



GREENWAY CHAMBERS

Justin Pen

Solicitor 2017/ Barrister 2022

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Background

Justin specialises in all areas of labour law, including employment, anti-discrimination, and work health and safety law. He also regularly accepts briefs in commercial law and public law matters.

He is regularly briefed to act unled in proceedings before the Federal Court of Australia, Federal Circuit Court and Family Court of Australia, and the Fair Work Commission in his principal areas of practice.

Before coming to the bar, Justin was a Senior Associate with Harmers Workplace Lawyers and a Solicitor with the Marrickville Legal Centre. He also previously served as Tipstaff to the Hon. Justice Robertson Wright in His Honour's then role as President of the New South Wales Civil and Administrative Tribunal.

His work has been published in, among other places, the Alternative Law Journal, a quarterly peer-reviewed legal affairs journal; Workplace Review, Thomson Reuters' industrial relations journal; and Bar News, the journal of the New South Wales Bar Association. He also maintains Recent Cases in Labour Law, a monthly case-note bulletin of decisions of interest, and presents to law firms and community legal centres on topics of interest.

Justin brings to each matter a strong knowledge of case law, robust strategic issue identification and problem-solving skills, and an attentive demeanour. He takes a collaborative and egalitarian approach to litigation and encourages input from all members of a legal team.

Copies of his presentation slides and published articles are generally available on request.

Qualifications

- 2022 Called to the Bar
- 2017 Admitted to Practice
- 2016 Bachelor of Laws, University of Sydney
- 2014 Bachelor of Arts, University of Sydney

Areas of Expertise

Labour Law

Work Health & Safety Law

Commercial Law

Public Law

Labour Law and Commercial Law

MQT Pty Ltd v Tamati [2025] FWCFB 265

Acting for respondent employee in appeal regarding alleged failure to afford procedural fairness to self-represented employer at hearing below (unled, instructed by Concord Lawyers).

Moroney v TM Insight Operations Pty Limited and Ors [2025] FCA 1337

Acting for industrial real estate consultancy in expedited determination of the validity and enforceability of restraints of trade contained in a shareholders' agreement and employment agreement (led by J Darams SC, instructed by Talbot Sayer).

Ord Minnett v Theodorou [2025] FCA 721

Acting for wealth management firm in appeal regarding application and coverage of the Banking, Finance and Insurance Award 2010 and operation of contractual set-off clause (led by J Darams SC, instructed by Lander & Rogers).

Benson v Lloyds Auctioneers & Valuers Pty Limited [2025] FedCFamC2G 1401

Acting for art dealers in contract claim for non-payment of \$1m+ in profit-based bonuses and pecuniary penalties claim for late payment of annual leave (led by J Darams SC, instructed by Carter Newell).

Webster v Grumpy Sailor Creative Pty Ltd [2025] FedCFamC2G 1231; [2025] FedCFamC2G 1236

Acting for senior producer in interlocutory applications for leave to amend statement of claim and for discovery (unled, instructed by WorkLawyers).

Shapkin v The University of Sydney [2025] NSWCA 100; [2024] NSWSC 1091; [2023] NSWCATAP 2

Acting for the University of Sydney in a series of appeal proceedings regarding application of Residential Tenancies Act 2010 (NSW) to university-owned student accommodation (led by A Rao in [2025] NSWCA 100 and B Tronson in [2024] NSWSC 1091; [2023] NSWCATAP 2, instructed by Bartier Perry).

Wright v Younes (Federal Court of Australia, 6 December 2024)

Acting for motel worker in interlocutory application for freezing orders in aid of underpayment claims and other breaches of the Fair Work Act 2009 (Cth) (led by C Parkin, instructed by Legal Aid NSW).

Monash IVF Pty Ltd v Mooring (New South Wales Supreme Court, 29 July 2024); [2024] NSWSC 1651 (costs)

Acting for consultant obstetrician in interlocutory injunction resisting enforcement of a restraint of trade by a fertility services and treatments provider and subsequent related application for interlocutory costs (led by D Mahendra, instructed by Gadens).

Morshed v Barrenjoey Services Pty Limited [2023] FedCFamC2G 318

Acting for information technology specialist in interlocutory application for extension of time pursuant to s 370(a)(ii) of the Fair Work Act 2009 (Cth) (unled, instructed by WorkLawyers).

Parkview Constructions Pty Ltd v Futuroscop Enterprises Pty Ltd [2023] NSWSC 178

Acting for commercial site owner resisting a claim for damages and specific performance under a design and construct contract and its cross-claim against contractor for defective building work and failure to achieve practical completion (led by I G Roberts SC and H Pintos-Lopez, instructed by William Roberts Lawyers).

