



DAVID SOUTHWOOD

Juris Doctor (Distinction) University of New South Wales

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Admitted to the legal profession
2017

Admitted as a barrister in NSW
2022

Also entitled to practise in
All Australian jurisdictions (Commonwealth,
State and Territory)

David has a broad practice which includes commercial law, regulatory proceedings, class actions, corporations matters and equity. He regularly appears led and unled in a range of courts and tribunals.

He brings a unique blend of commercial and practical experience to the bar, which enables him to provide strategic and straightforward advice.

David commenced his career as a solicitor at Herbert Smith Freehills. While at HSF, he completed a secondment to The Shopfront Youth Legal Centre, a legal service for homeless and disadvantaged young people, where he routinely appeared in criminal hearings and applications. Immediately prior to coming to the Bar, he was a solicitor in a regional firm, Everingham Solomons Solicitors, where he had carriage of commercial and civil matters from initial advice to final hearing.

He is an author of the Australian Corporation Practice published by LexisNexis.

David's CV contains a list of his recent matters.

SELECTED CASES

As Counsel

Appellate

- [Hai Zhong Cai v Hong Chu & Anor](#) [2024] FCA 1521 (led by D Pritchard SC and M Condon SC; acting for an appellant in the Full Federal Court in respect of an appeal raising whether a director of a corporate trustee can be personally liable for equitable wrongs committed by the corporate trustee. Also appeared in various interlocutory including proceedings including successfully opposing a security for cost application, stay application, and associated bankruptcy proceedings).
- [Guan v Li \(No 2\)](#) [2022] NSWCA 261 (led by M Condon SC, G Gee; acted for the appellant in an appeal concerning a freezing order in aid of prospective proceedings in the Federal Circuit and Family Court).

Class actions

- [Ursula Raad v The Cosmetic Institute Pty Ltd](#) (led by A McInerney SC; acted for nine defendant doctors in a Supreme Court of NSW medical negligence class action).

Regulatory (ASIC / ATO)

- [South Seas Holdings Pty Ltd & Ors v Commissioner of Taxation](#) (led by Dr J Jacques KC, C Ensor; acted for the Commissioner of Taxation in a four-week hearing. Part IVC proceedings concerning deduction claims for management fees and interest on loans, deemed dividends and carry forward losses, penalties and shortfall charges. Part IVA also in issue).
- [Australian Securities & Investments Commission v Bakken Holdings Pty Ltd](#) (led by G Walker SC; acting for ASIC in the Federal Court in a dispute alleging misleading or deceptive conduct and systemic unconscionable conduct).
- [Australian Taxation Office](#) (acting for the Commissioner of Taxation on an ongoing audit).

Commercial

- [MST Financial Services Pty Ltd v Fluence Corporation Ltd](#) (led by A Zahra SC; acted for plaintiff financial services firm seeking compensation from an ASX-listed client for repudiation of a contract to provide management and bookrunning services on a public capital raise).
- [Northern Inland Credit Union Ltd v Temenos Australia Operations Pty Ltd](#) (led by B Katekar SC; acting for the plaintiff in the Supreme Court of NSW in a dispute alleging misleading or deceptive conduct).
- [DKJ Investment Holdings Pty Ltd v Reliable Conveyor Belt Holdings Pty Ltd](#) (led by B Katekar SC; acting for the applicant in the Federal Court in a dispute alleging shareholder oppression).
- [Harriette & Co Pty Ltd v Platine Property Development Pty Ltd & Ors](#) [2022] NSWSC 1536; [2022] NSWSC 1611 (led by M Condon SC; acting for the plaintiff in the Supreme Court of NSW in a dispute concerning enforcement of a mortgage, the doctrine of penalties and unconscionable conduct).
- [Michel v Pegela Pastoral Holdings Pty Ltd](#) (led by M Condon SC; acting for the plaintiff in the Supreme Court of NSW in a dispute concerning a sharefarming agreement and the discharge of mortgage).
- [City Star Group Pty Ltd v Qing Hu](#) (led by M Condon SC; acting for the applicant in the Federal Court in a dispute alleging copyright infringement, breach of duties owed by employees to employer, knowing assistance/receipt).
- [Waterproofing 101 Pty Ltd v Wet-seal Management Pty Ltd & Anor](#) (unled; acting for plaintiff in the Supreme Court of NSW seeking damages for breach of a franchise agreement and, alternatively, equitable compensation arising from an estoppel).
- [Julie Lei Yen Wong v Dale Thomas & Ors](#) (unled; acting for the defendants in the Supreme Court of NSW in a dispute concerning alleged breaches of a joint venture agreement for property developments).

