

BORA D. KAPLAN – SELECTED CASES (AS AT OCTOBER 2016)

Selection of cases in which I am currently briefed (appearing for party underlined)

1) *Public law*

CASE	INSTRUCTED BY	LED/UNLED
<u><i>Chief of Navy v Angre</i></u> (Full Federal Court: Allsop CJ, Griffiths, Mortimer, Perry and Gleeson JJ). Statutory construction; defence.	HWL Ebsworth	Led by Arthur Moses SC.
<u><i>SZVBN v Minister for Immigration and Border Protection</i></u> (Full Federal Court: bench TBC). Administrative law; guardianship; children.	Sparke Helmore.	Led by Geoffrey Kennett SC.
<u><i>Monteiro v Commissioner of Corrective Services</i></u> (Supreme Court). Administrative law; judicial review.	Crown Solicitor's Office.	Unled.
<u><i>Child Support Registrar v Preston</i></u> (Full Family Court). Common law procedural fairness.	Lander & Rogers.	Unled.
<u><i>Darwish v Children's Guardian</i></u> (NCAT). Administrative law; statutory construction.	Eckert Legal.	Unled.
<u><i>SZTYV v Minister for Immigration and Border Protection</i></u> (Federal Circuit Court). Administrative law; public interest immunity.	DLA Piper.	Unled.
<u><i>Van Gorp v Child Support Registrar</i></u> (Full Family Court). Administrative law; statutory construction.	Sparke Helmore.	Unled.
Briefed in approximately 15 judicial review applications in the Federal Circuit Court and appeals in the Federal Court.	AGS; Clayton Utz; Sparke Helmore; DLA Piper; Minter Ellison; Mills Oakley.	Unled.

2) *Commercial law and common law*

CASE	INSTRUCTED BY	LED/UNLED
<i>Guo v Commonwealth of Australia</i> (Federal Court). False imprisonment; battery; migration.	Ren Zhou Lawyers.	Led by Geoffrey Kennett SC.
<i>Stellar Vision Operations Pty Ltd v Hills Health Solutions Pty Ltd</i> (Supreme Court). Trusts; equity; contract.	Bradfield & Scott Lawyers.	Led by Greg McNally SC.
<i>Giro Construction Group Pty Ltd & Ors v McCrohon & Ors</i> (Supreme Court). Corporations; insolvency; trade practices.	CCS Legal.	Led by Matthew White SC.
<i>Owners – Strata Plan 80751 v AV Jennings (Cammeray) Pty Ltd</i> (Supreme Court). Building and construction; contract; negligence.	Chambers Russell Lawyers.	Unled.
<i>Jingjiang Hopefultex Garments Co Ltd v Ice Design Pty Ltd</i> (District Court). Sale of goods; private international law; contract.	KL International Lawyers.	Unled.
<i>Saffron v Marshin Holdings Pty Ltd</i> (Supreme Court). Trusts; equity.	Macpherson Kelley.	Led by Matthew White SC.
<i>SK Alliance Pty Ltd v Edwards</i> (District Court). Contract; property.	Pritchard Law.	Led by Matthew White SC.
<i>Scharer v Giro Construction Group Pty Ltd</i> (NCAT). Building and construction; contract; joint obligations.	CCS Legal.	Unled.
Advising an individual on potential tort claims against the State of New South Wales.	Public Interest Advocacy Centre.	Unled.

3) *Defence and military*

CASE	INSTRUCTED BY	LED/UNLED
<i>Angre v Chief of Navy</i> (Defence Force Discipline Appeal Tribunal: Tracey, Logan and Brereton JJ).	Office of the Director of Military Prosecutions.	Led by Arthur Moses SC.

Military discipline; <i>res judicata</i> ; issue estoppel; withdrawal of guilty pleas. Interlocutory judgments: [2016] ADFDAT 1; [2016] ADFDAT 2.		
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Selection of cases in which I was briefed from 2013–2016 (appeared for party underlined)

1) *Public law*

CASE	INSTRUCTED BY	LED/UNLED
<u><i>Plaintiff S42/2016 v Minister for Immigration and Border Protection</i></u> [2016] HCATrans 46 (French CJ). Constitutional writs; interlocutory injunctions.	Clayton Utz.	Unled.
<u><i>May v Military Rehabilitation and Compensation Commission</i></u> (2015) 233 FCR 397 (Allsop CJ, Kenny, Besanko, Robertson and Mortimer JJ). Workers' compensation; administrative law; statutory construction.	Moray & Agnew.	Led by Geoffrey Johnson SC.
<u><i>Minister for Immigration and Border Protection v WZARH</i></u> (2015) 90 ALJR 25 (High Court). Full Federal Court (Flick, Nicholas, Gleeson JJ): (2014) 230 FCR 130. Legitimate expectations; common law procedural fairness.	Sparke Helmore Lawyers.	Led by Geoffrey Johnson SC in the High Court. Unled in the Full Federal Court.
<u><i>Grant v Chief of Navy</i></u> (Federal Court) (settled in 2016). Judicial review; administrative law.	Australian Government Solicitor.	Unled.
<u><i>Bennison v NSW Department of Premier and Cabinet</i></u> [2016] NSWCATAD 101. Freedom of information; administrative law; local government amalgamations.	Leslie Hargrave Lawyers.	Unled.
<u><i>Minister for Infrastructure and Transport v CSL Australia Pty Ltd</i></u> [2014] HCATrans 166 (Special leave). Full Federal Court (Allsop CJ, Mansfield and Rares JJ): (2014) 221 FCR 165. Federal Court (Katzmann J): [2013] FCA 152.	Clayton Utz.	Led by Kristina Stern SC.