Acting (led and unled) in proceedings that settled prior to hearing in matters involving claims and applications under Part 9.4AAA of the Corporations Act 2001 (Cth) (i.e. whistleblower protections), Division 3 of Part II of the Sex Discrimination Act 1984 (Cth) (i.e. prohibition on sexual harassment), Part II and IIA of the Racial Discrimination Act 1975 (Cth) (i.e. prohibition on racial discrimination and offensive behaviour based on racial hatred claims), Part VAA of the Federal Court of Australia Act 1976 (Cth) (suppression and non-publication orders), and very, very many parts of the Fair Work Act 2009 (Cth) (e.g. unfair dismissals, breaches of general protections, breaches of national employment standards, modern awards and enterprise agreements, bullying and sexual harassment applications, and disputes).

Public Law and Administrative Law

Catholic Healthcare Limited v SafeWork NSW [2025] NSWIRComm 1046

Acting for regulator in external review of an inspector's decision to issue an improvement notice to a residential aged care facility provider requiring the implementation of fit testing of respiratory masks (led by A Rao in [2024] NSWCA 156, and by B Tronson in [2023] NSWSC 1534, instructed by Bartier Perry)

Shapkin v The University of Sydney [2024] NSWCA 156; [2023] NSWSC 1534

Acting for the University of Sydney in interlocutory matters regarding stay of judicial review proceedings commenced while statutory appeal proceedings were on foot (led by A Rao, instructed by Bartier Perry).

Human Rights Law Centre, 'Whistleblower Project' (2023)

Advising on application of the Parliamentary Privileges Act 1987 (Cth) to whistleblowing by employees and public servants, in support of the establishment of the 'Whistleblower Project' (with R Doyle SC, T Wood, S Rajanayagam, on instruction by the Human Rights Law Centre).

FKT v Children's Guardian [2023] NSWCATAD 22

Acting for statutory authority in external review of decision to refuse a working with children's check to a person who had been found not guilty of various criminal offences (unled, instructed by the Crown Solicitor's Office).

AZ v Sydney Local Health District [2022] NSWSC 878

On referral from the NSW Bar Association's Legal Assistance Referral Scheme, acting for parents seeking relief in parens patriae jurisdiction to restrain a local health district from discharging their child from a hospital (led by B Tronson, instructed by McGirr & Associates).

Criminal Law / Coronial Inquests and Inquiries

SafeWork NSW v Jervis (Local Court of New South Wales, 16 October 2025)

Acting for prosecutor in sentencing of worker for breach of s 28(b) duty contrary to 32 of the Work Health and Safety Act 2011 (NSW) (unled, instructed by SafeWork NSW).

CD 2024/00139002: Bondi Junction Inquest

Acting for, and appearing on behalf of, regulator in coronial inquest into the Westfield Bondi Junction mass casualty event on 13 April 2024 (unled, instructed by SafeWork NSW).

SafeWork NSW v J. F Building Consultants Pty Ltd (Local Court of New South Wales, 29 October 2024)

Acting for prosecutor in sentencing of building company for breaches of cl 225(3) and 225(5) of the Work Health and Safety Regulation 2017 (unled, instructed by SafeWork NSW).

Articles/ Case Notes

- Kevin Tang and Justin Pen, 'An Interview With Keith Mason and Larissa Reid' (2024 Winter) Bar News: Journal of the NSW Bar Association 30.
- Justin Pen and Emily Aitken, 'Vox ex machina: recent cases in audio-visual link law' (2024 Autumn) Bar News: Journal of the NSW Bar Association 58.
- Brenda Tronson and Justin Pen, 'Preparing expert evidence: "Render unto the expert the things that are the expert's"' (5 August 2022) Law Society Journal (online).
- Justin Pen, '(I Can't Get No) Jurisdiction' (2022 Winter) Bar News: Journal of the NSW Bar Association 14.
- Justin Pen, 'Employees vs Independent Contractors' (2022 Autumn) Bar News: Journal of the NSW Bar Association 26.

Book Reviews

- Justin Pen, 'The Iliad by Homer: translated by Emily Wilson' (2024 Winter) Bar News: Journal of the NSW Bar Association 100.
- Justin Pen, 'The Odyssey by Homer: translated by Emily Wilson' (2024 Autumn) Bar News: Journal of the NSW Bar Association 106.
- Justin Pen, 'Common Law, Equity and Statute: A complex entangled system' by Mark Leeming (2023) 48(4) Alternative Law Journal 305-306

Presentations

- "Strategies for Underpayment Recovery" to the Union Lawyers & Industrial Officers Conference 2025 (March 2025).
- "Brrrrr It's Cold In Here - Freezing Orders and Employment Law" to the NSW Working Women's Centre (February 2025).
- "The Right to Disconnect" to the Piddington Society (March 2024).
- "Deeds of Release: Doing Them and Undoing Them" to Legal Aid NSW (March 2024), Herbert Smith Freehills (May 2023), and Community Legal Centres NSW's Employment and Discrimination Network (February 2023).
- "Industrial manslaughter and recklessness offences" - Greenway Chambers CPD (February 2024) (with Colin Magee).
- "Unreasonable additional working hours - claims under the Fair Work Act 2009 (Cth)" to the New South Wales Young Lawyers' Workplace and Safety Law sub-committee (October 2022), Harmers Workplace Lawyers (October 2022), and Herbert Smith Freehills (October 2022).