

# Shawn Rajanayagam

## Barrister

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**Clerk:** List A Barristers, Level 2, 200 Queen St Melbourne VIC 3000

## Practice

I have a trial and appellate practice in public, regulatory and commercial law. Since coming to the Bar, I have appeared as junior counsel in the High Court of Australia, intermediate appellate courts, the Federal Court of Australia and the Supreme Court of Victoria. I have also appeared unled in the Federal Court of Australia and the Supreme Court of Victoria, and in various lower courts and tribunals.

I also advise, led and unled, across a range of areas of law.

## Professional experience

2021– **Barrister**

Victorian Bar

2020–2021 **Counsel Assisting the Solicitor-General for Victoria**

I assisted Kristen Walker QC with the preparation of advice and the conduct of litigation on behalf of the State of Victoria, including significant matters before the High Court of Australia (*Gerner v Victoria* (2020) 270 CLR 412) and the Supreme Court of Victoria (*Loiello v Giles* (2020) 63 VR 1).

2017–2018 **Associate to the Hon Justice P A Keane AC**

High Court of Australia

2016–2017 **Associate to the Hon Justice S G E McLeish**

Victorian Court of Appeal

2015–2016 **Lawyer**

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## Education

2018–2019 **Harvard Law School** — *Master of Laws*

2012–2014 **Melbourne Law School** — *Juris Doctor*

2009–2011 **The University of Sydney** — *Bachelor of International and Global Studies*

## Selected appearances

### High Court of Australia — Full Court

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*Mallard v Homes Victoria* (ongoing): Judicial review — Procedural fairness — led by Kateena O’Gorman SC, Leigh Howard and Tim Farhall, with Katie O’Byrne, for the applicant

*MJZP v Director-General of Security* (2025) 99 ALJR 1108: Constitutional law — Ch III — led by Craig Lenehan SC and Tom Wood, for the plaintiff

*Bogan v The Estate of Peter John Smedley (deceased)* (2025) 99 ALJR 619: Class actions — Group costs orders — Civil procedure — Transfer of proceedings — led by Stephen Donaghue KC, Solicitor-General of the Commonwealth, for the Attorney-General of the Commonwealth

*Karpik v Carnival plc* (2023) 280 CLR 640: Competition and consumer law — Extraterritorial application of s 23 of the Australian Consumer Law (Cth) — Class actions — Validity of class action waiver clauses — led by Stephen Donaghue KC, Solicitor-General of the Commonwealth, Ruth Higgins SC and Sarah Zeleznikow, for the Attorney-General of the Commonwealth and the ACCC

*Unions NSW v New South Wales* (2023) 277 CLR 627: Constitutional law — Implied freedom of political communication — “Matter” and standing — led by Stephen Donaghue KC, Solicitor-General of the Commonwealth, and Sarah Zeleznikow, for the Attorney-General of the Commonwealth

*SDCV v Director-General of Security* (2022) 277 CLR 241: Constitutional law — Ch III — led by Craig Lenehan SC and Tom Wood, for the appellant

### High Court of Australia — Special leave

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*Mallard v Homes Victoria* [2026] HCATrans 30: Judicial review — Procedural fairness — *Charter of Human Rights and Responsibilities Act 2006* (Vic) — led by Kateena O’Gorman SC, Leigh Howard and Tim Farhall, with Katie O’Byrne, for the applicant

*El Zain v Vitrafy Life Sciences Ltd* [2023] HCASL 7 — Contract — Construction of extension clause — led by Allan Myers KC, for the applicant

### Intermediate appellate courts

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*MJZP v Director-General of Security* (Full Court of the Federal Court of Australia, ongoing): Review of adverse security assessment — led by Nick Wood SC and Tom Wood, for the applicant

*Harkness v Banks* (Victorian Court of Appeal, ongoing): Constitutional law — Judicial review of prosecutorial discretion — led by Frances Gordon KC, with Melinda Jackson, as amici curiae

*FN PQ v Secretary, Department of Social Services* [2025] FCAFC 159: Social security law — Income attribution — led by Mark Costello KC, for the respondent

## **Federal and Supreme Courts — Public law**

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*CLMF v Minister for Immigration and Citizenship* (Federal Court of Australia, ongoing): Judicial review — Incorrect understanding of the law — Legal unreasonableness — unled, for the applicant

*Gold Coast Marine Aquaculture Pty Ltd v Aqua Star Pty Ltd* (Federal Court of Australia, reserved): Negligence — Constitutional law — Inconsistency between Commonwealth and State laws — led by Peter Collinson KC and Chris Rogers, for the Commonwealth

*Attorney-General (Cth) v Benbrika (No 2)* [2025] VSC 223: Application for extended supervision order — led by Zoe Maud SC and Glyn Ayres, for the Attorney-General of the Commonwealth

