

BA/LLB (SYD)

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Admitted to the legal profession

Admitted as a barrister in NSW	1992
Appointment as Senior Counsel	2005 (QLD)
Also entitled to practise in	All Australian jurisdictions and Solomon Islands (Commonwealth, State and Territory)

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Principal areas of practice

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**Additional information**

Peter Dunning has for the last 5 years held a commission as the Solicitor-General for Queensland. In that role Peter has appeared many times in the High Court of Australia and other courts for the State of Queensland in the full range of constitutional, native title and public law cases. During that period Peter also maintained his right of private practice and continued his private practice predominantly in the areas of appellate work and commercial litigation. Prior to his term as Solicitor-General Peter had a large, essentially commercial, practice but in fact covering nearly the full gamut of legal disputes and appearance work. Peter also maintains a significant advice practice

## COMMERCIAL

**The Bell Litigation (The Bell Group Ltd (In Liq) v Westpac Banking Corporation [No 9] [2008] WASC 239; Westpac Banking Corporation v The Bell Group Ltd (In Liq) [No 3] [2012] WASCA 157)** - acted at trial and on appeal for the Liquidators of the Bell Group Companies in their successful claim against 20 banks (both Australian and international), obtaining a verdict of approx. \$2.7 billion. The proceedings were subsequently settled for approx. \$1.7 billion, prior to the hearing of the appeal to the High Court.

**Commonwealth Bank of Australia v Invest Pty Ltd (in Liquidation) [2018] NSWSC 1276** - acted for the CBA successfully at trial. Instructed for CBA on appeal scheduled for hearing in February 2019.

**CBA v Yong & Ors [2016] NSWSC 952** - appeared for CBA before Adams J in successful claim against the director guarantors of the V-plus Group of Asian Supermarkets. Issues included a dispute as to the validity of the loan documents, the valuation of the business operated by the primary borrower and allegations of unconscionable or misleading and deceptive conduct.

**Wyeth / AstraZeneca proceedings** – advised the Commonwealth in respect of 3 related proceedings involving a claim for damages on an undertaking given in support of an injunction. The claim involved difficult issues of expert evidence concerning proof of loss in the context of hypothetical market modelling addressed to measure the impact on payments made under the Pharmaceutical Benefits Scheme based on competing scenarios as to time of market entry by generic suppliers of certain drugs.

**Saravinovska v Saravinovski – (No 6) [2016] NSWSC 964** - appeared for Chris Saravinovski. The case involved the division of commercial and residential property interests following the breakdown in a family relationship. The case concerned several constructive trust arguments and an application of the *Property Relationship Act* as between a woman and her father-in-law. The case involved extensive oral testimony and cross-examination. There were a number of interlocutory decisions that were significant relating to loss of capacity and conflict in interest in the selection of a tutor.

**Centre for Australian Ethical Research Pty Limited ats Sandfire Resources NL** - briefed for CAER in Federal Court proceedings brought by Sandfire following the ANU's divestment of shares in Sandfire and other resources companies based on CAER's ESG (environmental, social and governance) ratings. Case settled at mediation shortly before hearing.

**O'Connor v O'Connor [2018] NSWCA 214** - appeal in relation to refusal of preliminary discovery application in context of sale of shares and sale of business.

## REGULATORY

**ASIC v ANZ [2017] FCA 1338 (BBSW Benchmark Manipulation) - Federal Court** Appeared for ASIC in civil penalty proceedings against ANZ under the *Corporations Act* and *ASIC Act* for alleged market manipulation, unconscionable conduct, misleading and deceptive conduct and breach of licence. The BBSW is the primary interest rate benchmark used in Australian financial markets (described as the Australian equivalent to LIBOR). ASIC obtained orders that required ANZ to pay a pecuniary penalty (91% of the maximum applicable penalty) as well as obtaining enforceable undertakings which included a payment of \$20 million to a proposed Financial Consumer Protection Fund, and payment of \$20 million to ASIC for the cost of the investigation, the cost of the proceedings and in connection with the establishment and management of the proposed Financial Consumer Protection Fund.

**Park Trent Properties Group Pty Ltd v ASIC [2016] NSWCA 298** - appeared for ASIC successfully at trial and on appeal. At trial, ASIC successfully obtained injunctive and declaratory relief against Park Trent on the basis that its business of marketing and selling real property through SMSFs constituted the conduct of an unlicensed financial services business in contravention of s911A of the *Corporations Act*. The decision is a significant recognition of the reach of the financial advice consumer protections in Chapter 7 of the *Corporations Act* to property investment through use of a SMSF, particularly so in the context of the burgeoning growth in the SMSF sector (570,000 controlling approx. \$600B in assets). The case also involved a number of significant interlocutory decisions.

