



LUKE LIVINGSTON SC

Bachelor of Laws (First Class Honours) - The University of Melbourne (2001)

Bachelor of Arts (First Class Honours) (History) - The University of Melbourne (2001)

T +61 2 9151 2065

F +61 2 9233 1850

E livingston@newchambers.com.au

Clerk of Chambers

Angela Noakes

T +61 2 9151 2080

F +61 2 9233 1850

E clerk@newchambers.com.au

Admitted to the legal profession

2003

Admitted as a barrister in NSW

2009

Appointed as Senior Counsel

2021

Also entitled to practise in

Australian jurisdictions (Commonwealth, State and Territory)

Luke Livingston SC appears in trials and appeals throughout Australia in all areas of equity, commercial, corporations, taxation, constitutional and public law. Luke conducts a substantial appellate practice and is frequently briefed on appeal in matters in which he did not appear at trial.

With more than 23 years' experience in litigation (including 16 years as a barrister, 4 as silk), Luke is a trusted source of advice and representation. He regularly appears both for and against regulators and government agencies. Although he accepts briefs in all areas of the law, Luke has deep experience, in particular, in financial services, corporate regulatory, trusts, property and revenue disputes and in administrative law.

Prior to coming to the Bar in 2009, Luke was a senior associate at Mallesons Stephen Jaques (now King & Wood Mallesons), where he practised as a commercial litigation solicitor in Sydney for six years, focusing on property, banking, contract and corporate disputes and equity and trust matters.

Luke was privileged to commence his legal career as Associate to the Hon Justice Gummow, AC, in the High Court of Australia, in 2002.

In 2008, Luke was awarded the Con Varnavas Award for the highest aggregate score in the New South Wales Bar Examinations.

In 2018, Luke successfully completed the Australian Bar Association Advanced Trial Advocacy Intensive (a 5-day residential course specialising in advanced trial advocacy).

Luke is a graduate of the University of Melbourne, where he was awarded First Class Honours in both Law and Arts (History); was placed 3rd in the Law Honours List, from a graduating class of approximately 300; and was Editor of the *Melbourne University Law Review*.

Luke's professional recognitions have included "Leading Tax Barristers – New South Wales – Senior Counsel" and "Leading White Collar & Regulatory Investigations – Australia" (*Doyles Guide*); together with listings in each of Corporate Law, Litigation and Tax Law (*Best Lawyers 2023 to 2025*).

The 2022 edition of *The Legal 500 – Asia Pacific*, in which Luke is ranked as Tier 1 for Commercial Disputes at the Australian Bar, says: “*Luke offers excellent knowledge of the law, the ability to analyse problems and distil issues effectively, clear and concise written submissions, and most importantly excellent advocacy skills in both cross-examination and oral submissions (he commands the respect of the Court at both trials and in the Court of Appeal).*” The 2023 edition adds: “*Luke’s professionalism sets him apart from his colleagues at the Bar: he is always prepared, meets deadlines, and is able to manage the needs of a variety of stakeholders.*”

The 2024 and 2025 editions of *The Legal 500 – Asia Pacific*, in which Luke is recognised in “Leading Silks – Band Two” for Commercial Disputes at the Australian Bar, report as follows:

“Luke is an organised and well-prepared barrister who is able to simplify complex legal issues and to present his client’s case in a thoughtful and clear manner: he avoids court room theatrics which detract from the real issues in dispute. He is confident and articulate. When briefing him, lay clients and instructing solicitors know they are in safe hands.” (2024)

“Luke is very thorough and well prepared. He has a calm and persuasive advocacy style in which he preemptively addresses matters that he anticipates the court will raise. He is not flustered by unforeseen developments during trial.” (2025)

PROFESSIONAL EXPERIENCE

- **2003 to 2009:** Solicitor/Senior Associate, Mallesons Stephen Jaques, Sydney
Luke was a senior associate in Dispute Resolution at Mallesons Stephen Jaques (now King & Wood Mallesons). He worked predominantly under the supervision of Ms Julie Ward (now Ward P of the NSW Court of Appeal).
- **2002 to 2003:** Associate to the Hon Justice W M C Gummow, AC, High Court of Australia Sydney/Canberra

PUBLICATIONS

- **“Revocation of a Patent for Prior Secret Use by a Patentee”** (2003) 14(1) Australian Intellectual Property Journal 5
- Co-Editor, **Melbourne University Law Review**, Volumes 25(1), 25(2) and 25(3) (2001)

