

# DANIEL TYNAN

## BARRISTER

12<sup>th</sup> Floor Wentworth Selborne Chambers  
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Doyle's List – Leading Competition Law Barrister – Australia  
Legal 500 - Leading Competition Law Junior Counsel

Kumar, M. Peden, E. Tynan, D. *Uniform Evidence Law: Commentary and Materials* (7<sup>th</sup> Ed, 2023)

### EDUCATION

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<b>CAMBRIDGE UNIVERSITY</b> Master of Laws	2006
<b>UNSW</b> Bachelor of Laws (Dean's List)	2002
<b>UOW / UNSW</b> Bachelor of Science (Dean's List) (Honours)	1999

### PROFESSIONAL EXPERIENCE

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<b>BARRISTER</b> 12 <sup>th</sup> Floor Wentworth-Selborne Chambers	2009 - present
<b>BARRISTER</b> 11 <sup>th</sup> Floor Wentworth-Selborne Chambers	2008 - 2009
<b>LEGAL OFFICER</b> Lieutenant, RANR	2013 - 2019
<b>LAWYER / SENIOR LAWYER</b> AGS, Litigation, Canberra	2006 – 2008
<b>LEGAL AND POLICY ADVISER</b> Hon Robert McClelland MP, Parliament House of Australia	2004 – 2005
<b>LAWYER</b> Clayton Utz Lawyers	2004
<b>JUDGE'S ASSOCIATE</b> Federal Court of Australia	2003 – 2004

### ACADEMIC POSITIONS

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<b>LAW LECTURER</b> Sydney University (LEC) – Competition and Consumer Law	2021 - 2023
<b>LAW LECTURER</b> UTS – Competition and Consumer Law	2018 - 2019
<b>LAW LECTURER</b> UTS – Bar Preparation Course	2011 - 2017
<b>LAW LECTURER</b> Sydney University – Public Law, Civil Procedure, Evidence Law	2012 - 2017
<b>LAW LECTURER</b> UNSW – Public Law	2004

## SELECT CASES

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### Misleading and deceptive conduct cases

- *ACCC v Mosaic Brands Ltd* – FCA proceedings - ongoing
- *ACCC v Emma Sleep GMBH & Ors* – FCA proceedings - ongoing
- *Invisalign Australia Pty Ltd v Smile Direct Club LLC* (2023) FCA 395; FCAFC reserved
- *ACCC v Booktopia Pty Ltd* [2023] FCA 194
- *ACCC v Google LLC (No 2)* [2022] FCA 1476; [2021] FCA 1172
- *Snowy Mountains Grammar School Ltd v Adventurer AWD Pty Ltd* [2021] NSWSC 1602
- *Commissioner for Fair Trading (ACT) v Bowes Street Developments Pty Ltd* [2021] ACTSC 282
- *ACCC v Kimberly-Clark Australia Pty Ltd* [2020] FCAFC 107
- *ACCC v GlaxoSmithKline Consumer Healthcare Australia Pty Ltd (No 2)* [2020] FCA 724
- *Storm Industries Pty Ltd v Unicar Australia Pty Ltd (No 2)* [2020] NSWDC 95; [2020] NSWDC 51
- *ACCC v Hewlett-Packard Australia Pty Ltd* [2013] FCA 653
- *A & W Developments Pty Ltd v Liverpool Volkswagen* – NSWSC proceedings - settled
- *Global One Mobile Entertainment Pty Ltd v ACCC* [2012] FCAFC 134; *(No 2)* [2011] FCA 670; [2011] FCA 393
- *SingTel Optus Pty Ltd v ACCC* [2012] FCAFC 20
- *ACCC v SingTel Optus Pty Limited (No 4)* [2011] FCA 761; *(No 3)* [2010] FCA 1272; *(No 2)* [2010] FCA 1200; [2010] FCA 1177

### Consumer guarantee cases

- *Hubbard v Jaguar Land Rover* – VCAT proceedings – settled
- *Emmerik v Saltwater Associates Pty Limited* – FCA proceedings – settled
- *Prestige Auto Traders Pty Limited v Bonnefin* [2017] NSWSC 149
- *Bespoke Automotive Australia v Ilya Adams* – NSWDC proceedings - settled

### Unconscionable conduct cases

- *Metro Environmental Logistics Pty Ltd v Newcastle Port Corporation* – NSWSC proceedings - ongoing
- *ACCC v Australian Institute of Professional Education Pty Ltd (in liq)* – (No 5) [2021] FCA 1516; (No 6) [2020] FCA 822; (No 4) [2020] FCA 1811; (No 3) [2019] FCA 1982; (No 2) [2018] FCA 1459
- *ACCC v Cornerstone Investment Aust Pty Ltd (in liq)* (No 6) [2020] FCA 822; (No 5) [2019] FCA 1544; (No 4) [2018] FCA 1408; (No 3) [2017] FCA 749; (No 2) [2017] FCA 393; [2016] FCA 445
- *Unique International College Pty Ltd v ACCC* [2018] FCAFC 155
- *ACCC v Unique International College* [2019] FCA 1773; (No 7) [2017] FCA 1289; [2017] FCA 727; (No 6) [2016] FCA 773; (No 5) [2016] FCA 757; (No 4) [2016] FCA 628; (No 3) [2016] FCA 592; (No 2) [2016] FCA 495
- *ACCC v Origin Energy Electricity Limited* [2015] FCA 278

