



Justin Castelan

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Personal Details

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.

Justin has worked in media law since 1995 when he was articulated to Nicholas Pullen at Holding Redlich. He continued to work on media and defamation matters while at Minter Ellison and currently, a substantial part of his practice as a Barrister is in defamation and media law. Presently, Justin is the Secretary of the Media Law Section of the Commercial Bar Association of Victoria.

Practice Areas

Commercial Law

Intellectual Property

Corporations and Securities

Professional Negligence

Defamation, Media & Entertainment

Sports Law

Equity / Trusts / Fiduciary duties

Torts

Insurance

Trade Practices





Defamation and 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.

Presently, Justin is the author of the blog www.defamationwatch.com.au and has delivered CPD seminars for the Victorian Bar and for the Leo Cussen Institute on defamation. He is often sought by the media to comment on recent developments in media law and defamation. A number of Justin's recent matters in the media law space are as follows.

- *Khoury v Kirwan [2020] VSC 466* (Victorian Supreme Court): Justin appeared for the plaintiff on an application by the defendant to have the proceeding transferred to the Supreme Court of NSW. The application was refused.
- *Peris v Price, S ECI 2020 00323* (Victorian Supreme Court): Justin appeared for the plaintiff in a defamation claim arising from statements made on a nationwide television broadcast. The matter was resolved.
- *Zuchowski v Howe [2020] VCC* (Victorian County Court, CI-20-00493): Justin appeared for the plaintiff on an application to strike out the statement of claim before His Honour Judge Smith. The application was refused in a Ruling dated 31 July 2020.
- *Miglani v Kanwaljit CI-20-01337* (Victorian County Court): Justin appeared for the plaintiff on an application for an injunction and an extension of time before His Honour Judge Smith on 30 April 2020. The injunction and extension of time were ordered on that day. Justin also appeared for the plaintiff before His Honour Judge Smith on the hearing of pleading summonses on 6 August 2020.
- *Szymczak v Balijepalli [2019] FCA 234* (Federal Court of Australia, NSW Registry): appeared for the applicant in a defamation claim arising from an anonymous email. Obtained judgment in default for \$70,000 and previously obtained preliminary discovery orders to assist in identifying the respondent.

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- *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.
- *Johnston v Holland [2017] VSC 595; [2016] VSC 340* (Victorian Supreme Court): defamation, application for discovery, extension of limitation period and application in relation to pleadings: appeared for the defendant.
- *Donohue v Round & Ors [2017] VCC 1711* (Victorian County Court): Appeared for the plaintiff, a managing director of a mining company, in a defamation claim against a number of animal activists. The defendants published a petition online, plus further publications on Facebook that stated that the plaintiff shot kangaroos cruelly and illegally without any permit. The matter resolved at mediation after numerous interlocutory disputes.
- *Von Marburg v Aldred & Anor [2016] VSC 565; [2016] VSC 36; [2015] VSC 467*: (Supreme Court): internet publication on Facebook, pleading disputes, with Ms E Tadros: for the first defendant.
- *Kevin Pietersen*, Melbourne Stars cricketer reported during 2017 Big Bash game for comments made during live television broadcast: appeared for Pietersen in Code of Behaviour hearing in 2017.
- *Nineteenth Claybank Pty Ltd v Smith [2016] VCC 904*: (County Court): defamation and injurious falsehood for publication of website. Appeared at trial for the defendant, which ran for five days before it resolved.

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- *Gupta v Deodia [2016] VCC 1791*: (County Court): defamation, application for security and transfer pursuant to *Service and Execution of Process Act 2001* (Cth): appeared for the defendant.
- *Harmonious Blend Building Corporation Pty Ltd v Keene & Anor [2015] VSC 276; [2014] VSC 649* (Victorian Supreme Court): publication on Product Review forum on the internet, defamation and misleading or deceptive conduct, with Ms L Papaelia: appeared for the plaintiffs.
- *Sites N Stores Pty Ltd v Whirlpool.net.au Pty Ltd [2015] FCA 1474* (Federal Court): publication on internet forum, preliminary discovery: appeared for the respondent.
- *Clark v Ibrahim & Anor [2015] VSC 301; [2014] VSC 30* (Victorian Supreme Court): publication on the Product Review forum on the internet. Appeared for the plaintiff who claimed misleading or deceptive conduct.
- *Williams v Katis [2014] VSC 405*: defamation trial in Supreme Court sitting in Mildura arising from television broadcast and local Council election: appeared for the plaintiff.
- *Sali v Australian Broadcasting Corporation & Ors [2013] VSC 388* (Victorian Supreme Court, resolved in 2015): defamation, television broadcast by The Chaser Team: appeared for the plaintiff.
- *Hawthorn v Seven Network Ltd [2013] VSC 352* (Victorian Supreme Court): defamation, application for injunction to prevent impending broadcast of parts of "Today Tonight": appeared for the defendant.
- *Jenman v McIntyre & 21st Century Academy Pty Ltd [2013] NSWSC 110*: (NSW Supreme Court, resolved in 2014): defamation, publication on the internet, including a hyperlink: appeared for the first defendant with Ms Lyndelle Barnett.
- *Robinson (who sues as the legal representative of Maria Korp) v The Herald & Weekly Times Ltd & Ors, No. CI-05-02524* (resolved at mediation in 2007): Breach of confidence, publication of private images of deceased in hospital in daily newspapers and on television: appeared for the plaintiff.