PROFESSIONAL MEMBERSHIPS

- Australian Association of Constitutional Law

- Australian Institute of Administrative Law
- New South Wales Bar Association

SELECTED CASES - As Senior Counsel or Lead Counsel

Commercial, Corporations and Insolvency

- **Commissioner of Taxation v Iannuzzi (No 3)** [2024] FCA 45 – whether s 588FF(3)(b) of the Corporations Act 2001 (Cth) relevantly “covers the field” with respect to calculation of time orders, to the exclusion of s 601AH(3)(d) in the case of reinstated companies, or to the exclusion of former s 536 in the case of liquidator misconduct.
- **In the matter of C88 Project Pty Ltd (in liq) (controller appointed)** [2024] NSWSC 999 and [2024] NSWSC 1133 – constructive trust in respect of monies paid to company by mistake.
- **Gan v Xie** (2023) 378 FLR 458, [2023] NSWCA 163 – misleading or deceptive conduct; whether online platform constituted a “pyramid scheme” within the meaning of s 45 of the Australian Consumer Law.
- **QB4 Capital Pty Ltd v Guardian Securities Ltd** (2023) 411 ALR 496, [2023] FCAFC 72 and (2022) 159 ACSR 289, [2022] FCA 262 – claims for breach of trust, equitable compensation, declarations, restitution and other relief in connection with a registered managed investment scheme.
- **In the matter of Crow Inn Pty Limited** [2020] NSWSC 1749 – shareholder oppression – and [2020] NSWSC 601 – appointment of receiver.
- **K&B Trading Pty Ltd v Riverina Hay Pty Ltd (Receiver & Manager Appt’d)** [2020] NSWSC 1257 – loan associated with farming business, personal guarantees.
- **Mineralogy Pty Ltd v Sino Iron Pty Ltd** [2020] WASC 40 – application for a permanent stay for abuse of process or Anshun estoppel in connection with a US\$190 million claim for minimum production royalties in a large iron ore mining project.
- **In the matter of ACN 607 358 887 Pty Ltd (formerly known as Carzapp Pty Ltd)** [2020] NSWSC 144 – shareholder oppression, set-off, relief, costs.
- **Luo v Windy Hills Australian Game Meats Pty Ltd (No 3)** [2019] NSWSC 862 – Commercial List claim for breach of contract, restitution, misleading or deceptive conduct and breach of trust in connection with the supply of beef products from Pakistan to Vietnam.

-
- **In the matter of AMJ Transport NSW Pty Ltd (in liq)** [2019] NSWSC 818 – application under ss 447C, 447A and 1322(4) of the Corporations Act 2001 (Cth) and s 90-15 of Sch 2 to the Act.
 - **Palmer v Citic Limited (No 2)** [2019] WASC 14 – application for preliminary determination of separate questions regarding contractual indemnity.
 - **In the matter of Pure Nature Sydney Pty Ltd** [2018] NSWSC 914 – shareholder oppression, ss 232 and 233 of the Corporations Act 2001 (Cth).
 - Shareholder proceedings in the Supreme Court of Western Australia alleging oppression, breach of contract, breach of fiduciary duties and unconscionable conduct (settled, 2018).
 - Complex proceedings in the Corporations List of the Supreme Court of New South Wales involving allegations of breach of trust, oppression and rectification (settled, 2018).
 - **Tanilba Beach Pty Limited v JR & JB Pty Limited** [2018] NSWSC 288 and [2018] NSWSC 1250 – enforcement of judgment.
 - **Kenquist Nominees Pty Limited v Campbell (No 3)** [2017] FCA 1230 – privilege, discovery, class action for shareholder loss.
 - **In the matter of Linton Developments (Qld) Pty Limited** [2017] NSWSC 336 – application to set aside statutory demand.
 - **Tyne v UBS AG (No 4)** [2017] FCA 374 – bankruptcy.
 - **NT Beverages Group Pty Ltd v PT Bromo Tirta Lestari** [2017] FCA 775 – application to set aside statutory demand.
 - **Patdith Services Pty Ltd v Mitronics Corporation Pty Ltd** [2016] FCA 1315 – security for costs in appeal proceedings
 - **Blair v The Owners - Strata Plan No 71656** [2016] FCA 1522 – bankruptcy
 - **Lee v Elgammal** [2016] NSWCA 26 – appeal relating to professional negligence, claims against solicitor, guarantee for loan.
 - **Capital Finance Australia Limited v Clough** [2015] NSWSC 1327 – personal property securities legislation.
 - **Freestone Auto Sales Pty Ltd v Musulin** [2015] NSWCA 160 – appeal relating to misleading or deceptive; supply of goods.
-

-
- **Hoad v GEL Custodians Pty Limited** [2014] NSWSC 513 – banking, misleading or deceptive conduct, contract.
 - **Westpac Banking Corporation v Morris** [2014] NSWSC 332 – banking, funds in court.
 - **Burrell Solicitors Pty Limited v Reavill Farm Pty Limited** [2014] NSWSC 569 (strike-out application, security for costs) and **Burrell v Reavill Farm Pty Ltd & Ors** [2014] FCCA 1449 (bankruptcy).
 - **Deputy Commissioner of Taxation v Soong** [2013] FCCA 2016 – bankruptcy/taxation.
 - **Fang v Koumoukelis** [2013] NSWLC 5 – loss of use of chattel, principles governing assessment of damages.
 - **Deputy Commissioner of Taxation v Revolve Ltd** [2012] FCA 555 – insolvency.

