

DAN STAR Q.C.

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Key Areas of Practice

- Administrative Law (Merits Review and Judicial Review)
- Consumer Protection, Competition Law, Trade Practices
- Class Actions / Representative Proceedings
- Commercial Litigation
- Human Rights
- Industrial and Employment Law
- Regulatory (Enforcement / Compliance / Investigations)
- Statutory interpretation; advice of Commonwealth and State Acts in all areas

Educational Qualifications

LLB (Hons – first class), BA - University of Melbourne
Admitted in 1995 (VIC)
Signed Bar Roll in 1998
Appointed Senior Counsel in 2016

Legal Experience

Dan Star Q.C. has a practice in trials and appeals in commercial and regulatory areas of law. He has particular expertise in Administrative Law, Trade Practices Law and enforcement litigation (such as matters under the *Fair Work Act 2009*).

Whilst Dan frequently appears in the Federal Court, he also appears in State courts and tribunals in his areas of practice.

Dan is frequently briefed for and against the Commonwealth/State and their regulators. He has appeared in cases or given advice to or for persons in relation to litigation or investigations with the Commonwealth of Australia, the State of Victoria, Attorneys-General, Ministers and statutory agencies / officeholders (such as the ABCC, ACCC, ASIC, ASADA, ATO, Consumer Affairs Victoria (CAV), Office of Chief Examiner (OCE), Legal Services Commissioner (LSC) and the Tax Practitioners Board (TPB)).

In Trade Practices Law, Dan specialises in all parts of the *Consumer and Competition Act 2010* (CCA) but particularly in restrictive trade practices (Part IV) and Australian Consumer Law (ACL) cases.

Dan is the writer/editor of the monthly “Federal Court Judgments” section in the *Law Institute Journal* published by the Law Institute of Victoria (and reprinted in the law society journals of NSW, NT and QLD).

Dan is a previous Chair of the Bar’s Indigenous Lawyers’ Committee.

Dan is a member of CommBar; the Law Council of Australia’s Competition and Consumer Committee; and the Australian Institute of Administrative Law (AIAL).

Selection of Recent / Notable Matters

Administrative Law

Senior Counsel for Animals Australia in its successful AD(JR) Act challenge to decisions to grant export permits for the export of live sheep to the Middle East.

- *Animals Australia Federation v Secretary, Department of Agriculture and Water Resources and Anor* - Federal Court, VID688/2018

Senior Counsel appearing in the High Court to successfully resist special leave to appeal on issues concerning misfeasance in public office.

- *Shire of Kellerberrin v Nyoni* [2018] HCATrans 27

Appeared as Junior Counsel for ASADA in the litigation brought by the Essendon FC and James Hird in the Federal Court:

- *James Albert Hird v CEO of the ASADA* (2015) 227 FCR 95 (Full Court)
- *Essendon Football Club v CEO of the ADADA* (2014) 227 FCR 1 (Middleton J)

Appeared as ASADA's Lead Counsel in the Supreme Court litigation as to whether subpoenas under the *Commercial Arbitration Act 2011* could be issued requiring certain persons to attend for examination before the AFL Anti-Doping Tribunal.

- *ASADA v 34 Players and One Support Person* [2014] VSC 635 (Croft J).

Trade Practices Law

Restrictive trade practices

Note: This section does not include matters in which Dan has appeared for targets of ACCC investigations for alleged contraventions of Part IV of the CCA including for cartel conduct.

ACCC v Australian Egg Corporation Ltd (2017) 254 FCR 311 (Full Court) and [2016] FCA 69 (trial) – Appeared for Farm Pride Foods in its successful defence of the ACCC's claim that the respondents engaged in cartel conduct in contravention of s 44ZZRJ of the CCA.

ACCC v Japan Airlines [2011] FCA 365 – Junior Counsel for Japan Airlines against the ACCC in its s 45 (price-fixing) prosecution.

ACCC v Cabcharge Australia Ltd - Junior Counsel for the ACCC in a s 46 (misuse of market power) case resulting in a penalty of \$14 million: [2010] FCA 1261.

Junior Counsel for the ACCC in its successful prosecution of Australian Safeway Stores for price-fixing and misuse of market power in the trial: (2001) 129 FCR 1; in the appeal to the Full Federal Court: (2003) 129 FCR 339; in the applications for special leave to appeal to the High Court: [2004] HCATrans 344; & in the penalty proceedings: [2006] FCA 21.

Consumer protection / Australian Consumer Law (ACL)

Successful sale of business misleading & deceptive conduct trial in the County Court:

- *Laser Bean Pty Ltd v Opalfish Pty Ltd & McLaren* [2018] VCC 53

Regulatory misleading & deceptive conduct matters (including pecuniary penalty cases):

- *ACCC v AGL South Australia Pty Ltd* [2014] FCA 1369 (liability) & [2015] FCA 399 (relief)
- *ACCC v Origin Energy Ltd* [2015] FCA 55
- *ACCC v Energy Watch & Ben Polis* [2012] FCA 425, [2012] FCA 586 & [2012] FCA 749

Unsolicited consumer agreement (UCA) provisions in the ACL:

- *ACCC v ACN 099 814 749 Pty Ltd* [2016] FCA 403

Industrial Law (contested regulatory / enforcement trials and appeals)

Right of entry - appeared in the ABCC's successful appeal on important issues of the construction of Part 3-4 of the *Fair Work Act 2009*:

- *ABCC v CFMEU (The Laverton North and Cheltenham Premises Case)* [2018] FCAFC 88

Adverse action and intent to coerce trials:

- *ABCC v CFMEU (The Bay Street Case)* [2018] FCA 83
- *ABCC v CEPU & Neil O'Brien* [2017] FCA 704

Freedom of association cases:

- *ABCC v CFMEU (The Quest Apartments Case)* [2017] FCA 1398 (trial) and [2018] FCA 163 (relief/penalty)

Unlawful industrial action (*Fair Work Act 2009*, s 417):

- *Director of the Fair Work Building Industry Inspectorate v Ellen (The Longford Gas Plant Case)* [2016] FCA 1395

Personal payment orders under s 546 of the *Fair Work Act 2009*:

- *ABCC v Gava* [2018] FCA 1480

Class Actions

Administrative Law class actions:

- Dan appeared for a number of years in the "BSWAT" class action litigation concerning the payment of wages to intellectually disabled persons and claims under the *Disability Discrimination Act 1992*: *Duval-Comrie v Commonwealth of Australia* [2016] FCA 1523 (approval judgment)

Commercial Law class actions:

- Dan has acted for a party in the Supreme Court litigation concerning the collapse of the Banksia Financial Group: *Re Banksia Securities Ltd (Rec & Mgr Apptd)* [2017] VSC 148

Trade Practices Law class actions:

- Dan was Junior Counsel for Japan Airlines in the airfreight cartel class action in the Federal Court: *Auskay International Manufacturing & Trade Pty Ltd v Qantas Airways Ltd* [2010] FCAFC 96, [2009] FCA 1464 / 1465 & [2008] FCA 1458.

Constitutional Law

Knight v State of Victoria (2014) 223 FCR 572 – Appeared as Lead Counsel for the Applicant in a contested Constitutional Law trial.

New South Wales v Commonwealth (2006) 229 CLR 1 – Junior Counsel on Victoria's team challenging the Work Choices legislation.

A-G (Vic) v Andrews (2007) 230 CLR 369 – Junior Counsel for the Commonwealth.