour Justice Richards in the matter of *Defteros v Google LLC [2020] VSC 219*. Opponents included Brett Walker SC and Georgina Schoff KC.

***Food and Wine Travel Pty Ltd v Express Travel Group Pty Ltd [2021] VSCA 280***; appeared for the respondent in the Court of Appeal and in the County Court. The case arose from a YouTube video that went viral.

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**Zuchowski v Howe [2021] VCC 1604**; appeared for the plaintiff in 7-day defamation trial, arising from Facebook publications relating to a property developer. Plaintiff was awarded damages of \$205,000. Matter is presently on appeal.

**Mulhollands v Langdon [2022] VCC 1848**: appeared for the plaintiffs in a defamation jury trial relating to an anonymous leaflet distributed in Council elections. Plaintiffs were awarded \$80,000 damages between them.

**Imam Tawhidi v Awad [2021] VSC 699**; appeared for the plaintiff in 7-day defamation trial before His Honour Justice Keogh in November 2021, relating to Tweets and Facebook publications arising from Imam Tawhidi giving evidence to a Senate inquiry.

**Agustin-Bunch v Smith [2021] VSC 158; [2022] VSC 290**; appeared with Ms Evelyn Tadros for the plaintiff in a defamation claim arising from YouTube videos that have been viewed more than 30 million times throughout the world. Appeared with Ms Tadros in 2023 before Justice John Dixon on the hearing of preliminary questions relating to the meanings of the ten videos sued upon. Judgment presently reserved.

**Wellington v Metcalf [2022] VCC 1759**: appeared with Ms Holly Jager for the defendant in 10-day defamation trial relating to Facebook publications and a Council election.

**Nova Peris v Jacqueline Price, S ECI 2020 00323** (Victorian Supreme Court); appeared for the plaintiff in a defamation claim arising from statements made on a nationwide television broadcast. The matter was resolved.

**Peterson v Simopoulos [2021] VCC 1080**; appeared for the defendant in 5-day defamation trial relating to an owners corporation dispute.

**Dean v Puleio [2021] VCC 848**; appeared for the plaintiff, a periodontist who made a defamation claim arising from defamatory Google reviews. She obtained an order for damages of \$170,000.

**Szymczak v Balijepalli [2019] FCA 234**: appeared for the applicant in a defamation claim arising from an anonymous email. Obtained judgment for \$70,000 and previously obtained preliminary discovery orders to assist in identifying the respondent.

**Moroney v Zegers [2018] VSC 446** (Victorian Supreme Court); appeared for nine plaintiffs, email publications and defendant proven to have falsely denied publication.

- Judgment for the plaintiffs for \$810,000 plus interest and indemnity costs, being the second highest defamation verdict in Victorian history;
- Justice Dixon also referred the papers to the DPP as the defendant admitted to having committed perjury;

**Cables v Winchester [2018] VSC 392** (Victorian Supreme Court); appeared for the plaintiff, Facebook publications. Judgment for the plaintiff for \$200,000.

**Rush v Nationwide News Pty Ltd NSD 2179/2017** (Federal Court, NSW); appeared for Australian Academy of Cinema and Television Arts on return of subpoena and obtained confidentiality orders for AACTA on 14 November 2018.



## ECONOMIC TORTS

Justin has been involved in many types of negligence claims. These include being briefed regularly for Powercor Australia Ltd and CitiPower Pty in relation to claim arising from bushfires and damaged assets. Some of Justin's matters are as follows.

***Powercor Australia Ltd v Maximum Concrete Pumping Pty Ltd [2019] VCC 63***: appeared for the plaintiff in a test case for a negligence claim for damage to assets including loss of revenue. Obtained judgment.

***Telstra Corporation Ltd v Gramac Excavations Pty Ltd [2022] VCC 944***: appeared for the defendant in 3-day trial on an assessment of damages.

***CitiPower Pty v Citywide Solutions Pty Ltd & Ors CI-19-02678***

***Powercor Australia Ltd v Zammit CI-18-01548***

***Powercor Australia Ltd v AAI Ltd (t/as GIO) CI-18-05107***

***Powercor Aust Ltd v Consolidated Broken Hill Holdings Pty Ltd [2016] VCC 1029***

***Trevorrow v Powercor Australia Ltd SCI 8197 of 2015*** (Victorian Supreme Court, resolved at mediation in 2016); negligence, bushfire on outskirts of Victoria: for the defendant.