Equity and Property

- **Di Giannantonio v Di Giannantonio** (Supreme Court of New South Wales, heard 2024, judgment reserved) – enforcement of Deed; unconscionable conduct; proprietary estoppel.
- Confidential commercial arbitration regarding a vendor/purchaser dispute in respect of commercial property (2022).
- **Hunter Water Corporation v Landmarque Holdings Pty Ltd** [2021] NSWSC 1233 – resulting trust.
- **Wang v Cai** [2020] NSWSC 1414 – application to restrain solicitor from acting, conflict of interest.
- **Burrell Solicitors Pty Ltd (in liq) v Reavill Farm Pty Ltd (No 2)** [2019] NSWSC 67 – declaratory and other relief concerning the validity and consequences of an assignment of judgment debts.
- **Mineralogy Pty Ltd v BGP Geopexplorer Pte Ltd** [2018] QCA 174 – appeal from a judgment of US\$17 million concerning the proper construction of a guarantee and principles of discharge of liability under a guarantee on the ground of variation or breach.
- Proceedings in the Commercial List of the Supreme Court of New South Wales alleging breach of contract, misleading or deceptive conduct, breach of fiduciary duties, breach of trust and breach of directors’ duties in relation to foreign exchange investments (settled, 2019).
- **Frogley v Orr** (Supreme Court of New South Wales, 2017, Rein J) – appointment of trustees, declaratory relief.

-
- **Verke Pty Ltd v Registrar-General of New South Wales** (Supreme Court of New South Wales, 2017, Darke J) – rectification of instrument of transfer.
 - **Hawcroft v Hawcroft General Trading Co Pty Ltd** (2016) 18 BPR 35,863, [2016] NSWSC 555 – equitable assignment, equitable estoppel, common mistake.
 - **L J Carroll v L T Carroll** [2016] NSWSC 390 – extension of caveat, proprietary estoppel, equitable charge, constructive trust.
 - **Domazet v Jure Investments Pty Limited** [2016] ACTSC 33 – rectification, trusts, rule against perpetuities.
 - **Rothnere Pty Limited v Magic Markets Pty Limited** [2015] NSWSC 1785 – claim by lessor against lessee, mitigation of loss.
 - **Cuzeno Pty Limited v The Owners - Strata Plan 65870** [2013] NSWSC 1385 – implied easements, non-derogation from grant, s 88K of the Conveyancing Act 1919 (NSW).
 - **Swaab v Sayed** [2013] NSWSC 887 (equitable charge, declaratory relief) and related application for extension of caveat.
 - **Australia & New Zealand Banking Group Ltd v Mishra** [2012] NSWSC 1333 – mortgages, remedies of mortgagee.
 - **Burrell Solicitors Pty Ltd v Reavill Farm Pty Limited (No 2)** [2011] NSWSC 1615 – real property, caveats.
 - **FloMin Inc v Australian Raw Materials Corporation Pty Ltd (vol admin appt'd)** [2011] NSWSC 585 – informal contracts, declaratory relief.

Public law

- **BUSS (Queensland) Pty Ltd v Australian Prudential Regulation Authority** (Federal Court of Australia, heard 2024, judgment reserved) – judicial review of decision to impose additional conditions on licence; uncertainty of operation; procedural fairness; legal reasonableness.
- **Commissioner of the Australian Federal Police v HWCJ GLB Pty Ltd (No 2)** [2024] NSWSC 482 – complex international investment scam; treatment of contributions of non-participants to the proceedings; alternative methodologies for the division of funds.
- **Goodenough v Coffs Harbour City Council** [2024] NSWCATAD 276 and [2024] NSWCATAD 313 – review of a decision concerning access to government information under the Government Information (Public Access) Act 2009 (NSW).

-
- **Babet v Electoral Commissioner** (2023) 300 FCR 81, [2023] FCAFC 164 – Constitutional law; counting and formality of votes at referendum under s 128 of the Constitution; standing; scope of “matter” under Ch III of the Constitution.
 - **Commissioner of the Australian Federal Police v Mazzco Investments Pty Ltd & Ors** [2023] NSWSC 1576 and [2024] NSWSC 837 – Constitutional law; validity of power of Commissioner to seek production orders under s 202 of the Proceeds of Crime Act 2002 (Cth); Ch III of Constitution; contempt of court.
 - **Zahed v Director of Public Prosecutions (NSW)** [2023] NSWSC 368 – appeal concerning interaction between s 15A of the Director of Public Prosecutions Act 1986 (NSW) and s 45 of the Crime Commission Act 2012 (NSW).
 - **Beckett v Tax Practitioners Board** [2023] FCAFC 100 and [2022] FCA 930 – appeal on questions of law from the Administrative Appeals Tribunal in connection with termination of registration of a tax agent under s 40-5(1)(b) of the Tax Agent Services Act 2009 (Cth).
 - **Re Commissioner of the Australian Federal Police** [2023] NSWSC 965 – applications under ss 29 and 266A of the Proceeds of Crime Act 2002 (Cth).
 - **Roberts-Smith v Fairfax Media Publications Pty Ltd** (2023, Bromwich J, Federal Court of Australia) – public interest immunity; National Security Information (Criminal and Civil Proceedings) Act 2004 (Cth).
 - **Malek Fahd Islamic School Ltd v Minister for Education** [2022] NSWSC 1176 – judicial review of Minister’s decision under s 83J of the Education Act 1990 (NSW) to recover \$11,065,584.69 in financial assistance.
 - **Barque Institute Pty Ltd v Tertiary Education Quality and Standards Agency** [2021] FCA 39 – appeal from Administrative Appeals Tribunal; refusal of registration as higher education provider; procedural fairness; proper construction of Higher Education Standards Framework.
 - **BWO19 v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs** (2020) 283 FCR 299, [2020] FCAFC 181 – procedural fairness, whether Administrative Appeals Tribunal fell into jurisdictional error by asking questions calling for the disclosure of privileged communications with lawyer.
 - **Re Application by the Australian Federal Police** [2020] NSWSC 695 – final hearing of application for forfeiture under s 49 of the Proceeds of Crime Act 2002 (Cth).
 - **Application by the Commissioner of the Australian Federal Police** [2018] NSWSC 1563 – proceeds of crime, applications for exclusion of property from restraining order.
-