Economic Torts



Justin has been involved in many types of negligence claims. These include being briefed regularly for Powercor Australia Ltd and CitiPower Pty over the last decade in relation to claims 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* (County Court): negligence, claim for damage to assets including loss of revenue: for the plaintiff. Obtained judgment.
- *CitiPower Pty v Citywide Solutions Pty Ltd & Ors, CI-19-02678* (Victorian County Court): Set down for trial in April 2020;
- *Richardson v City of Melbourne, CitiPower Pty & Ors, CI-13-05996* (Victorian County Court): To be set down for trial in 2020.
- *Powercor Australia Ltd v Zammit, CI-18-01548* (Victorian County Court);
- *Powercor Australia Ltd v AAI Ltd (t/as GIO): CI-18-05107*: (Victorian County Court): application for preliminary discovery;
- *Trevorrow v Powercor Australia Ltd, SCI 8197 of 2015*: (Victorian Supreme Court): claim arising from a bushfire in Woodend;
- *Powercor Australia Ltd v Cut and Fill Pty Ltd, No. CI-15-01329* (Victorian County Court);
- *CitiPower Pty v The Rattray Group Pty Ltd, CI-14-05542* (Victorian County Court);
- *Powercor Aust Ltd v Consolidated Broken Hill Holdings Pty Ltd [2016] VCC 1029* (Victorian County Court);
- *LJ Donohue Nominees Pty Ltd v Powercor Australia Ltd, CI-13-03719* (Victorian County Court): fire damage to property;
- *Powercor Australia Ltd v Mandalay Resources Costerfield Operations Pty Ltd, CI-15-04756* (Victorian County Court): commercial dispute;
- *Wood v Powercor Australia Ltd CI-13-04969* (Victorian County Court): personal injury claim;



- *McCleery v CitiPower Pty & Anor, No. CI-08-01921*: (Victorian County Court): trial in 2011, before His Honour Judge Robertson, and opposed to Jeff Gleeson QC. I appeared for the first defendant in this claim arising from a house fire. The plaintiff claimed that CitiPower's overhead cables had degraded over time and become faulty – that was disputed. After Justin cross-examined the plaintiff's expert witness, John Seeger-Snowden:
 - the plaintiff agreed to withdraw the claim with no orders as to costs; and
 - that expert was subsequently sued by the plaintiffs in the matter of *McCleery v Seeger-Snowden*, Victorian County Court Proceeding No. CI-11-00540. Seeger-Snowden engaged Justin to act on his behalf in that subsequent proceeding.

Commercial Cases

Justin has acted in a large range of commercial 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, although he has also appeared in commercial arbitrations and other courts around Australia.

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

- *Zoo Property Wealth Builder Pty Ltd v Qiyam Investments Pty Ltd & Anor [2020] VCC 167*: (Victorian County Court): Justin appeared for the plaintiff and defendants by counterclaim in the 7-day trial of this proceeding in September – October 2019. The plaintiff was successful on the claim and the counterclaim was dismissed.
- *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.
- *Royal Fresh International Pty Ltd v Nutracare Life Sciences Pty Ltd [2019] VCC 601*: appeared for non-parties and resisted application for costs order against those non-parties.
- *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, accessory liability for breach of fiduciary duties:
 - Justin appeared for the defendants at the trial *[2014] QDC 293*, and his client was 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.
- *Australian Securities and Investment Commission v McIntyre & Ors [2016] FCA 1276* (Federal Court) managed investment scheme, claim of financial services provided without a financial services license: appeared at trial for the individual respondents.
- *Australian Securities and Investment Commission v Planet Platinum (Prov Liq App) Ltd [2015] VSC 682* (Victorian Supreme Court): application for winding up on just and equitable grounds: appeared at trial for the defendant.
- *Zheng v Louey (as administratrix of deceased estate) & Ors, SCI 6306 of 2012* (Victorian Supreme Court): misleading or deceptive conduct, sale of land at auction, representations by real estate agent: appeared for the defendants at trial where it was resolved after a number of days.
- *PT Mayora Indah Tbk v Ecoval Dairy Trade Pty Ltd*, arbitration conducted pursuant to MPC Arbitration Regulations in The Netherlands (resolved at mediation in 2013), appeared for the applicant.
- *Hyro Ltd v Albertross Investment Properties Ltd [2010] VSC 667* (Victorian Supreme Court: proceeding dismissed): Application to set aside statutory demand, issues of foreign law, appeared for the defendant.



- *Decoraddo v Knowles [2010] VCC 511* (County Court): Breach of loan agreement, handwriting expert, appeared at 10-day trial for the defendant.
- 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 has been a member of the Victorian Bar's Continuing Professional Development - Sub Committee since 2017. He is the Secretary of the Media Law Section of the Commercial Bar Association.

While he is the author of the website and blog at www.defamationwatch.com.au, he is also a contributor to The International Forum for Responsible Media Blog (INFORM), at <http://inform.wordpress.com/>, which operates from the United Kingdom.

Justin has been sought to provide comment on developments in defamation in mainstream media and has appeared on ABC News (most recently in February 2020), Foxtel Sky News and Newstalk ZB Radio in New Zealand.