*Harkness v Banks (No 2)* [2024] VSC 709: Constitutional law — Judicial review of prosecutorial discretion — led by Frances Gordon KC, with Melinda Jackson, as amici curiae

*Benbrika v Attorney-General (Cth)* (2024) 74 VR 379: Application for extended supervision order — led by Peter Hanks KC and Sarah Zeleznikow, with Melinda Jackson, for the Attorney-General of the Commonwealth

*Minogue v Adult Parole Board* [2024] VSC 247: Judicial review — Denial of parole — led by Liam Brown SC, Crown Counsel for Victoria, for the defendant

*Munkara v Santos NA Barossa Pty Ltd (No 3)* [2024] FCA 9: Environmental law — Offshore gas project — led by Kateena O’Gorman SC, Fiona Batten, Patrick Coleridge and Nick Boyd-Caine, with Kelly Butler, for the applicant

*North East Forest Alliance Inc v Commonwealth* (2024) 423 ALR 533: Environmental law — *Regional Forest Agreements Act 2002* (Cth) — led by Richard Lancaster SC and Frances Gordon, for the Commonwealth

*[Decision restricted]* (2023, Supreme Court of Victoria): Human rights — Obligations of courts under s 6(2)(b) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) — led by Rowena Orr KC, Solicitor-General for Victoria, for the Attorney-General for the State of Victoria

*Abramov v Minister for Foreign Affairs (No 2)* (2023) 183 ALD 231: Judicial review — Sanctions — War in Ukraine — led by Ron Merkel KC, with Jack Maxwell, for the applicant

*WOTCH Inc v VicForests* (Supreme Court of Victoria, resolved after trial): Environmental law — Code of Practice for Timber Production — led by Richard Knowles KC, Kathleen Foley SC and Colette Mintz, for the plaintiff

## **Federal and Supreme Courts — Commercial, regulatory and common law**

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*Bekar v Commonwealth* (Supreme Court of Victoria, ongoing): Wrongful death — Negligence — led by Richard Knowles KC, for the defendants

*ACCC v Coles Supermarkets Australia Pty Ltd* [2026] FCA 598: Competition and consumer law — Misleading or deceptive conduct — led by Garry Rich SC, Emma Bathurst and Sarida McLeod, for the ACCC

*ACCC v Mobil Oil Australia Pty Ltd* [2026] FCA 93: Competition and consumer law — Misleading or deceptive conduct — Agreed penalty — led by Fiona Forsyth KC, for the ACCC

*Thomas v The a2 Milk Co Ltd [No 2]* (2022) 68 VR 283: Class actions — Conflict of laws — Jurisdiction and power of the Supreme Court — led by Alistair Pound SC, as the contradictor

### **Lower courts and tribunals**

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I have appeared in various matters in lower courts and tribunals, including the Federal Circuit and Family Court of Australia, the Administrative Appeals Tribunal, the Administrative Review Tribunal and the Victorian Civil and Administrative Tribunal. For an example of a reported decision, see *EBH22 v Minister for Immigration, Citizenship and Multicultural Affairs* (2023) 379 FLR 371.

## **Publications and presentations**

‘Constitutional medley: the Territories, *Melbourne Corporation* and constitutional legislation’ (Paper presented at the Australian Association of Constitutional Law, ACT Chapter, 20 November 2025) (with Rachel Amamoo and Tom Wood)

‘Running civil regulation litigation in the High Court: A practical guide’ (AGS Civil Regulation Forum, 8 May 2024) (with Sarah Zeleznikow)

‘Constitutional law update’ (Paper presented at the CommBar Public Law Section CPD Symposium, 9 February 2023) (with Minh-Quan Nguyen)

‘Sir Anthony and the Implied Freedom of Political Communication’ in Barbara McDonald, Ben Chen and Jeffrey Gordon (eds), *Dynamic and Principled: The Influence of Sir Anthony Mason* (Federation Press, 2022) 196 (with Justice Kristen Walker)

‘*Private R v Cowen*’ (Paper presented at the 2021 Constitutional Law Conference, Gilbert + Tobin Centre of Public Law, UNSW, 12 February 2021)

‘Urgent Lawmaking and the *HRPS Act*: The Case of the 2014 Anti-Terror Reforms’ in Julie Debeljak and Laura Grenfell (eds), *Lawmaking and Human Rights: Executive and Parliamentary Scrutiny across Australian Jurisdictions* (Thomson Reuters, 2020) 647

‘The Case against a National Court of Appeal’ (2017) 91 *Australian Law Journal* 670

‘Corporations and Freedom of Religion: Australia and the United States Compared’ (2015) 37 *Sydney Law Review* 329 (with Carolyn Evans)

‘Does Parliament Do Enough? Evaluating Statements of Compatibility under the *Human Rights (Parliamentary Scrutiny) Act*’ (2015) 38 *UNSW Law Journal* 1046

## **Professional associations**

Australian Association of Constitutional Law

Commercial Bar Association

Public Law Bar Association