- [Complete Coffee Pty Ltd v Strategy Gurus Pty Ltd](#) (unled; acting for the plaintiff in the District Court of NSW in respect of claims for breach of a coffee bean and equipment distribution agreement).
- [Area Ten Pty Ltd v SmartChannel Pty Ltd](#) (unled; acting in the District Court of NSW for the defendant / cross-claimant in a contractual dispute concerning the provision of search engine optimisation services).
- [Yarem Pty Ltd v Orange Property Projects No. 9 Pty Ltd](#) (unled; acting in the District Court of NSW for the plaintiff in a dispute concerning breach of a share purchase agreement).

Arbitration

- [Commercial arbitration before The Hon James Allsop AC](#) (led by L Kelly SC, Michael Trim; acting for an international mining operator in respect of claims in contract, tort (incl. pure economic loss), and the Australian Consumer Law for defective coal processing equipment).

Real Property / Equity

- [Kolevski v Timber Creek Holdings Pty Ltd](#) (led by A McInerney SC; acted in the Supreme Court of NSW for a defendant in respect of disputed property transactions involving issues of disputed oral agreements, proprietary estoppel and ss 23C and 54A of the Real Property Act).
- [Perpetual Corporate Trust Ltd atf Peer Estate Finance Pty Ltd v Mariacarmina La Rocca & Anor](#) (unled; acting in the Supreme Court of NSW for a mortgagor resisting possession proceedings, including allegations of breach of mortgagee's duty on sale).
- [Southwell v LaLa Developments Pty Ltd](#) (unled; acting in the Supreme Court of NSW for a defendant developer seeking to rely upon its exercise of contractual rights of rescission in respect of an off the plan contract for residential property. Appeared in an interlocutory hearing to successfully resist a summary judgment application).
- [French v French](#) (unled, acting in the Supreme Court of NSW for a plaintiff in her own right and as an enduring attorney. Seeking possession of a residential property. Issues include breaches of trust and fiduciary duty).
- [Diab v Cavasinni](#) (unled, acted in the Supreme Court of NSW for a plaintiff seeking specific performance of a settlement agreement to carry out various constructions works).

Judicial Review

- [Falzon Legal Pty Ltd v Manager, Costs Assessment & Ability One Pty Ltd \[2024\] NSWSC 1202](#) (unled; acted in the Supreme Court of NSW for a plaintiff seeking judicial review to set aside the decision of a cost assessor to permit a late application for costs assessment).

Succession

- [Estate of Ivan Pudarich \[2024\] NSWSC 1123](#) (unled; acted for a beneficiary in family provision proceedings. Matter settled on second day of hearing before Hmelnitsky J. Various interlocutory issues before original trial judge Stern JA concerning vacating the original hearing and contested appointments of tutors).
- [Estate of Julie Eady](#) (unled; acting for the Estate as defendant in respect of family provision proceedings and as plaintiff in respect of related possession proceedings).

Advice work

- [Cayman Islands investment fund](#) (led by L Kelly SC; providing advice to an investor in a Cayman Islands international hotel investment fund in respect of potential remedies against the fund's general partner, as well as directors of corporations involved in the operation of the fund's business. Various corporate law issues including insolvent trading, directors' duties and oppression).
- [Competition law advice](#) (led by D Roche SC; provided advice to a commercial tug-boat operator in relation to potential competition law proceedings and ACCC licensing proposals).

Professional disciplinary

- [Healthcare Complaints Commission v Dr David Kirby](#) (led by J Sheller SC; acting for a defendant dentist in the NCAT Occupational Division in respect of allegations of inappropriate prescribing).

Environment / Planning

- [Retast Pty Ltd v Bega Valley Shire Council](#) (unled; acted for a respondent council on a Class 1 Miscellaneous Appeal).

Common law / personal injury

- [Mukhles Ibrahim v Global Marble Australia Pty Ltd](#) (led by J Sheller SC; acting for a defendant in the Dust Diseases Tribunal in a silicosis and insurance dispute).

Family law (property issues)

- [Yunyun Yu v Richie Lin Ze Wang](#) (led by M Condon SC; acting for the respondents in the Federal Circuit and Family Court in relation to complex property related issues, including various interlocutory asset preservation proceedings).
- [Da Chen v Xiaolin Huang](#) (led by G Richardson SC); acted for a respondent wife in family law proceedings involving high net worth individuals).

Protective

- [Anon. v NSW Trustee and Guardian](#) (unled; acting pro bono for an individual seeking the discharge of a financial management order under the NSW Trustee and Guardian Act).

Contempt

As a solicitor

- [Gazal v Setiawan & Topaloglu \[2024\] NSWSC 1008](#) (led by M Condon SC; acted for an applicant in successful contempt proceedings concerning disclosure of material provided to the respondent in the course of a mediation).

