

Daniel Clarry

Year of call: 2012 (admitted as a solicitor in 2008)

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GERARD BRENNAN
CHAMBERS

Overview

Daniel has a general commercial practice, with specific expertise in cases involving trustees and other fiduciaries, including administrations, applications for judicial advice, commercial trusts disputes, joint ventures, managed investment schemes and receiverships. Before being called to the Bar, Daniel was an Associate to the Honourable Justice Greenwood in the Federal Court of Australia and a litigation lawyer for the Australian and UK competition regulators, acting in several price-fixing cases. In addition to focusing on trial and appellate advocacy, Daniel also accepts briefs to act as a mediator.

Daniel has been elected a Fellow of the Australian Academy of Law and the European Law Institute. He is also a member of other professional associations, including the Law Council of Australia (Competition & Consumer Committee), the Society of Legal Scholars and the Society of Trust & Estate Practitioners. Daniel has published widely on trusts and other legal subjects (examples below). His publications have been cited by courts throughout Australia and internationally.

Academia

- 2015–16 Academic Fellow and Lecturer on Law, Harvard Law School
- 2015 PhD in Law (Commonwealth Trust Scholarship (full funding)), and Affiliated Lecturer, University of Cambridge
- 2011 LLM (Quebec Research Centre of Private and Comparative Law Scholarship (full funding)), McGill University
- 2006 Bachelor of Commerce (BCom (Banking & Finance)) / Bachelor of Laws (LLB (Hons)), University of Queensland

Areas of practice

- Appellate
- Arbitration, Mediation & Evaluation
- Banking & Finance
- Bankruptcy & Insolvency
- Commercial & Corporate
- Competition & Consumer
- Constitutional
- Contract
- Equity & Trusts
- Fiduciary Obligations
- Joint Venture Disputes
- Mining Energy & Resources
- Professional Negligence & Tort
- Property
- Restitution & Unjust Enrichment

Cases (examples)

Catalyst Townsville SPV No. 1 Pty Ltd v Presbyterian Church of Queensland and consolidated proceedings – acting for real estate investment trust (REIT) entities to recover debts owed by the Presbyterian Church of Queensland from PCQ’s aged care business (“PresCare”) (over \$30 million) [\[2025\] QSC 255](#) and [\[2025\] QSC 282](#) (orders, interest and indemnity costs) (trial (led by M Hodge KC)); confidentiality orders on receivers’ application for judicial advice [\[2021\] QSC 219](#) (unled)

Waller Projects Pty Ltd v FW Estate Pty Ltd – acting for defendants in a trial concerning, principally, whether fiduciary duties were owed in the context of a commercial joint venture relating to the development of a 1,200 lot subdivision [\[2025\] QSC 16](#) (trial), [\[2025\] QSC 100](#) (costs, including personal costs orders); opposing plaintiff’s application for injunction to restrain proceeds of sale from being released [\[2019\] QSC 221](#) (~\$24m released) (led by M Stewart KC)

Cameron v Cameron – acting for one of three brothers and his entity in a dispute concerning a deed involving the intergenerational transfer of farming properties and pastoral businesses, as well as a counterclaim by one brother and his entity claiming relief from oppression [2023] QSC 61 (acting for moving parties striking out a counterclaim) (unled)

LM Investment Management Ltd (in liq) v Whyte – acting for company in liquidation in various capacities concerning a trustee indemnity claim by a receiver in respect of an adverse cost liability (~\$8.5 million) arising out of unsuccessful litigation taken by the receiver without judicial advice that he would be justified in commencing or pursuing that litigation [2023] QSC 132 (for parties opposing receiver’s strike out); [2023] QSC 147 (indemnity costs) (led by J Peden KC); opposing receiver’s application for judicial advice that he would be justified in appealing the dismissal of a damages claim commenced by him against the directors of a company that acted as the responsible entity of an unregistered managed investment scheme [2020] QSC 265 (judicial advice refused), [2020] QSC 311 (indemnity costs) (led by J Peden QC)

Hamer v Parity Partners Pty Ltd – acting for trustee to oppose the appointment of a receiver over trust property of an unregistered managed investment scheme involving the acquisition and development of land in NSW for a cold store distribution facility to be leased to the Bega cheese group [2022] QSC 232 (led by J Peden KC); acting for trustee in respect of an alleged loan, raising issues as to agency, fiduciary duties and penalties [2022] QDC 186 (unled)

Hookey v Whitelaw – acting for defendants in respect of a commercial lease and joint venture dispute involving the acquisition and development of land at Hope Island for a childcare business raising issues as to the recovery of possession of land, estoppel, fiduciary duties, termination of lease and relief against forfeiture ([2020] QSC 63 (trial); [2020] QSC 147 (indemnity costs and relief against forfeiture); [2020] QSC 284 (trust security); [2020] QSC 298 (costs); [2021] QCA 181 (for respondents on appeal); [2021] QCA 213 (indemnity costs for respondents on appeal) (led by M Stewart QC)

Compass Marinas Australia Pty Ltd v State of Queensland – appeal concerning common law and equitable estoppel, as well as guarantees and limitations, in a case involving alleged misrepresentation by the State in respect of dry and wet lease rates in connection with the development of a new marina at Scarborough [2021] QCA 293 (led by G Gibson QC)

Berg Engineering Pty Ltd v Tivity Solutions Pty Ltd – confidential information alleged to be held by ex-employees, acting to uphold ex parte search order obtained by other counsel where allegations were subsequently made as to material non-disclosure [2019] QSC 68 (first instance); [2019] QSC 224 (costs); [2019] QCA 305 (appeal) (led by D Kelly QC)

Australian Competition and Consumer Commission v Flight Centre Ltd – acting for Flight Centre Ltd to defend allegations made by the ACCC of price-fixing by an international travel agent (Flight Centre Ltd) with Emirates, Malaysia Airlines and Singapore Airlines [2012] FCA 1161 (intervention by IATA); [2013] FCA 1313 (trial) (led by S Doyle QC)

Publications (examples)

Books

The Irreducible Core of the Trust (Bloomsbury/Hart Studies in Private Law series (*forthcoming*)) (author)

The Supervisory Jurisdiction Over Trust Administration (Oxford University Press 2018) (author)

The UK Supreme Court Yearbook Vols 1–10 (2009-2020) (Appellate Press) (editor-in-chief)

Book chapters and journal articles

‘Trustee Exemption Clauses’ in Richard Nolan, Lusina Ho, Mark Bennett and Adam Hofri-Winogradow (eds), *The Oxford Handbook of Comparative Trust Laws* (Oxford University Press 2025)

‘Mandatory and Default Rules in Fiduciary Law’ in Evan Criddle, Paul Miller and Robert Sitkoff (eds), *The Oxford Handbook of Fiduciary Law* (Oxford University Press 2019)

‘The Removal of Trustees by Arbitration in England and Australia’, in Stacie Strong and Tony Molloy QC (eds), *Arbitration of Trust Disputes* (Oxford University Press 2016)

‘Fiduciary Ownership and Trusts in a Comparative Perspective’ (2014) 63 *International and Comparative Law Quarterly* 901-933; selected for republication in Antonio Gambaro (ed), *Comparative Property Law* (Edward Elgar 2017)

‘Contemporary Approaches to Market Definition: Taking account of international markets in Australian competition law’ (2009) 37 *Australian Business Law Review* 143-183 (awarded *Gaire Blunt Scholarship* by the Law Council of Australia)