- **Commissioner of the Australian Federal Police v Agius** [2017] NSWSC 1764 – priority of interests, enforcement of statutory charge in support of pecuniary penalty order.
- **Lister v Fraser** [2017] NSWLEC 1707 – environmental law.
- **Commissioner of the Australian Federal Police v Lee** [2017] NSWSC 1205 – proceeds of crime, exclusion application.
- **Savellis v Financial Ombudsman Service Limited** [2016] NSWSC 1771 – dispute resolution scheme; construction of contract; administrative law.
- **Application of the Commissioner of the Australian Federal Police** [2015] NSWSC 888 – proceeds of crime, examination orders where criminal proceedings pending.
- **Watpac Construction (NSW) Pty Ltd v Council of the City of Sydney** [2014] NSWLEC 163 – planning law; neighboring land access order.
- **Hoxton Park Residents Action Group v Liverpool City Council (No 4)** [2012] NSWLEC 67 – injunction, temporary stay.

Regulatory and civil penalty proceedings

- **ASIC v BSF Solutions Pty Ltd & Ors** ([2023] FCA 1406, [2024] FCA 553 and ongoing; appeal heard 2024, judgment reserved) – civil penalty proceedings for contraventions of ss 29 and 32 of the National Consumer Credit Protection Act 2009 (Cth)
- **ASIC v Union Standard International Group Pty Ltd & Ors (No 4)** [2024] FCA 1481 – civil penalty proceedings in connection with foreign exchange and contracts for difference trading platform.
- **Sasso and Australian Securities & Investments Commission** [2024] AATA 2617 (and ongoing) – review of banning order in respect of the provision of financial services
- **ASIC v Westpac Banking Corp** (Federal Court of Australia, settled 2024) – civil penalty proceedings in connection with allegations of insider trading and unconscionable conduct.
- **Sgaravizzi and ASIC** [2019] AATA 6890 – ASIC disqualification of the applicant from managing corporations under s 206F of the Corporations Act 2001 (Cth).
- **ACCC v Cascade Coal** (2019) 374 ALR 90, [2019] FCAFC 154 – Full Court appeal; competition law; exclusionary provision; joint venture defence.
- **ACCC v Cascade Coal (No 3)** [2018] FCA 1019 – competition law, exclusionary provision, cartel conduct.

-
- **ASIC, in the matter of Whitebox Trading Pty Ltd v Whitebox Trading Pty Ltd (No 2)** [2017] FCA 385 – costs, s 192A of the Evidence Act 1995 (Cth).

Taxation

- **McConaghy v Commissioner of Taxation** (Federal Court of Australia, ongoing) – anti-avoidance provision in s 45B of the Income Tax Assessment Act 1936 (Cth); demerger relief under Div 125 of the Income Tax Assessment Act 1997 (Cth).
- **Hall v Commissioner of Taxation** (Administrative Review Tribunal, heard 2024, judgment reserved) – test case as to whether home office expenses during Covid lockdowns were incurred in gaining or producing assessable income pursuant to s 8-1(1)(a) of the Income Tax Assessment Act 1997 (Cth) and/or were excluded from deductibility under s 8-1(2)(b).
- **Larmar v Commissioner of Taxation** (Federal Court of Australia, ongoing) – whether property syndicate fees are assessable income; personal services income; whether trustee liable to tax because no beneficiary is presently entitled to a share of the net income of trust estate.
- **KPHR v Commissioner of Taxation** (Administrative Review Tribunal, ongoing) – review application in respect of objection decisions regarding assessable income and attributable foreign income of controlled foreign companies under Pt X of the Income Tax Assessment Act 1936 (Cth).
- **Alterity Therapeutics Limited v Commissioner of Taxation** (Administrative Appeals Tribunal, settled, 2024) – entitlement to refundable tax offset under s 355-100(1) of the *Income Tax Assessment Act 1997* (Cth); “control” test under s 328-125.
- **Deputy Commissioner of Taxation v Wu** (Federal Court of Australia, 2023) – freezing orders in respect of tax-related liabilities exceeding \$206 million per taxpayer.
- **JMC Pty Limited v Commissioner of Taxation** (2023) 297 FCR 600, [2023] FCAFC 76, [2023] HCASL 155 and (2022) 114 ATR 795, [2022] FCA 750 – whether a sessional lecturer at a tertiary institution was an employee or an independent contractor for the purpose of ss 12(1) and 12(3) of the Superannuation Guarantee (Administration) Act 1992 (Cth).
- **Mandalinic v Stone (Liquidator)** (2023) 299 FCR 374, [2023] FCAFC 146 – proper construction of s 268-40(1) of Sch 1 to the Taxation Administration Act 1953 (Cth) in its application to companies in liquidation.
- **Jamsek v ZG Operations Australia Pty Ltd (No 3)** (2023) 296 FCR 336, (2023) 323 IR 302, [2023] FCAFC 48 – remittal from High Court of Australia; whether appellants are “employees” under the extended definition in s 12(3) of the Superannuation Guarantee (Administration) Act 1992 (Cth).