Competition law

- [Vodafone Hutchison Australia Pty Limited v ACCC & TPG Telecom Ltd \[2020\] FCA 117](#) – Acted for TPG Telecom Ltd. Successfully obtained a declaration that the merger of Vodafone Hutchinson Pty Ltd and TPG Telecom Ltd would not contravene section 50 of the Competition and Consumer Act 2010 (Cth).

Commercial

- [OXC Bidco Pty Ltd v Dickson \[2016\] NSWSC 968](#) – Acted for a private equity affiliated corporate group in Supreme Court of NSW proceedings in relation to an M&A transaction, involving allegations of warranty breaches, raising significant accounting and forensic issues. Resolved.
- [Nanevski Developments Pty Ltd v Slaveski; Mega-Top Cargo Pty Ltd v Nanevski Developments Pty Ltd \[2022\] NSWSC 1066](#) – Acted for the plaintiffs in relation to a property development dispute involving contested partnership and joint venture claims.
- [Wild v McKay](#) – Acting for members of a Commonwealth water irrigation scheme in relation to allegations of breaches of fiduciary duty and professional negligence. Resolved.
- Acting for Tabcorp in an arbitration in which representatives of the Victorian racing industry alleged breaches of the Tabcorp / VicRacing joint venture.

Tax

- [AWF Prop Co & Ors v Ararat Rural City Council & Valuer-General Victoria \[2020\] VSC 853](#) – Acted for the plaintiff windfarm operator in a dispute concerning the valuation of land for the purpose of determining contributions under the Victorian Fire Services Property Levy.
- Acting for CBA in the Administrative Appeals Tribunal in its R&D incentive dispute with Innovation & Science Australia and the ATO.

Environment/ Planning

- [Barker v Water Administration Ministerial Corporation \[2022\] NSWLEC 1357](#) – Acted for a rural landowner in a Class 1 merits appeal in relation to a decision to grant a flood work approval. Successfully retained floor work approval.

Equity

- Acting for multiple applicants in the Supreme Court in proceedings brought under the Succession Act 2006 (NSW).

Corporate

- Acting for ASX-listed Bingo Industries on its acquisition of Dial a Dump Industries.
- Acting for ERAMET SA on its hostile takeover of ASX-listed Mineral Deposits Ltd.

Construction

- Acting in the Supreme Court, District Court and NCAT in proceedings brought under the *Home Building Act 1989* (NSW).

Employment

- Acting in unfair dismissal proceedings in the Fair Work Commission.

Public law

- Acting for applicants in respect of applications for revocation of mandatory visa cancellations under the *Migration Act 1958* (Cth).

PROFESSIONAL EXPERIENCE

- **2017 – 2020:** Solicitor, Herbert Smith Freehills (Dispute Resolution).
- **2019 – 2020:** Seconded Solicitor, The Shopfront Youth Legal Centre (a legal service for homeless and disadvantaged young people).
- **2020 – 2022:** Solicitor, Everingham Solomons Solicitors (Dispute Resolution).

PROFESSIONAL MEMBERSHIPS

- New South Wales Bar Association
- Australian Bar Association

PUBLICATIONS

- **2018 – 2019:** Contributor to the Butterworths Corporations Law Bulletin.
- **2023 – current:** Author, Australian Corporation Practice, LexisNexis.

AWARDS OR PROFESSIONAL RECOGNITION

- **2017** UNSW Dean's List for Excellence in Mediation.

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Administrative Law

Alternative Dispute Resolution

Appellate

Arbitration

Aviation and Transport Law

Banking and Financial Services

Bankruptcy and Insolvency

Building, Construction and Technology

Class Actions

Communications

Competition and Consumer

Contracts

Corporations and Securities

Environment and Planning

Insurance and reinsurance

Intellectual Property

International Law

Mining Resources and Energy

Partnership Dispute

Product Liability

Professional Liability

Real Property

Shareholder Class Actions

Superannuation

Restraint of Trade

Sports Law

Trade Practices

EQUITY

Alternative Dispute Resolution

Family Law Property

Property

Appellate

Family provisions

Trusts

COMMON LAW

Alternative Dispute Resolution

Insurance and Reinsurance

Professional Indemnity

Appellate

Medical Negligence

Professional Liability

Class Actions

Product Liability

Sports Law

TAXATION AND REVENUE

Alternative Dispute Resolution

Income Tax

Land Tax

Goods and Services Tax

International Tax

PUBLIC AND ADMINISTRATIVE LAW

Alternative Dispute Resolution

Disciplinary Proceedings

Merits Review

Appellate

Judicial Review and Administrative Law

Public Law

CRIMINAL

Appellate

White Collar and Corporate Crime

Work Health & Safety

INQUESTS AND INQUIRIES

Commissions of inquiry

SECTORS

Agribusiness

Government

Technology, Media and

Banks & financial institutions

Infrastructure and Transport

Telecommunications

Funds

Primary Industries

