



Paul Hayes KC

Year of call: 2005 | Silk: 2017

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'an "extremely knowledgeable" practitioner'

Who's Who Legal 2022

'a very strong advocate who is thorough and well prepared'

Who's Who Legal 2021

Advises and appears in cases at interlocutory, trial and appellate levels, (international law & arbitration, commercial & equity litigation, large scale litigation, common law litigation [defamation and negligence & insurance], sporting disputes and constitutional & administrative law), conducted in multiple jurisdictions, but primarily in Melbourne, Sydney, Perth, London, Singapore, Kuala Lumpur and Lausanne. Also appears in jury cases, particularly in civil matters and especially in the field of defamation.

Appointed a Teaching Fellow at Queen Mary University of London (School of Law), 2022. Previously a Senior Fellow at the University of Melbourne (Faculty of Law), 2010-2022. Recognised internationally in *Who's Who Legal* (2016-2023) as a leading lawyer in the specialty of sports law and in Australia in *Doyle's Guide* as a leading silk in arbitration and public and administrative law.

Areas of expertise

- International Law and Arbitration
- Commercial and Equity Litigation
- Common Law (Defamation)
- Common Law (Negligence and Insurance)
- Sports Law
- Constitutional and Administrative Law

Sports Law

Sporting Disputes conducted before the Court of Arbitration for Sport, National Sports Tribunal (AUS), Statutory & Domestic Tribunals and Courts, including Doping, Selection, Eligibility, Integrity, On & Off Field Conduct, Results & Outcomes, Contractual Disputes, Sponsorship, Competition Organisation, Internal Management & Membership and Public/Private International Law.

Tribunal Member (Select Cases)

- ***International Biathlon Union v Ustyugov***: - International Biathlon Union Anti-Doping Hearing Panel. Decision, 13 February 2020. Sports Law. Doping, Non-analytical positive ADRV, Sanction.
- ***International Biathlon Union v Sleptsova***: - International Biathlon Union Anti-Doping Hearing Panel. Decision, 11 February 2020. Sports Law. Doping, Non-analytical positive ADRV, Sanction.
- ***Palamo v World Rugby***: - World Rugby Independent Judicial Committee. Decision, 16 August 2017. Sports Law. Doping, Unintentional ADRV, Sanction.
- ***Rayson v Athletics Australia***: - Athletics Australia Selection Appeals Tribunal (Chair). Decision, 8 July 2013. Sports Law. Selection, Proper application of Nomination Criteria.
- ***Snowsill v Triathlon Australia***: - Triathlon Australia Appeals Tribunal. Decision, 11 June 2013. Sports Law. Selection, Proper application of Nomination Criteria.

As Counsel

- ***Air Sport Australia Confederation v Federation Aeronautique Internationale***: - Court of Arbitration for Sport, Lausanne. CAS 2021/A/8550 (Lausanne). Award & Order dated 15 February 2022 (Leading Kelly McIntyre of Counsel). CAS Jurisdiction, Time limit for appeal.
- ***Liddick v Gymnastics Australia and Sport Integrity Australia***: - National Sports Tribunal of Australia. Proceeding NST-E21-148352, Interim Award dated 13 December 2021, Final Award dated 28 January 2022 (Leading Adrian Anderson of Counsel). Sports Law. Conduct, GA Code of Conduct and Member Protection Policy; Limitation of Actions; Applicable sanction.
- ***Marton v Australian Taekwondo***: - Court of Arbitration for Sport (Appeals Division). CAS 2021/A/8089 (Sydney). Final Award, 11 November 2021. (Leading Owen Wolohan of Counsel). Court of Arbitration for Sport (Appeals Division). CAS 2021/A/7945 (Sydney). Final Award, 9 June 2021. Australian Taekwondo Appeals Tribunal, Decision dated 26 April 2021. Sports Law, Olympic nomination and selection, Proper construction of Nomination Criteria, Correct application of Nomination Criteria.
- ***Donald v Rowing Australia***: - Rowing Australia Appeals Tribunal, Decision dated 24 March 2021 (Leading Anna Dixon of Counsel). Sports Law, Olympic nomination and selection, Proper construction of Nomination Criteria, Correct application of Nomination Criteria.
- ***Neil and Equestrian Australia v Hanna***: - National Sports Tribunal of Australia. Proceeding NST-E20-258261, Award dated 5 November 2020 (Leading Anna Dixon of Counsel). Sports Law. Conduct, EA Social Media Policy; NST Jurisdiction.
- ***Peris v Australian Sports Anti-Doping Authority and Athletics Australia***: - Federal Court of Australia / Court of Arbitration for Sport. Retained 2018-2019. (Leading Martin Guthrie of Counsel). Sports Law. Doping, Alleged ADRV.
- ***Talbot v Federation Internationale De L'Automobile***: - Court of Arbitration for Sport, Lausanne. CAS 2016/A/4635 (Lausanne). Sports Law. Doping, Alleged ADRV.
- ***Iles v Shooting Australia***: - Court of Arbitration for Sport (Appeals Division). CAS A1/2016 (Sydney). Partial Award, 30 June 2016; Final Award, 9 September 2016. Sports Law, Olympic nomination and selection, Proper construction of Nomination Criteria, Correct application of Nomination Criteria.
- ***Lloyd & Elks v Australian Sailing***: - Court of Arbitration for Sport (Appeals Division). CAS A3/2016 (Sydney). Final Award, 12 July 2016. (Junior to James Mighell KC). Sports Law, Olympic nomination and selection, Proper construction of Nomination Criteria, Correct application of Nomination Criteria.
- ***Australian Sports Anti-Doping Authority and Athletics Australia v Mottrom***: - Court of Arbitration for Sport (Ordinary Division). CAS A4/2014 (Sydney). Partial Award (Jurisdiction), 27 March 2015. Final Award, 21 March 2016. International Arbitration, Jurisdiction, Termination of

