

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 (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 in the Federal Court in Administrative Law, Trade Practices Law and other regulatory areas (such as matters under the *Fair Work Act 2009*).

Dan also appears in State courts and tribunals in his areas of practice (see above).

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's practice is broad and extends to cases in the Supreme Court (including in the Commercial Court) and the Federal Court in Workplace Law, Commercial Law, Corporations Law and Insolvency Law.

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 member of the Victorian Bar's Pro Bono Committee. He is also 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

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).

Contested trial under the AD(JR) Act:

- *Austwide Institute of Training Pty Ltd v Australian Skills Qualifications Authority* (2014) 223 FCR 57

Appeal from the AAT to the Federal Court:

- *Avetmiss Easy Pty Ltd v Australian Skills Qualifications Authority* [2014] FCA 314 (main judgment); see also [2014] FCA 46, (2014) 315 ALR 131 / [2014] FCA 444 & [2014] FCA 507.

Disciplinary prosecutions of lawyers in the Victorian Civil and Administrative Tribunal:

- *Legal Services Commissioner and Daniel Oldham* [2012] VCAT 571
- *Legal Services Commissioner and Nowicki* [2011] VCAT 1003

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 [2016] FCA 69; [2016] ATPR 42-519 – Appeared as Lead Counsel 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. Dan also appeared with Senior Counsel to oppose the ACCC's appeal in the Full Federal Court: SAD63/2016, judgment reserved 15/08/2016.

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.

Dan appeared as 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) ATPR 42-101, [2006] FCA 21.

Consumer protection / Australian Consumer Law (ACL)

Misleading and deceptive conduct type 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
- *ACCC v Cotton On Kids & Cotton On Clothing* [2012] FCA 1428; [2012] ATPR 42-427
- *ACCC v Dimmeys Stores* [2011] FCA 372; [2011] ATPR 42-351

Unsolicited consumer agreement (UCA) provisions in the ACL:

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

Injunctions based on the ACL, ss 18 (misleading and deceptive conduct) and 21 (unconscionable conduct).

- *ispONE Pty Ltd v Telstra Corporation Ltd* [2013] FCA 823

Australian Competition Tribunal

Australian Energy Regulator (AER) - *Application by United Energy Distribution Pty Ltd* [2012] ACompT 1 (see also [2012] ACompT 2).

Industrial Law

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

Freedom of association and *Fair Work Act 2009*, s 349

- *Director of the Fair Work Building Industry Inspectorate v Construction Forestry, Mining and Energy Union* (Quest Apartments and Greek Community Centre) [2016] FCA 1262

Right of entry contested trials under the *Fair Work Act 2009*:

- *Director of Fair Work Building Industry Inspectorate v CFMEU, Drew McDonald & Stephen Long, VID 281 of 2015* (judgment reserved on 30/06/2016, Bromberg J)
- *Director of Fair Work Building Industry Inspectorate v CFMEU & Alex Tadic* [2017] FCA 197

Adverse action and intent to coerce trial:

- *ABCC v CFMEU, Stephen Long & Gerard Benstead, VID 167 of 2016* (judgment reserved on 08/12/2016, Bromberg J)
- *ABCC v CEPU & Neil O'Brien* [2017] FCA 704

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 (proceedings S CI 2012 7185; S CI 2014 05875; & S CI 2015 01384).

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 P/L 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.