### Competition law cases

- *Re NSW Minerals Council (No 4)* [2021] ACompT 5; (No 3) [2021] ACompT 4, 361 FLR 24; (No 2) ACompT 3, 361 FLR 1; [2021] ACompT 2
- *Epic Games, Inc v Google LLC* (Service Out of Jurisdiction) [2021] FCA 666

- *CMF Investments v National Film and Archives of Australia* – FCA proceedings - settled
- *ACCC v Yazaki Corporation - High Court special leave refused* (A24/2018); [2018] FCAFC 73; (No 2) [2015] FCA 1304; [2014] FCA 1316
- *ACCC v Metcash Trading Limited (No 2)* [2012] FCAFC 55; [2011] FCAFC 151; [2011] FCA 967

#### **Criminal cartel cases**

- *ACCC v McKeough* (criminal contempt) - charges withdrawn
- *CDPP v CFMMEU* – ACTSC proceedings (criminal cartel) - case withdrawn

#### **Corporations law**

- *ASIC v American Express* - FCA proceedings – ongoing

#### **Health law**

- *TGA v CDA Clinics QLD Pty Ltd* – FCA proceedings - ongoing

#### **Money laundering cases**

- *AUSTRAC v Star Pty Limited* – FCA proceedings - ongoing
- *AUSTRAC v Sky City Australia* – FCA proceedings - ongoing
- *AUSTRAC v Westpac Banking Corporation* [2020] FCA 410 - \$1.3 billion penalty
- *AUSTRAC v Commonwealth Bank of Australia Limited* [2018] FCA 930 - \$700 million penalty
- *AUSTRAC v TAB Limited (No 4)* [2017] FCA 1532; (No 3) [2017] FCA 1296; [2016] FCA 122 - \$45 million penalty
- Advising Blackstone and Crown Ltd

#### **Proceeds of crime litigation**

- *NSW Crime Commission v Dib* – NSWSC proceedings - ongoing
- *Commissioner of the AFP v Fadi Ibrahim & Anor* – NSWSC proceedings - ongoing
- *Commissioner of the AFP v Pratten* [2021] NSWSC 69; (No 2) [2017] NSWSC 1172; [2017] NSWSC 927
- *Commissioner of the AFP v El Debel & Ors* [2021] ACTSC 286
- *Commissioner of the AFP v Cacu* [2019] NSWSC 1094
- *Commissioner of the AFP v Assie* – NSWSC proceedings - settled
- *Commissioner of the AFP v Cole (No 2)* [2018] NSWSC 1123; [2018] NSWSC 953
- *Commissioner of the AFP v Wu* [2018] NSWSC 1108
- *Commissioner of the AFP v Higgins* [2018] NSWSC 244
- *Re Commissioner of the AFP* [2017] NSWSC 588
- *AFP v Kinch* [2016] NSWSC 1424
- *AFP v Zhang & Xing* [2015] NSWSC 61
- *AFP v Yi Hua Jai* – NSWSC proceedings - settled
- *AFP v Gulun Zhang and Anor* – NSWSC proceedings – settled

#### **Privacy law**

- Advising the Office of the Australian Information Commissioner on possible enforcement actions

## **Inquiries**

- Acting for the Miller family at the Special Commission of Inquiry into LGBTIQ hate crimes – 2023
- Acting for various Directors of Crown Resorts in the NSW Casino Inquiry - 2020

## **Employment law**

- *McMillan v Gwynne* (restraint of trade/injunction) – NSWSC proceedings – settled
- *McGoldrick v SportsTG Pty Ltd* [2019] NSWSC 1154
- *BlackRock Asset Management Australia Services Limited & Anor v Waked & Ors* – FCA proceedings - settled 2012

## **Contract cases**

- *TDC Pty Ltd v Workforce Clothing Pty Ltd (No 3)* [2016] NSWSC 1892
- *Caves Beachside Cuisine Pty Limited v Boydah Pty Limited* [2015] NSWSC 1273
- *T & DC Pty Limited v Workforce Clothing Pty Limited* [2015] NSWSC 1731
- *Greencapital Aust Pty Ltd v Pasminco Cockle Creek Smelter Pty Ltd* [2019] NSWCA 53; *(No 3)* [2018] NSWSC 1956
- *Raffaele Viscardi SRL v Quality Centre Food Services Pty Ltd (No 2)* [2013] NSWSC 2055; [2013] NSWSC 1104
- *Arab Bank Australia Ltd & Ors ats Webuildem Pty* – NSWSC proceedings - settled
- *Vertical Australia Pty Ltd v Air Company Vertical-T LLC* [2012] NSWSC 719
- *Holus Bolus Pty Ltd v The Wicko Pty Ltd* [2012] NSWSC 497