arbitration, CAS Code of Sports-related Arbitration, Rule 64.2. Sports Law, Doping, Reliability of laboratory analysis of positive sample test result.

- ***Equestrian Australia v Kenzig***: - Court of Arbitration for Sport (Appeals Division). CAS 2014/A/3738 (Sydney). Partial Award, 9 January 2015. Final Award, 5 March 2015. Equestrian Australia Tribunal (Sydney). Decision, 20 August 2014. Sports Law. Doping, 'B' sample, Results management, Proof of alleged ADRV.
- ***Tennis Australia and Australian Sports Anti-Doping Authority v Mousley***: - Tennis Australia Anti-Doping Tribunal (Melbourne). Decision, 18 August 2014. Sports Law. Doping, World Anti-Doping Code 2009, Article 10.4, Sanction.
- ***Jusup & Hikmet v Football Federation of Victoria (FFV) Inc***: - Magistrates Court of Victoria (Melbourne). [Lauritsen CM, unreported, 7 October 2013, No D12423452]. (Leading Dr Elizabeth Boros of Counsel). Incorporated Associations, Oppression, Interlocutory injunction, Transfer of action to Supreme Court of Victoria. Associations Incorporation Reform Act 2012 (Vic), ss. 68(1), 68(4), 68(6), 69, 220.
- ***Hill v Australian Sports Anti-Doping Authority and Cycling Australia***: - Court of Arbitration for Sport (Appeals Division). CAS 2013/A/3242 (Sydney). Award, 24 September 2013. International Arbitration, Jurisdiction, Separability of arbitration agreement. Cycling Australia Anti-Doping Policy Clauses 15.7, 15.8, 16, 19. CAS Code of Sports-related Arbitration, Rules 28, 55 and Statute of Bodies Working for the Settlement of Sports-related Disputes, Article S1. Federal Code on Private International Law 1987 (Switzerland) Articles 186, 190(2).
- ***Football Federation of Victoria Inc v North Sunshine Eagles Football Club and Sporting Whittlesea Football Club***: - Football Federation of Victoria Tribunal (Melbourne). Decision, 9 August 2013. Sports Law. Misconduct, Post-match melee, FFV Grievance & Disciplinary By-Law, Sanction.
- ***Australian Sports Anti-Doping Authority v McGough***: - Australian Football League Anti-Doping Tribunal (Melbourne). Decision, 15 March 2013. Sports Law. Doping, Intention to commit ADRV, AFL Anti-Doping Code Clause 14(3), Onus of Proof, Sanction.
- ***Walker v Australian Biathlon Association Incorporated***: - Court of Arbitration for Sport (Ordinary Division). CAS 2011/A/2590 (Sydney). Award, 15 December 2011. Sports Law. Selection, Proper application of ABA/IOC WYOG nomination/selection criteria, exclusion of race results of 'ineligible' athlete, conduct and subsequent consideration of shortened selection race.
- ***Australian Sports Anti-Doping Authority v Casserly***: - Western Australian Football League Appeals Tribunal (Perth). Decision, 3 June 2011. Sports Law. Doping, Intention to commit ADRV, AFL Anti-Doping Code Clause 14(3), Onus of Proof, Sanction.
- ***Buckley v Boxing Australia Incorporated (BAI) & Association of International Boxing Associations (AIBA)***: - Court of Arbitration for Sport (Ordinary Division) CAS 2010/O/2118 (Melbourne). Sports Law. Athlete surgically fitted with cardiac pacemaker, Risk or advantage to athlete, Power of AIBA/BAI to ban athlete. Disability Discrimination Act 1992 (Cth), ss. 4-6, 28. Equal Opportunity Act 1995 (Vic), ss. 6(b), 8-10, 64-66.
- ***Australian Sports Anti-Doping Authority v Nisbet***: - Court of Arbitration for Sport (Ordinary Division). CAS A2/2009 (Sydney). Award, 2 February 2010. Sports Law. Doping, No significant fault or negligence. Sanction.
- ***Australian Sports Anti-Doping Authority v Atkins***: - Court of Arbitration for Sport (Ordinary Division). CAS A1/2009 (Melbourne). Award, 4 November 2009. Sports Law. Doping, Whether athlete bound by NF Anti-doping Policy. ADRV consequences for athlete and other team members.
- ***World Anti-Doping Agency & International Rugby Board v Australian Rugby Union & Troy***: - Court of Arbitration for Sport (Appeals Division). CAS 2008/A/1652 (Sydney). Appeal Award, 18 March 2009; 2 June 2009; (2009) 4(1) ANZSLJR 1.