-
- **Priority Matters Pty Ltd v Deputy Commissioner of Taxation** (2022) 115 ATR 74, [2022] NSWCA 208 – statutory demand procedure and estimates due under Div 268 in Sch 1 to the Taxation Administration Act 1953 (Cth).
 - **Commonwealth of Australia v Kupang Resources Limited** (2022) 108 NSWLR 249, [2022] NSWCA 77 and [2022] HCASL 176 – operation of tax secrecy provision in s 355-75 of Sch 1 to the Taxation Administration Act 1953 (Cth).
 - **Deputy Commissioner of Taxation v Huang (No 4)** [2022] FCA 618 – variation to worldwide freezing orders.
 - **Campo & Masterson v Commissioner of Taxation** [2022] FedCFamC1F 124 – substitution order sought under s 90AE of the Family Law Act 1975 (Cth) in respect of taxation debts.
 - **Slatter Building Group Pty Ltd v Commissioner of Taxation** [2021] AATA 456 – test case considering the proper construction of s 5(6) of the Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Act 2020 (Cth).
 - **Allzams Trust and Allen v Commissioner of Taxation** (2021) 113 ATR 887, [2021] AATA 2767 and (2021) 113 ATR 909, [2021] AATA 2768 – review of objections to private rulings as to whether each applicant was carrying on a business of renting properties.
 - **Re S&T Income Tax Aid Specialists Pty Ltd and Tax Practitioners Board** [2021] AATA 161 – appeared for the Tax Practitioners Board in proceedings in the Administrative Appeals Tribunal under the Tax Agent Services Act 2009 (Cth).
 - **Kedwell v Deputy Commissioner of Taxation** (2020) 356 FLR 41, [2020] NSWCA 238 – whether payments were made by the director pursuant to a loan agreement with company and whether the Deputy Commissioner was estopped from recovery.
 - **Albarran, Kijurina and Shaw as joint administrators of Cooper & Oxley Builders Pty Ltd v Commissioner of Taxation** [2020] AATA 4325 – proper construction of s 58-10 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
 - **Snell v Deputy Commissioner of Taxation** (2020) 350 FLR 328, [2020] NSWCA 29 – appeal in respect of proceedings for the recovery of director penalties under Div 269 of Sch 1 to the Taxation Administration Act 1953 (Cth).
 - **Apted and Commissioner of Taxation** (2020) 112 ATR 707, [2020] AATA 5139 – test case in respect of JobKeeper payments under s 11(6) of the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020 (Cth).
 - **Leagou Pty Ltd v Commissioner of Taxation** [2020] FCA 1162 and **The Magazine Company and Commissioner of Taxation** [2020] AATA 2791 – applications by Commissioner of
-

Taxation for release from implied undertaking to use taxation documents in defending defamation proceedings.

- **Hill and Tax Practitioner Board** (2020) 170 ALD 164, [2020] AATA 678 – tax agent registration cancellation, whether applicant is a fit and proper person.
- **Joubert v Commissioner of Taxation** [2020] AATA 2645 – residency of taxpayer for tax purposes.
- Federal Court proceedings under Pt IVC of the Taxation Administration Act 1953 (Cth) in connection with disputed income tax liabilities and penalties exceeding \$40 million (settled, 2020).
- **Deputy Commissioner of Taxation v Armstrong Scalisi Holdings Pty Ltd** (2019) 109 ATR 606, 343 FLR 374, [2019] NSWSC 129 – operation of the notice of estimate provisions regarding PAYG withholding amounts under Div 268 of Sch 1 to the Taxation Administration Act 1953 (Cth).
- **McGuid v Tax Practitioners Board** [2021] AATA 64, **S & T Income Tax Aid Specialists Pty Ltd v Tax Practitioners Board** [2020] AATA 3722, **Hill and Tax Practitioners Board** (2019) 165 ALD 158, [2019] AATA 756 and **Re S&T Income Tax Aid Specialists Pty Ltd and Tax Practitioners Board** (2019) 166 ALD 540, [2019] AATA 4099 – stay applications pending hearings of disciplinary proceedings.
- **Hookey and Commissioner of Taxation** (2018) 108 ATR 186, [2018] AATA 1509 – small business relief provisions in respect of capital gains tax in Div 152 of the Income Tax Assessment Act 1997 (Cth).
- Appeared for the Commissioner of Taxation defending proceedings in the Federal Court seeking restitution and constructive trust remedies (settled, 2018).
- **Devi v Commissioner of Taxation** (2016) 102 ATR 751, [2016] AATA 67 – income tax; entitlement to deductions; whether applicant conducted a business of share trading.
- **In the matter of 4 Doonan Street Collinsville Pty Ltd (in liq)** (2015) 294 FLR 100, [2015] NSWSC 437 – taxation; running balance accounts; corporate winding up.
- **Senior and Commissioner of Taxation** (2015) 101 ATR 415, [2015] AATA 353 – income tax; capital gains.
- **Pillay v Commissioner of Taxation** (2013) 94 ATR 933, [2013] AATA 447 – taxation, income tax.

