

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, QLD and WA).

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

Dan is a member of CommBar and the Law Council of Australia’s Competition and Consumer Committee.

Selection of Recent / Notable Matters

Administrative Law / Public Law

Royal Commission into Victoria's Mental Health System - ongoing (acting for designated mental health services)

Senior Counsel in a trial under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) about the removal of brumbies / wild horses from the Alpine National Park.

- *Australian Brumby Alliance Inc v Parks Victoria* - Federal Court, VID1569/2018 (Judgment reserved, 19 July 2019).

Appeared as Senior Counsel for the Chief Commissioner of Victoria Police in confidential hearings in the Victorian Court of Appeal in December 2018/January 2019, which arose from *AB v CD and EF* [2017] VSCA 338 (the "Lawyer X" case).

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

Junior Counsel for ASADA in the case by Essendon FC & 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)

ASADA's Lead Counsel in the Supreme Court case on whether subpoenas under the *Commercial Arbitration Act 2011* can be issued for persons to attend 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 many 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

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)

Many pecuniary penalty cases - eg:

- *ABCC v CFMEU (The Laverton North and Cheltenham Premises Case) (No 2)* [2019] FCA 973

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 (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

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 FWBII v Ellen (The Longford Gas Plant Case)* [2016] FCA 1395

Class Actions

Tort / Public Law class actions:

- Senior Counsel in a class action concerning conditions in youth detention in the Northern Territory for the Applicant (claims of breach of statutory duty, negligence and racial discrimination): *Sister Marie Brigid Arthur (Litigation Representative) v Northern Territory* [2019] FCA 859. A settlement approval hearing is in September 2019.
- 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:

- Junior Counsel 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:

- 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.