***Powercor Australia Ltd v Cut and Fill Pty Ltd No. CI-15-01329*** (County Court)

***McCleerey & Anor v CitiPower Pty & Anor No. CI-08-01921*** (County Court, resolved during trial in 2011, opposed to J Gleeson QC); house fire, negligence, claim that cables had degraded and become faulty, for the first defendant.

- Plaintiff agreed to withdraw claim after Justin cross-examined the plaintiff's expert.
- That expert was subsequently sued by the plaintiff and the expert engaged Justin to act on his behalf in the subsequent proceeding.

## COMMERCIAL & INTELLECTUAL PROPERTY CASES

Justin has acted in a large range of commercial and intellectual property disputes. Over the years, Justin has run many trials in all of the jurisdictions in Victoria. Currently, he is most often briefed in the Supreme Court, the County Court, and the Federal Court.

A list of some of the commercial matters he has been involved in is as follows.

***Halal Certification Authority Pty Ltd v Flujo Sanguineo Holdings Pty Ltd [2021] FCA 1399***; appeared for the respondent in an application for breach of trademark. Opposed to Michael Hall SC. Respondent was successful in defending the claim and on its cross-claim seeking rectification of the Trade Marks Register. Also represented the respondent in the appeal before the Full Federal Court on 19-20 May 2022. Judgment in the appeal is presently reserved.

***Zoo Property Wealth Builder Pty Ltd v Qiyam Investments Pty Ltd & Anor [2020] VCC 167*** (County Court); appeared for the plaintiff in 7-day trial. Plaintiff was successful.

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***Australian Cardiology Services Pty Ltd v Rudd [2020] VSC 645***; appeared for the plaintiff, the operator of a cardiology clinic, and was successful in obtaining an injunction against the defendant, a cardiologist, preventing the use of confidential information.

***Technology Swiss Pty Ltd v Famous Pacific Shipping (Vic) Pty Ltd [2019] VCC 1542***; appeared for the plaintiff in a contractual shipping dispute and obtained judgment for approximately \$861,000.

***Beton Pumping Group Pty Ltd v Zoomlion Capital (Australia) Pty Ltd [2017] VSCA 183; [2017] VSCA 185*** (Victorian Supreme Court of Appeal); application for stay of judgment for delivery up of equipment. Appeared for the respondent on two appeals, one pending an appeal to the High Court and successful in having both appeals dismissed.

***MediaCom Australia Pty Ltd v Natvia Pty Ltd [2017] NSWDC 306*** (NSW District Court); breach of contract, television advertising. Appeared for the defendant at trial.

***Comgroup Supplies Pty Ltd v Products for Industry Pty Ltd & Anor [2016] QCA 88; [2016] QCA 130*** (Queensland Court of Appeal); restitution, misleading or deceptive conduct, accessorial liability for breach of fiduciary duties.

- Appeared for the defendants at the trial *[2014] QDC 293*, who were successful, including obtaining an order for indemnity costs *[2015] QDC 15*. The plaintiff appealed to the Queensland Court of Appeal.
- The appeal was dismissed 3-0 and indemnity costs were ordered for the respondents on the appeal as well.

Conducted examinations of a number of office-holders of the Australian Wheat Board in 2009 on behalf of ASIC in relation to matters arising from the Cole Inquiry, pursuant to section 19 of the *Australian Securities Investment Commission Act 1981* (Cth).

## OTHER MATTERS

Justin is the Deputy Chair of the Media Law Section of the Commercial Bar of Victoria and has been on its committee since 2019.

He was also a member of the Victorian Bar's Continuing Professional Development Sub Committee from 2017 – 2020, a member of the Bar's Practice Development Committee and was on the Editorial Board of Victorian Bar News in 2022.

Justin has been sought to provide comment on developments in defamation in mainstream media and has appeared on ABC News, Foxtel Sky News and Newstalk ZB Radio in New Zealand.