CASE	INSTRUCTED BY	LED/UNLED
Administrative law; statutory construction.		
<p><i>CSL Australia Pty Ltd v Minister for Infrastructure and Transport & Braemar Seascope Pty Ltd</i> (2014) 227 FCR 333 (Rares J).</p> <p>Coastal trading; administrative law; statutory construction.</p>	Clayton Utz.	Led by Kristina Stern SC.
<p><i>Maritime Union of Australia v Minister for Infrastructure and Regional Development</i> (advised on prospects in 2015).</p> <p>Coastal trading; administrative law; statutory construction; interlocutory injunctions.</p> <p>Judgment of Full Federal Court: (2015) 238 FCR 464 (did not appear).</p>	WG McNally Jones Staff.	Unled.
<p><i>Minister for Immigration and Border Protection v Kim</i> (2014) 221 FCR 523 (Yates, Robertson and Wigney JJ).</p> <p>Administrative law; guardianship; children.</p>	Sparke Helmore Lawyers.	Led by Geoffrey Kennett SC.
<p><i>Campbell v Nursing and Midwifery Board of Australia</i> (NCAT) (settled in mid-2016).</p> <p>Administrative law; medical; professional regulation.</p>	Legal Helpdesk Lawyers.	Unled (against Kristina Stern SC).
<p><i>Minister for Immigration and Citizenship v SZRNY</i> [2014] HCATrans 122 (special leave granted then revoked due to legislative amendments).</p> <p>Full Federal Court (Buchanan, Griffiths and Mortimer JJ) (2013) 214 FCR 374.</p> <p>Administrative law; statutory construction; <i>functus officio</i>.</p>	Sparke Helmore Lawyers.	Led by Stephen Lloyd SC.
<p>Appeared in approximately 50-70 applications for judicial review in the Federal Circuit Court and appeals in the Federal Court.</p>	AGS; Clayton Utz; Sparke Helmore; DLA Piper; Minter Ellison; Mills Oakley.	Unled.

2) *Commercial law and common law*

CASE	INSTRUCTED BY	LED/UNLED
<i>The Owners – Strata Plan 34135 v Linders Strata Management Pty Ltd</i> (District Court) (settled in 2015 prior to hearing). Negligence/personal injury; strata schemes; property; contract.	Kennedys.	Unled.
<i>Tamworth Regional Council v Hanson</i> [2016] NSWSC 1334. Appeal on questions of law; contract; deeds.	Harris Wheeler Lawyers.	Unled.
<i>Royal Guardian Mortgage Management Pty Ltd v Nguyen</i> [2014] NSWSC 665. Contract; corporations.	Gilbert + Tobin.	Led by Bruce McClintock SC.
<i>Herron v Blackburn</i> (Supreme Court) (settled in 2015). Equity; property.	Peter Baker Solicitor.	Unled.
<i>Roberts v Aegis Media (ANZ) Management Services Pty Ltd</i> (Federal Court) (set down for 4 days in 2014 before Buchanan J but settled before hearing). Contract; employment; trade practices.	Lamplugh McIntosh Lawyers.	Unled.
<i>Hoatson Maxwell No 1 Pty Ltd v Insite Organisation Pty Ltd</i> (District Court) (settled in 2015). Contract.	Lamplugh McIntosh Lawyers.	Unled.
<i>Yan v On Pty Ltd</i> (District Court) (settled in 2015 prior to hearing). Contract.	Ren Zhou Lawyers.	Unled.
<i>Parker v Yee</i> [2014] NSWSC 772. Negligence/personal injury.	Colin Biggers & Paisley.	Led by Matthew White SC.
<i>Marshin Holdings Pty Ltd v Attorney-General (NSW) & Saffron</i> [2013] NSWSC 326. Trusts; judicial advice.	Macpherson Kelley.	Led by Matthew White SC.
<i>Sol Sports Pty Ltd v Iriks</i> (Supreme Court) (settled in 2013 prior to hearing). Contempt of court.	Sydney City Lawyers.	Led by Matthew White SC.

CASE	INSTRUCTED BY	LED/UNLED
<i>SA & RT Tesoriero Pty Ltd v Le</i> (District Court) (settled on Day 4 of five-day hearing in 2013). Contract; sale of goods; consumer protection.	Selective Lawyers.	Unled.

3) *Defence and military*

CASE	INSTRUCTED BY	LED/UNLED
<i>Chief of Navy v Thompson</i> (Full Federal Court) (advised on prospects). Appeal from [2015] ADFDAT 1. Appeal on questions of law; military discipline; withdrawal of guilty pleas.	Department of Defence.	Led by Stephen Lloyd SC.
<i>Chief of Air Force v Jesser</i> (Full Federal Court) (advised on prospects). Appeal from [2015] ADFDAT 3. Appeal on questions of law; military discipline; assault occasioning actual bodily harm.	Department of Defence.	Unled.
<i>Director of Military Prosecutions v Seaman J</i> (Trial before Colonel J Woodward in 2014). Military discipline; assault on superior officer.	Defence Counsel Services.	Led by P Hogan.
<i>Director of Military Prosecutions v Seaman H</i> (Court-martial before Major General I Westwood in 2015). Military discipline; assault.	Defence Counsel Services.	Led by P Hogan.
<i>Director of Military Prosecutions v Sergeant R</i> (advised on prospects). Military discipline; fraud.	Office of the Director of Military Prosecutions.	Unled.