

## Victoria Casey KC

I lead complex litigation, with a particular focus on public law. I have worked across a range of sectors including energy, environment, construction, finance, health and disability, local government and central government agencies.

I joined the independent bar in 2012, becoming a QC in 2016. I have previously worked as Crown Counsel with the Crown Law Office's Tax & Commercial and Human Rights Teams, and with Bell Gully (Auckland and Wellington offices), Meredith Connell (Auckland) and Sly and Weigall (Canberra).

### Recent Cases

- *Hudson v Attorney-General* [2023] NZCA 653 (successful appeal, judicial review, prisoners' rights and freedom of expression)
- *Wallace v Chief Executive of Dept of Corrections* [2023] NZHC 2248 (successful claim that Dept of Corrections' conversion of Arohata Womens' Prison to a remand centre and closure of the only Drug Treatment Unit for sentenced women was discriminatory and unlawful). Also: relief judgment [2023] NZHC; interim orders judgment [2022] NZHC 2464; and costs [2023] NZHC 2830
- *Port Otago Limited v Environmental Defence Society Inc* [2023] NZSC 112 (resource management: the 'avoid' policies in the New Zealand Coastal Policy Statement)
- *New Zealand Nurses Organisation v Te Whatu Ora Health New Zealand* (representing Te Whatu Ora in pay equity related claims for nursing workforce in the Employment Court and Employment Relations Authority)
- *Dotcom v Attorney-General* [2023] NZHC 3105, [2023] NZHC 1122, [2022] NZHRRT 7, [2020] NZCA 551 and [2019] 2 NZLR 277 (HC) (privacy and damages)
- *Ryan v Health and Disability Commissioner* [2023] NZSC 42, on appeal from [2021] NZCA 347 and [2020] NZHC 373 (vicarious liability of GP practice under the Health and Disability Commissioner Act) and [2020] NZHC 360 (name suppression)
- *Van Silfhout v Pathirannehelage* [2023] NZCA 5 and [2021] NZHC 2268 (counsel assisting the Court, Prisoners and Victims Claims Act 2005)
- *Te Rūnunga O Ngāi Tahu v Te Ohu Kai Moana Trustee Ltd* [2023] NZHC 302 (judicial review application relating to proposed changes to Māori fisheries settlement distribution model)
- *Lawyers for Climate Action NZ Inc v Climate Change Commission* [2022] NZHC 3064 (representing Commission in successful opposition to judicial review of advice on New Zealand's domestic emissions budgets and Nationally Determined Contribution under the Paris Agreement). Also [2023] NZCA 443 (evidence on appeal).
- *Stafford v Attorney General* [2022] NZCA 165 (representing Kāinga Ora in judicial review relating to Ministers' powers to direct Crown Entities, fiduciary claims for historical Treaty breaches). See also *Stafford v Attorney-General* [2021] NZHC 335 and 1466; [2022] NZSC 108.

- *WorkSafe v National Emergency Management Agency* [2022] NZDC 8020 (successful application to dismiss charges against NEMA in relation to Whakaari eruption)
- *K v Complaints Assessment Committee* [2022] NZHC 307 (scope of *functus officio* in disciplinary investigative process)
- *Trans-Tasman Resources Ltd v Taranaki-Whanganui Conservation Board* [2021] NZSC 127 (representing the EPA in an appeal against a consent for off-shore iron sands mining under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (first and second appeals at [2020] NZCA 86 and [2018] NZHC 2217)
- *Environmental Protection Authority v BWO Offshore Singapore Ptd Ltd* [2021] NZHC 2577 (correct approach to costs against a regulator in the Environment Court)
- *Jonathon Livingston Engineering Co Ltd v Commissioner of Patents* [2021] NZHC 2542 (counsel assisting the Court, patent appeal)
- *Peters v Attorney-General* [2021] NZCA 355, and *Peters v Bennett* [2020] NZHC 761 and 1734 (successful defence of tort of privacy claim by Rt Hon Winston Peters against State Services Commissioner and former CE MSD)
- *New Zealand Post Primary Teachers Assoc v Secretary for Education* [2021] NZEmpC 87 (claim that collective agreement discriminated against part time secondary school teachers on the basis of sex)
- *Registrar of Real Estate Agents Authority v Cavanagh* [2021] NZHC 680 (fit and proper person test for registration)
- *New Zealand Professional Firefighters Union Inc v Fire and Emergency New Zealand* [2021] NZCA 60 (successful opposition to leave to appeal on restructuring provisions in governing legislation)
- *Greymouth Gas Turangi Ltd v Minister of Energy and Resources* [2020] NZHC 2712 (judicial review, offshore petroleum exploration permits and the government announcement of the ban on future off-shore exploration)
- *Borrowdale v Director-General of Health* [2020] NZHC 2090 (challenge to the 2020 COVID-19 lockdown and subsequent Level 3 response)
- *Hospice New Zealand v Attorney-General* [2020] NZHC 1379 (rights of conscientious objection for institutions under proposed End of Life Choice Act)
- *Taylor v Chief Executive of Dept of Corrections* [2020] NZHC 383 (meaning of personal information under the Privacy Act)
- *Mercury NZ Ltd v Commissioner of Inland Revenue* [2019] NZHC 1524 (depreciation, whether geothermal powerhouses are a 'building')
- *Greymouth Petroleum Mining Group Ltd v Minister of Energy & Resources* [2019] NZHC 1222 (judicial review, petroleum mining permit)
- *Commerce Commission v Euro Corporation Ltd* [2019] NZDC 1025, [2020] NZDC 13297 (steel mesh prosecution under the Fair Trading Act 1986)