## **Leasing**

- *Fortius Funds Management Pty Ltd ats The City Retail Trust* – NSWSC proceedings – settled
- *Fortius Funds Management Pty Ltd ats The City Retail Trust ats Forever New Clothing Pty Ltd* – NCAT proceedings - settled

## **Administrative law**

- *Gold Merchants International v ATO* - FCA proceedings - settled
- *Golden v Vlandys* [2016] NSWCA 300
- *Bright Learning Family Day Care v Secretary, DET* – AAT proceedings - settled
- *Forever Family Day Care v Secretary, DET* – AAT proceedings - settled
- *Harrison v Corrective Services NSW & Ors* – NSWSC proceedings - settled

## **Intellectual property**

- *Veda Advantage Ltd v Malouf Group Enterprises Pty Ltd (No 2)* [2016] FCA 470; [2016] FCA 255
- *Copyright Agency Ltd v NSW (No 3)* [2014] ACopyT 1
- *Emperor Sports Pty Ltd v Jigsaw Sports Pty Ltd* – FCA proceedings - settled
- *Copyright Agency Ltd v NSW (No 2)* [2013] ACopyT 2; [2013] ACopyT 1
- *Attachmate Corporation v Commonwealth of Australia* - FCA proceedings settled

## **Foreign State evidence matters**

- *Application by Securities and Exchange Commission* [2020] NSWSC 1609; *(No 2)* [2020] NSWSC 1500; [2020] NSWSC 1212

- *Re Attorney General (NSW)* [2020] NSWSC 817; [2020] NSWSC 816
- *Attorney General in and for the State of NSW* [2016] NSWSC 111
- *Re Attorney General (NSW)* [2013] NSWSC 807

## COMPULSORY EXAMINATIONS

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- Conducting compulsory examinations for ACCC and AFP
- Attending compulsory examinations on behalf of respondents at ACCC and ASIC

## SEMINARS, LECTURES AND CPDS

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- **Hot Topics in Evidence – Expert Evidence**, Presentation for ASIC, December 2023
- **Recent Developments in Australian Consumer Law**, Ballina CPD, March 2023, March 2024
- **Advanced Evidence and Advocacy Master Class**, Legalwise, March 2023
- **Unconscionable conduct**, University of Sydney, LLM Course, May 2022
- **Evidence Law – Update and trends**, AFP National Legal Conference, November 2021
- **The Australian Consumer Law**, City of Sydney Law Society, February 2021 and May 2019
- **Systemic unconscionable conduct**, Presentation for ACCC, June 2020
- **Proceedings under the AML/CTF Act - *Austrac v CBA* [2018] FCA 930**, National Proceeds of Crime Conference Brisbane, November 2019
- **Gathering evidence abroad**, Presentation for ASIC, October 2019
- **Systemic unconscionable conduct: evidentiary hurdles and recent cases** with Prof E Peden and Chief Justice Allsop chairing, NSW Bar Association, August 2019
- **Unfair Contract Terms in Australia and the UK: A Comparison**, Gonville & Caius College, University of Cambridge, July 2019
- **The Australian Consumer Law – A Year in Review**, Consumer Law Conference, May 2019
- **Obtaining Evidence from Foreign Entities**, Presentation for ACCC, April 2019
- **Price Negotiations – Australian Competition Law**, Presentation for HARIBO, December 2018
- **Calculating civil pecuniary penalties: recent decisions, controversies and trends**, Holding Redlich, November 2018
- **Proceedings under the AML/CTF Act - *AUSTRAC v Tabcorp and CBA***, Mallesons, 2018
- **Regulation, Litigation, and Enforcement**, UNSW Law School, LLM Program, August 2018
- **Role of the ACL in Consumer Protection**, The Consumer Law Conference, May 2018
- **Update on Evidence Law**, Presentation for AFP Legal Proceeds of Crime, June 2017 and 2018
- **Proceedings under the AML/CTF Act - *AUSTRAC v Tabcorp and AUSTRAC v Commbank***, Minter Ellison, 2017
- **Update on Unjust Contracts and Unconscionability** with Prof E Peden, Commercial Law Association, October 2016
- **Unconscionable Conduct**, Far North Coast Law Society Annual Conference, 2017
- **Privilege and Statutory bodies**, 12 Wentworth Selborne Chambers, 2015
- **Responding to s 155 Notices Issued by the ACCC**, 12 Wentworth Selborne Chambers, 2015
- **Civil Penalties: Assessing a Pecuniary Penalty** with J Clarke SC and J Single, ASIC, 2015