Sports Law. Doping, Non-analytical positive ADRV. Appeals, Time limit for lodgement of appeal under the ARU Anti-Doping By-Law and the CAS Rules.

- ***Swimming Australia Ltd v D'Arcy***: - Swimming Australia Tribunal (Sydney). Decision, 21 April 2009. Sports Law. Athlete conduct. Sanction.
- ***Doyle v Australian Saloon Car Federation***: - Australian Motor Sport Appeals Court (Melbourne). Appeal Ruling, 15 April 2009. Sports Law. Fuel Tampering, Fuel sampling procedure, relevance and reliability of 'B' sample in absence of 'A' sample test.
- ***D'Arcy v Australian Olympic Committee Inc***: - Court of Arbitration for Sport (Appeals Division). CAS 2008/A/1574 (Sydney). Appeal Award, 7 July 2008; (2008) 3(1) ANZSLJR 1. Court of Arbitration for Sport (Appeals Division). CAS 2008/A/1539 (Sydney). Appeal Award, 2 June 2008. (Leading Aaron Weinstock of Counsel).
(Also appeared on behalf of the Appellant before the Executive of the Australian Olympic Committee Inc, upon an application for his continued inclusion in the 2008 Australian Olympic Team, on 11 June 2008).
Sports Law. Misconduct, Bringing self into disrepute, Proper exercise of discretion to expel team member. Sanction, Severity, Proportionality. Scope of appellate jurisdiction of the CAS.
- ***Australian Sports Anti-Doping Authority v Van Tienan***: - Court of Arbitration for Sport (Ordinary Division). CAS 2007/A3 (Melbourne). Award, 16 June 2008. (Leading Michael Schulze of Counsel). Sports Law. Doping, Non-analytical positive ADRV, World Anti-Doping Code 2007 Articles 2.2 & 3.2, Reliable means of proof of ADRV. Sanction.
- ***Zubkov v Federation Internationale de Natation (FINA)***: - Court of Arbitration for Sport (Appeals Division). CAS 2007/A/1291 (Lausanne, Switzerland). Appeal Award, 21 December 2007. Sports Law. Misconduct, Bringing sport into disrepute, FINA Code of Conduct. Sanction, Severity, Proportionality.
- ***Marinov v Australian Sports Anti-Doping Authority***: - Court of Arbitration for Sport (Appeals Division). CAS 2007/A/1311 (Melbourne). Final Appeal Award (Save as to costs), 26 September 2007; (2007) 2(1) ANZSLJR 2. Final Award on Costs, 20 December 2007. Award (First Instance), 9 June 2007. Sports Law. Doping, Non-analytical positive ADRV, Whether official 'knowingly' in possession of prohibited substance.
- ***French v Australian Sports Commission and Cycling Australia***: - Court of Arbitration for Sport (Appeals Division). CAS 2004/A/651 (Sydney & Melbourne). Award (Appeal), 11 July 2005; Award (First Instance), 8 June 2004. Sports Law. Doping, CAS Appeals, Admissibility of new evidence on appeal. Private International Law. Costs. (Also appeared for the Appellant before the Anderson Inquiry, convened by the Federal Minister for Sport, in 2004).
- ***Beaton and Scholes v Equestrian Federation of Australia Ltd***: - Court of Arbitration for Sport (Appeals Division). CAS 2003/A/477 (Melbourne). Appeal Award, 20 October 2003. Sports Law. Doping, Athlete's rights, Opportunity for Athlete to be present at opening of 'B' sample.
- ***Beaton and Another v Equestrian Federation of Australia Ltd***: - Supreme Court of Victoria (Commercial & Equity Division). [2003] VSC 252. Associations & Clubs, Tribunals, Right to legal representation before Tribunal.
- ***Roxburgh Park Resident's Association Inc. (Roxburgh Park Football Club) v Essendon District Football League***: - Supreme Court of Victoria (Commercial & Equity Division). Proceedings No. 5195 of 2003. Sports Law. Competition organisation. Right of club to participate in competition.
- ***Drummoyne District Rugby Club Inc v New South Wales Rugby Union Ltd***: - Supreme Court of New South Wales (Equity Division). (1994) Aust. Contract R 90-359. (Junior to Richard Conti KC). Contract, Privity, Umbrella organisation; Estoppel.
- ***Jones v The Chief Stipendiary Steward of the Australian Jockey Club (The 'Kings Encore' Appeal)***: - Australian Jockey Club (General Committee). 18 September 1992. Sports Law.

Racing. Doping. Meaning of 'prohibited substance' (as provided by ARs 1, 8, 117B, 178 and 178A).

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