

# Chris Terren

## Barrister

Francis Burt Chambers, Level 16, 77 St Georges Terrace, Perth WA 6000

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## Overview

I am a barrister practicing at Francis Burt Chambers. I practice in both commercial and public law. I have particular experience with corporate and personal insolvency matters, contractual and commercial disputes, and post-determination native title matters. I have appeared as sole counsel in the Supreme Court, District Court, Magistrates Court, Family Court, Warden's Court and Federal Courts, along with various tribunals. I have also instructed in complex civil trials and appeals including in the High Court of Australia.

## Admissions

- Elected to the WA Bar – August 2022
- Admitted to practice in the Supreme Court of Western Australia – November 2015
- Admitted to practice in the High Court of Australia and Federal Court of Australia – November 2015

## Academic Qualifications

- ARITA Advanced Certificate in Insolvency (ARITA and University of Technology Sydney) – 2019
- Graduate Diploma of Legal Practice (College of Law) - 2015
- Bachelor of Laws with Distinction (LLB) (Murdoch University) - 2009-2014
- Bachelor of Commerce (Major: Management) (Murdoch University) – 2009-2014

## Select Cases

### SOLE COUNSEL

*CITIC Pacific Mining Management v Yaburara and Coastal Mardudhunera Aboriginal Corporation* [2020] WASC 332

- Acted for the prescribed body corporate for the Yaburara and Coastal Mardudhunera people in interpleader proceedings.
- Successfully made the complex and novel argument that upon a successful determination of native title, an automatic transfer of the representation and authority takes place from the applicants to the prescribed body corporate under the *Native Title Act 1993* (Cth).

*Hemmett v Market Direct Group Pty Ltd* [2018] WASC 214

- Acted for the applicant, Mr Hemmett in an application for judicial review of a decision in the Magistrates Court of Western Australia, identifying a significant flaw in the procedure used by the Court in maintaining the inactive cases list.
- The result of the decision and the subsequent decision in *Hemmett v Market Direct Group Pty Ltd [No 2]* [2018] WASC 310 was a systemic change in the Court's procedures and the issuing of notices to thousands of litigants around the state.

*Norwest Sand & Gravel Pty Ltd v Ngarluma Aboriginal Corporation RNTBC & Another* [2020] NNTTA 68

- Acted for the Ngarluma Aboriginal Corporation in opposing a future act determination.
- Novel argument that an existing agreement between the parties that provided for future tenure could not be relied upon to obviate the need to negotiate in good faith.

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#### JUNIOR COUNSEL / INSTRUCTING SOLICITOR

##### *Garlett v Western Australia* [2022] HCA 30

- Constitutional challenge to parts of the *High Risk (Serious Offenders) Act 2020* (WA) on the basis that they were incompatible with Chapter III of the *Constitution*.
- Sole instructing solicitor for the Appellant.
- In a split 5-2 decision, the claim was ultimately unsuccessful, although the decision raised significant issues with the legislation.

##### *Phoenix Eagle Company Pty Ltd v Tom McArthur Pty Ltd [No 7]* [2022] WASC 345

- Appeared as Junior Counsel for the Defendant.
- Culmination of 6 years of litigation concerning accessorial liability to breaches of fiduciary duties.

##### *Ardizzone v Valentino Nominees Pty Ltd* [2019] WASC 55

- Successful three-week civil trial as the sole instructing solicitor for senior counsel.
- The primary claim involved complex construction arguments in relation to the Joint Form of General Conditions for the Sale of Land and representations that amounted to misleading and deceptive conduct and breach of contract.
- The counterclaim involved detailed consideration of the legislative framework enabling the Minister for Environment and CEO of the Department of Parks and Wildlife (who were parties to the proceedings) to declare areas of the state as ‘threatened ecological communities’.
- The matter required several categories of expert evidence, significant cross-examination and a series of interlocutory disputes and appeals to resolve (on which matters I also instructed senior counsel) including *Ardizzone v Valentino Nominees Pty Ltd [No 3]* [2016] WADC 64, the appeal in *Ardizzone v Valentino Nominees Pty Ltd [No 4]* [2016] WADC 136 and the preparation of an appeal to the Supreme Court of Appeal (which was resolved shortly before hearing).

##### *Thillagaratnam v Doan* [2022] WASC 185

- One week civil trial as the sole instructing solicitor for senior counsel.
- Successfully acted for the Plaintiff in a claim for rescission following the purchase of land subject to a undisclosed nuisance.

## Work history

### SENIOR ASSOCIATE

Roe Legal Services

*February 2015 – June 2022 (Senior Associate from April 2019)*

- Primarily practicing in commercial litigation and insolvency and litigious native title matters acting for a variety of clients from private individuals, liquidators and other insolvency practitioners, corporations (including ASX listed), government departments, insurers, and Aboriginal Corporations.
- Appeared as counsel in matters from the Magistrates Court to the Supreme Court of Western Australia and Federal Courts and as instructing solicitor in superior court trials. See select cases below.
- Work directly with senior and junior counsel in complex civil litigation with a large degree of autonomy.
- Regular provision of legal advice and opinions on insolvency issues.
- Supervision of solicitors and paralegals/law graduates.

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## Awards and Competitions

### *Philip C. Jessup International Moot Court Competition (2013 – 2014)*

- My team finished 4<sup>th</sup> in the Australian rounds.
- Our written memorials ranked 3<sup>rd</sup> overall.
- I received a top 10 individual oralist award (7<sup>th</sup>).

### *Murdoch Law School Competitions*

- Winner of the 2013 Herbert Smith Freehills Senior Mooting Competition.
- Captained and competed in the Murdoch University Mooting Team at the 2013 Australian Law Students Association Conference.
- Semi-Finalist in Trial Advocacy (2013), Negotiations (2010 and 2011), Client Interview (2011) and Junior Trial Advocacy (2009).

## Memberships and Associations

- Member of the WA Bar Association (2022 – Present)
- Member of the Law Society of Western Australia (2014 – Present)
- Member of the Restructuring and Insolvency Network Western Australia (RINWA) (2015 - Present)
- Committee member for the RINWA Committee (2019 – 2021)
- Member of the Australian Restructuring Insolvency and Turnaround Association (ARITA) (2018 – Present)
- Professional Member of ARITA (2022 - Present)