SELECTED CASES – As Junior Counsel

Commercial, corporations
and insolvency

- **UBS AG v Tyne** (2018) 265 CLR 77, [2018] HCA 45. Led by J Stoljar SC (abuse of process, permanent stay, s 37M of the Federal Court of Australia Act 1976 (Cth)).
- **Coeur de Lion Investments Pty Ltd v The President’s Club Limited** [2017] QCA 309. Led by D F Jackson QC (contractual construction).
- **Reavill Farm Pty Ltd v Burrell Solicitors Pty Ltd** [2017] NSWCA 156 and **Burrell Solicitors Pty Ltd v Reavill Farm Pty Ltd** [2016] NSWSC 303. Led by A J McInerney SC (misleading or deceptive conduct, causation, advocates’ immunity).
- **QNI Resources Pty Ltd v Queensland Nickel Pty Ltd (in liq)** [2017] QCA 167. Led by D F Jackson QC (corporations law, winding-up).
- **Tyne (Trustee) v UBS AG (No 2)** [2017] FCAFC 5; 341 ALR 415, **Tyne v UBS AG (No 3)** [2016] FCA 5 and **Tyne v UBS AG** [2014] FCA 1073. Led by J Stoljar SC (abuse of process, permanent stay).
- **Ekes v Commonwealth Bank of Australia** (2014) 313 ALR 665, [2014] NSWCA 336. Led by A J McInerney SC (issue estoppel, Anshun estoppel, abuse of process).
- **DSG Holdings Australia Pty Ltd v Helenic Pty Ltd** (2014) 307 ALR 143, (2014) 99 ACSR 121, [2014] NSWCA 96. Led by R Dick SC (corporate insolvency – setting aside deed of company arrangement).
- **Richards v Macquarie Bank Limited (No 5)** [2013] FCA 1442. Led by J Kirk SC (Court approval of representative proceedings).
- **Perpetual Custodians Ltd as custodian for Tamoran Pty Ltd as trustee for Michael Crivelli v IOOF Investment Management Ltd** (2013) 304 ALR 436, (2013) 278 FLR 49, [2013] NSWCA 231 and (2012) 91 ACSR 530, [2012] NSWSC 1318. Led by P J Jopling QC and P G Liondas (contractual construction).
- **Telesto Investments Ltd v UBS AG** (2013) 94 ACSR 29, [2013] NSWSC 503 and (2012) 262 FLR 119, [2012] NSWSC 44. Led by J Stoljar SC (private international law, res judicata, issue estoppel, abuse of process).
- **Pritchard v DJZ Constructions Pty Ltd** (2012) 16 BPR 31,141, [2012] NSWCA 196, **DJZ Constructions Pty Ltd v Pritchard** [2010] NSWSC 1024 and [2010] NSWSC 1472. Led by A J McInerney (professional negligence, guarantee and indemnity).
- **Mercland Investment Group Pty Ltd v Duncalm Pty Ltd** [2012] FCA 183. Led by D A McLure (misleading or deceptive conduct).

-
- Commercial arbitration before the Hon J Clarke QC (2011-2012). Led by A J Meagher SC and then by R P L Lancaster SC (rent review, valuation of land).
 - **Easyway Australia Pty Ltd v Infinite Plus Pty Ltd** [2011] FCA 351. Led by F M Douglas QC (misleading or deceptive conduct, comparative advertising).
-

Equity and Property

- **Lewis Securities Ltd (in liq) v Carter** (2018) 355 ALR 703, 128 ACSR 120, 334 FLR 9, [2018] NSWCA 118 and **Lewis Securities Ltd (in Liq) v Carter** [2017] NSWSC 412. Led by A G Bell SC (fiduciary duty, Barnes v Addy claims).
 - **Hawcroft General Trading Co Pty Ltd v Hawcroft** [2017] NSWCA 91. Led by T Alexis SC (contractual construction, equitable assignment, equitable estoppel).
 - **Issa v Issa** [2015] NSWSC 112. Led by A P Coleman SC (limitation of actions; equitable compensation).
 - **His Eminence Petar the Diocesan Bishop of the Macedonian Orthodox Diocese of Australia and New Zealand v Kotevich** [2014] NSWSC 1215. Led by T G R Parker SC (equity, estoppel, charitable trusts, discretionary bars to relief).
 - **Macedonian Orthodox Community Church St Petka Incorporated v Metropolitan Petar** [2013] NSWCA 223. Led by T G R Parker SC (charitable trusts, incorporated associations, accessory liability for breach of trust).
 - **BJ McAdam Pty Ltd v Jax Tyres Pty Ltd** [2012] FCA 799, [2012] FCA 1438, [2013] FCA 643 - breach of trust, misleading or deceptive conduct, oppression: (led by J Kirk SC) and related application by trustee for judicial advice: [2012] NSWSC 1114 (led by T G R Parker SC).
 - **Alpha Wealth Advisory Services v Steer** (2011, McDougall J, Supreme Court of New South Wales). Led by R Beech-Jones SC (contract, fiduciary duties).
 - **BBB Constructions v Aldi Foods** [2010] NSWSC 1352. Led by G M Watson SC and F G Kalyk (unconscionable conduct, estoppel, quantum meruit).
 - **Manindra Laboratories Pty Ltd v Campbell** [2009] NSWSC 987 and [2010] NSWSC 70. Led by F M Douglas QC (fiduciary duty, breach of confidence, contract).
-