- *Reekie v Claimaint A* [2018] NZHC 2434, [2019] NZCA 398 (counsel assisting the Court, Prisoners and Victims Claims Act 2005)
- *Rewiti v Maori Women's Welfare League* [2018] NZHC 2713 (judicial review of changes to the League's constitution)
- *Heinz Watties Ltd v Ministry of Business, Innovation and Employment* [2018] NZHC 2309 (judicial review, anti-dumping duties)
- *McGoughan v DePuy International Ltd and ACC* [2018] 2 NZLR 916 (CA) and [2016] 2 NZLR 119 (HC) (challenge to the ACC regime statutory bar on litigation seeking compensatory damages)
- *Attorney-General v Taylor* [2017] NZCA 215, [2017] 3 NZLR 24 (appearing for the Speaker of the House of Representatives as intervener on issues of Parliamentary privilege)
- *Foundation for Anti-Aging Research v Charities Registration Board* [2016] NZHC 2328, (2016) 27 NZTC 22-074 (charitable status of scientific research, cryogenics)

### **Other Matters**

Representation of central government agency in NZ Royal Commission COVID-19 Lessons Learned, 2023

Independent review of the detention of asylum seekers in New Zealand, 23 March 2022

Independent investigation on instructions from the High Performance Sport NZ Independent Complaints Service, 2021 (application for judicial review of same declined: *Thompson v Canoe Racing New Zealand Inc* [2022] 1533)

Independent Review of processes and proceedings for making refugee protection status determinations under Part 5 of the Immigration Act 2009, Report 2019

Assistant Commissioner of Patents, Trade Marks and Plant Designs, 2015 – 2018

Panel member litigation strategy review of government agency (2018)

Independent peer review of investigation into serious complaints against a senior executive (2018)

Chair of the Minimum Taste Standard Committee appointed by the New Zealand Kiwifruit Board inquiring into a complaint against Zespri (2017)

Represented Hastings District Council in Stage 2 of the Government Inquiry into Havelock North Drinking Water (2017)

Appointed counsel assisting the Government Inquiry by the Hon Lester Chisholm into allegations regarding the Hon Judith Collins and a former Director of the Serious Fraud Office (2014)

### **Seminars and Publications**

*Climate Change Litigation* (Crown Law Office) March 2023

*Prison Panorama* panel discussion Wellington Branch NZLS Parole Law Committee March 2022

*Emergency Powers and the Role of the Advocate* NZ Bar Association Conference 2022

*Judicial Review: recent cases and trends* Legalwise Government Law Conference September 2022

Duncan Cotterill Public Sector Forum *Personal information* November 2019

Member planning group for *Human Rights Law – New Frontiers* NZLS CLE Intensive May 2019

*Discovery in Judicial Review* (presentation to the Crown Law Office) November 2018

Panel speaker *The Rule of Law* NZ Bar Association Conference September 2018

*Public Law Claims* NZCLE In Short seminar August 2018

*Employment Court Workshop* August 2018

Seminars on Parliamentary Privilege in the context of litigation, July – August 2017, NZCLE February 2018

NZCLE Public Sector Governance Intensive: *When things go wrong – responding to external investigations* 26 October 2017

Government Legal Network *Health Law: Collisions between science, social policy, economics and ethics* 22 March 2017

Judicial Review 2016 in review *Legalwise* seminar 2 March 2017

Judicial Review in practice (presentation to the Crown Law Office) September 2016

Administrative Law 2015 in review *Legalwise* seminar 25 February 2016.

Victoria University cross-campus human rights symposium paper: *‘The right to die’ and ‘rational suicide’: respecting human rights for all or a claim for privilege by the strong? The case for the status quo’* 10 December 2015, paper published [2015] HRR 10.

*Gathering and disposing of information under the Inquiries Act 2013* NZLS Public Law Intensive 8 October 2015

The Legal Framework for Administrative Decision Making, *Legalwise* seminar 8 September 2015

Recent cases and developments in administrative law, *Legalwise* seminar, 24 February 2015

Article on the use of electronic bundles in the High Court, *LawTalk*, 7 June 2013.

Judicial Review seminars for Visiting Justices (Royal Federation of Justices) and Hearing Adjudicators (Dept of Corrections), 2008 to 2010.

Paper on the extraterritorial effect of the New Zealand Bill of Rights Act 1990, presented to a joint seminar of Government lawyers and members of the Refugee Status Appeals Authority, 2009.

### **Community and Professional**

Council member, New Zealand Bar Association

Honorary Legal Advisor, Wellington Justices of the Peace Association Incorporated