**Tarrant v ASIC [2015] FCAFC 8** - appeared for ASIC at trial and on appeal. Appeal by a licensed financial planner against a 7 year banning order imposed by the AAT. ASIC succeeded at trial and on appeal. The case was important in relation to consumer protection and the requirements for disclosure placed on licensed advisers.

**Ransley v Deputy Commissioner of Taxation [2018] FCA 1796 and Ransley and Commissioner of Taxation [2018] AATA 4359** - successfully appeared for the Commissioner before Jagot J in relation to the tax treatment of multi-million dollar profits made on the sale and exchange of shares in Doyles Creek Mining Pty Ltd and NuCoal Resources NL. Instructed to appear for the Commissioner on the appeals scheduled to be heard before the Full Court in 2019.

**Grossman v ASIC [2011] AATA 6** - disqualification of director of managing corporations for 5 years: Finding of lack of commercial morality; disregard for interests of creditors and repeated misuse of corporate structure.

**ASIC v FC Stone Australia Pty Ltd** - represented FC Stone in proceedings before the Markets Disciplinary Panel concerning breach of the Market Integrity Rules (ASX24).



**PROCEEDS OF CRIME**

**Commissioner of the Australian Federal Police - Proceedings arising out of Project Wickenby** - appeared at first instance and on appeal for the Commissioner who was successful in restraining and obtaining forfeiture of various high value property interests under the *Proceeds of Crime Act 2002* (Cth) (see *Commissioner of the Australian Federal Police v Dickson (No. 2)* [2016] NSWSC 574, *AD v Commissioner of the Australian Federal Police* [2018] NSWCA 89, *AD v Commissioner of the Australian Federal Police (No 2)* [2018] NSWCA 169, *Dickson v Commissioner of the Australian Federal Police* [2018] HCASL 220, *Dickson v Commissioner of the Australian Federal Police* [2018] HCASL 364, *Commissioner of the Australian Federal Police v Dickson (No. 3)* [2016] NSWSC 564).

**Zheng & Anor v Commissioner of the Australian Federal Police [2018]** (reserved before Full Court of South Australia Supreme Court) - appearing for the Commissioner (led by Stephen Donaghue QC, Solicitor General (Cth)) in respect of a constitutional challenge to the *Proceeds of Crime Act 2002* (Cth).

**Commissioner of the Australian Federal Police v Nguyen [2016] NSWSC 883** - appeared for the Commissioner in civil proceedings involving the *Proceeds of Crime Act 2002* (Cth) - successfully resisted application for exclusion from forfeiture.

**Application by the Commissioner of the Australian Federal Police (No 2) [2015] NSWSC 1447** - appeared for the Commissioner before Schmidt J - successfully resisted applications for exclusion from forfeiture in relation to cash seized in connection with casino junket operation.

Numerous other proceeds of crime cases arising in various contexts including tax fraud, fraudulent claims on the Pharmaceutical Benefits Scheme, international money laundering (including cuckoo smurfing), unexplained wealth, customs fraud and insider trading.

**COMMON LAW / INSURANCE**

**Obeid v Lockley & Anor [2018] NSWCA 7** - at trial appeared successfully for two individual ICAC officers and the State of NSW in civil proceedings commenced by Edward Obeid Sr and three of his sons against Commissioner Ipp, ICAC and others alleging misfeasance in public office and denial of procedural fairness. The plaintiffs' claims were dismissed. On the appeal, successfully appeared for an individual ICAC officer (the claim against the State and the other ICAC officer having been dismissed and not appealed). Appeared for an individual ICAC officer on the special leave application - leave was refused. *Obeid v Ors v Lockley & Anor* [2018] HCA Trans 239.

**Neumann Felix Pty Ltd v QBE Insurance Australia Ltd** - proceedings in the Supreme Court of Queensland for QBE. Claim under trade credit insurance policy.

**Seltsam v Amaca [2015]** - appeared for Amaca (James Hardie) before Curtis J in the Dust Diseases Tribunal of NSW - successful in defending cross-claim for s5 contribution between the two major asbestos building product suppliers.

**Sills v State of NSW (NSW Court of Appeal)** - appeared for the State of NSW in relation to a claim for PTSD of a former police officer. Appeal is reserved.

**ADVISORY**

- advising litigation funders in relation to commercial litigation arising in context of financial services and insurance;
- advising financial services organisations in relation to the Banking Royal Commission;
- advising statutory authorities on questions arising from land acquisition and resumption;
- advising the Commissioner of Taxation in relation to civil and criminal proceedings in various contexts.

**ALTERNATE DISPUTE RESOLUTION**

**Independent Adjudicator** - appointed as Independent Adjudicator under the Claims Resolution Process Lehman Brothers Australia (In Liquidation) (Scheme Administrators Appointed)

**Mediation** - in addition to representing clients at mediation, has acted as a mediator in disputes between insurers and valuers arising in from property valuations provided in a mortgage/guarantee context.