Proceeds of crime

- **Lordianto v Commissioner of the Australian Federal Police; Kalimuthu v Commissioner of the Australian Federal Police** (2019) 266 CLR 273, [2019] HCA 39. Led by S P Donaghue QC, Solicitor-General for the Commonwealth (cuckoo smurfing; when property ceases to be proceeds of crime).
-

- **Lordianto v Commissioner of the Australian Federal Police** (2018) 100 NSWLR 630, [2018] NSWCA 199 and **Commissioner of the Australian Federal Police v Fernandez** (2018) 100 NSWLR 610, [2018] NSWCA 198. Led by A R Moses SC (cuckoo smurfing; when property ceases to be proceeds of crime).
- **Commissioner of the Australian Federal Police v Lordianto** [2017] NSWSC 1196. Led by E A Cheeseman SC (application to exclude property from restraining orders under s 330(4)(a) of the Proceeds of Crime Act 2002 (Cth)).
- **Commissioner of the Australian Federal Police v Cacu** (2017) 264 A Crim R 427, [2017] NSWCA 5. Led by T M Thawley SC (proceeds of crime, stay application).
- **Commissioner of the Australian Federal Police v Pham** [2015] NSWSC 1383. Led by A Moses SC (proceeds of crime, forfeiture order).

Public and constitutional law

- **Gwe v Commissioner of the Australian Federal Police** (2020) 103 NSWLR 509, [2020] NSWCA 247 and (2020) 103 NSWLR 535, [2020] NSWCA 350. Led by A Moses SC (proceeds of crime; appeal from exclusion application).
- **Palmer v Australian Electoral Commission** (2019) 269 CLR 196, [2019] HCA 24. Led by D F Jackson QC (constitutional law; electoral law).
- **Plaintiff M47/2018 v Minister for Home Affairs** (2019) 265 CLR 285, [2019] HCA 17. Led by R Merkel QC (constitutional challenge to indefinite immigration detention).
- **Bunderra Holdings Pty Ltd v Pasmenco Cockle Creek Smelter Pty Ltd (subject to Deed of Company Arrangement)** (2017) 96 NSWLR 434, [2017] NSWCA 263. Led by S B Lloyd SC (construction of development consent, retrospective incorporation).
- **Commissioner of the Australian Federal Police v Elzein** (2017) 94 NSWLR 700, [2017] NSWCA 142. Led by A Moses SC (constitutional law, proceeds of crime legislation, powers of examination).
- **Lazarus v Independent Commission Against Corruption** (2017) 94 NSWLR 36, [2017] NSWCA 37. Led by A Moses SC (construction of validating legislation, constitutional law).
- **Palmer v Ayres** (2017) 259 CLR 478, [2017] HCA 5. Led by D F Jackson QC (constitutional law; challenge under Ch III of Constitution to liquidator's power of compulsory examination).
- **Pasmenco Cockle Creek Smelter Pty Limited v Lake Macquarie City Council** [2016] NSWLEC 143. Led by R P L Lancaster SC (construction of development consent, declaratory relief).

-
- **Duncan v Independent Commission Against Corruption** [2016] NSWCA 143. Led by D F Jackson QC and C T Barry QC (judicial review, director's duties, procedural fairness).
 - **New South Wales Cremation Company Pty Limited v Valuer General** [2016] NSWLEC 135. Led by A E Galasso SC (valuation of land).
 - **Queensland Nickel Pty Ltd v Commonwealth of Australia** (2015) 255 CLR 252, [2015] HCA 12. Led by D F Jackson QC (constitutional law; challenge to carbon tax legislation under s 99 of the Constitution).
 - **Goldie Marketing Pty Ltd v Financial Ombudsman Services** [2015] VSC 292 (dispute resolution scheme; construction of contract; administrative law) and [2014] VSC 587 (interlocutory injunction) – Led by J R J Lockhart SC.
 - **McGuigan & Ors v ICAC; Cascade Coal & Ors v ICAC** [2014] NSWSC 1018. Led by D F Jackson QC and C T Barry QC (administrative law, judicial review of corrupt conduct findings).
 - **L & B Linings Pty Ltd v WorkCover Authority of New South Wales** [2012] NSWCA 15. Led by S D Epstein SC (administrative law, jurisdictional error, procedural fairness).
 - **Macquarie Generation v Hodgson** (2011) 186 LGERA 311, [2011] NSWCA 424 (led by R P L Lancaster SC), [2010] NSWLEC 34 (led by B W Walker SC and R P L Lancaster SC) and [2011] NSWLEC 3 (led by B W Walker SC) – protection of the environment legislation, climate change, nuisance.
 - **Davis v Chief of Army** (2011) 278 ALR 199, 247 FLR 207, [2011] ADFDAT 1. Led by D A McLure (criminal law, defence force discipline).
 - **Spencer v The Commonwealth** (2010) 241 CLR 118, [2010] HCA 28. Led by B W Walker SC (constitutional law; statutory power of summary dismissal).
 - **Halley v Minister Administering the Environmental Planning and Assessment Act 1979** (2010) 170 LGERA 449, [2010] NSWLEC 6, and (2010) 178 LGERA 327, [2010] NSWCA 361. Led by R P L Lancaster SC (compulsory acquisition of land).

Regulatory and civil penalty proceedings

- **ASIC v Whitebox Trading Pty Ltd (No 7)** (2019) 137 ACSR 61, [2019] FCA 849 and **ASIC, in the matter of Whitebox Trading Pty Ltd** [2017] FCA 324. Led by R G McHugh SC and M J Steele SC (market manipulation).

Taxation

- **Deputy Commissioner of Taxation v Huang** (2021) 273 CLR 419, [2021] HCA 43. Led by S P Donaghue QC, Solicitor-General for the Commonwealth, and S B Lloyd SC (jurisdictional preconditions on the making of worldwide freezing orders).
- **Commissioner of Taxation v Apted** (2021) 284 FCR 93, [2021] FCAFC 45. Led by P Hanks QC (proper construction and application of s 11(6) of the Coronavirus Economic Response Package (Payments and Benefits) Rules 2020 (Cth)).
- **Huang v Deputy Commissioner of Taxation** (2020) 280 FCR 160, [2020] FCAFC 141, [2019] FCA 1728 and [2019] FCA 2122. Led by A J McInerney SC (applications for freezing orders and judgment, and resisting an application for a stay on enforcement, in respect of a \$140 million taxation debt).
- **Binqld Finances Pty Ltd (in liq) v Israel Discount Bank Limited** [2019] FCA 1186 and (2020) 276 FCR 669, [2020] FCAFC 71. Led by S B Lloyd SC (taxation; whether a settlement deed constitutes “protected information” under Taxation Administration Act 1953 (Cth)).
- **Commissioner of Taxation v Tomaras** (2018) 265 CLR 434, [2018] HCA 62. Led by S B Lloyd SC (availability of power to make a substitution order under s 90AE of the Family Law Act 1975 (Cth) in respect of taxation debts).
- **Commissioner of Taxation v Tamarama Fresh Juices Australia Pty Ltd** (2017) 252 FCR 471, 106 ATR 625, [2017] FCAFC 154 and **Binqld Finances Pty Ltd (In Liq) v Tamarama Fresh Juices Australia Pty Limited** (2017) 156 ALD 49, 105 ATR 133, [2017] FCA 358. Led by S B Lloyd SC (non-disclosure of protected information under Taxation Administration Act 1953 (Cth)).
- **FLZY v Commissioner of Taxation** (2016) 102 ATR 1001, [2016] AATA 348. Led by D McGovern SC (income tax, whether profit derived from sale of property was a capital gain).
- **Commissioner of Taxation v 4 Doonan Street Collinsville Pty Ltd (in liq)** (2016) 332 ALR 349, [2016] NSWCA 69. Led by N Williams SC (corporations, insolvency, taxation).
- **Oswal v Commissioner of Taxation** (2013) 233 FCR 110, 2013 ATC 20-403, [2013] FCA 745 and [2014] FCA 812. Led by B J Sullivan SC and M Hirschhorn (capital gains tax, trusts).

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Administrative Law

Alternative Dispute Resolution

Appellate

Banking and Financial Services

Bankruptcy and Insolvency

Class Actions

Communications

Competition and Consumer

Conflict of laws

Contracts

Corporations and Securities

Partnership disputes

Professional liability
Real property

Restraint of trade
Shareholder class actions

Trade Practices

COMMON LAW

Alternative Dispute Resolution
Appellate

Class Actions
Professional indemnity

Professional liability

CRIMINAL LAW

Proceeds of crime

White collar and corporate crime

EQUITY

Alternative Dispute Resolution
Appellate

Property

Trusts

INQUESTS AND INQUIRIES

Commissions of Inquiry

PUBLIC AND ADMINISTRATIVE LAW

Alternative Dispute Resolution
Appellate
Constitutional law

Disciplinary proceedings
Health law
Judicial review and administrative law

Merits review
Proceeds of crime
Public law

TAXATION AND REVENUE

Alternative Dispute Resolution
Appellate

Capital gains tax
Goods and services

Income tax

SECTORS

Banks and Financial Institutions
Funds
Government
Healthcare

Industrials
Transport and Infrastructure
Primary Resources
Real Estate

Technology, Media and
Telecommunications