

CURRICULUM VITAE

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LEGAL QUALIFICATIONS: Barrister (Queensland 1998) previously Solicitor (Queensland 1992).

TERTIARY EDUCATION: LLB (QUT), BCL (UQ), PhD (Durham)

PROFESSIONAL MEMBERSHIPS: Bar Association of Queensland, Sunshine Coast Law Association, Tributum Club (tax group), Diocletian Club (tax group).

EXPERIENCE:

Barrister, Queensland Bar, 1998 to date.

My practice concerns commercial litigation at all levels. The areas in which I have advised or appeared concern, administrative law, banking and finance, building and construction, contract, corporations law, corporate and personal insolvency, mining, superannuation, stamp duty and tax, trade practices, trusts and equity. I am also a trained mediator and mediate commercial disputes in all jurisdictions. The bulk of my practice over the last 5 years has concerned federal taxation law and superannuation.

In the past twenty years, I have acted for a wide range of private clients and have regularly acted for and/or appeared on behalf of the Commissioner of Taxation, Australian Federal Police, Australian Building and Construction Commission, Commonwealth Superannuation Corporation, Child Support Registrar, the Queensland Building and Construction Commission and the Brisbane City Council. As such I am very familiar with the obligation of such bodies to act as a model litigant. In *Campbell v Superannuation Complaints Tribunal* [2017] FCA 1509 I was briefed with Mr R Douglas QC on behalf of the Commonwealth Superannuation Corporation. Logan J at [9] described our conduct in that matter as acting “with all the consummate fairness of a model litigant.”

Recent experience

The bulk of my practice concerns Federal Tax and Superannuation Law, which has recently included:

- Advising on the prospects of success of an objection concerning the interplay between superannuation and income tax.
- Advising on staying related Federal Court and AAT review proceedings where the applicant is charged with numerous criminal offences.
- Appearing in the Federal Court in respect of various interlocutory skirmishes (interlocutory injunction, subpoenas, discovery) concerning the judicial review of a decision by the federal revenue to issue \$6.5M and a \$1.2M security bond demands for the payment of future tax liabilities.
- Advising superannuation trustees on appeals from the Superannuation Complaints Tribunal and also appearing in the appeals.
- Regularly attending Federal Court case management reviews and mediations.
- Appearing in the AAT on a review of income tax assessments related to self managed superannuation fund transactions and later advising on the prospects of success of an appeal.
- Appearing in the Federal Court in respect of the judicial review of various tax estimates of approximately \$20M and the subsequent successful application for summary judgement by the respondent.
- Appearing in the AAT on the review by a husband and a wife of 8 years (being 16 years of income tax assessments with a value of approximately \$4M) based on fraud and evasion, which

involved my cross-examination of 32 witnesses, 28 of whom required a Vietnamese interpreter. The hearing took 16 days.

- Appearing in State court appeals in respect of tax recovery matters.
- Appearing in appeals from the AAT to the Federal Court.

Current reserved matters

Date of hearing	Matter - Judge/ Tribunal member	Nature of Matter
13 November – 8 December 2017	<i>Le and Trieu v Commissioner of Taxation</i> (AAT), DP McCabe	Sixteen day hearing - unexplained income, assets betterment test, fraud and evasion. Required the cross examination of 32 witnesses for the applicants, 28 of whom required a Vietnamese interpreter
10 July 2019	<i>Fastbet Investments Pty Ltd v Deputy Commissioner of Taxation</i> (FCA) - Derrington J	2 day hearing, judicial review of and constitutional challenge to Commissioner's decision to issue security bond demands
29 July 2019	<i>Commissioner of Taxation v Eichmann</i> (FCA) - Derrington J	Appeal to the Federal Court from the AAT concerning the nature of the review conducted by the AAT of private rulings and the small business capital gains tax concessions.
29 August 2019	<i>Carmody v Superannuation Complaints Tribunal</i> (FCA) - Collier J	Appeal from the Superannuation Complaints Tribunal, appeared for the Commonwealth Superannuation Corporation – whether a Trustee of a Superannuation Fund is an “employee” of a fund member for the purposes of the Child Support legislation.
13 September 2019	<i>Ehrke v Australian Building and Construction Commissioner</i> (FCA) Rangiah J	Judicial review of the validity of an examination notice issued by the Australian Building and Construction Commissioner

Recent Tax / Superannuation matters

The tax matters concern debt collection and insolvency as well as judicial review, merits review and appeals. The superannuation matters concern the interplay between tax and superannuation and the obligations of super fund trustees toward members of the fund.

Decision	Nature of Matter
<i>CLK Kitchens & Joinery Pty Ltd v Commissioner of Taxation</i> [2019] FCA 1086	Summary judgment by respondent in a complex judicial review. Whether estimates by Commissioner of PAYG amounts valid – whether PAYG withholder gave a statutory declaration which had the effect of reducing or revoking estimate – whether DPNs issued on basis of PAYG estimates valid – whether reduction in estimate required withdrawal of DPNs.
<i>Morrow v Deputy Commissioner of Taxation</i> [2019] QDC 46	Appeal. Section 78B of Judiciary Act 1903 (Cth) – effect of non-compliance, summary judgment application – outstanding taxation liability - whether Evidence Act 1995 (Cth) or Uniform Civil Procedure Rules(UCPR) applied – whether hearsay evidence inadmissible – whether affidavit evidence inadmissible.
<i>Wainwright and Commissioner of Taxation (Taxation)</i> [2019] AATA 333	Review of tax assessments where superannuation funds accessed before conditions of release met – superannuation funds used to meet personal expenses – benefits received not included in income tax return –exercise of discretion to include income.
<i>Eichmann and Commissioner of</i>	Capital Gains Tax – Small Business CGT concessions – whether

Decision	Nature of Matter
<i>Taxation (Taxation)</i> [2019] AATA 162	land is an active asset.
<i>Fastbet Investments Pty Ltd v Deputy Commissioner of Taxation (No 4)</i> [2018] FCA 1667	Discovery in judicial review (taxation) proceedings.
<i>Fastbet Investments Pty Ltd v Deputy Commissioner of Taxation (No 3)</i> [2018] FCA 1540	Discovery in judicial review (taxation) proceedings.
<i>Fastbet Investments Pty Ltd v Deputy Commissioner of Taxation (No 2)</i> [2018] FCA 1418	Setting aside subpoenas issued to the other party.
<i>Campbell v Superannuation Complaints Tribunal</i> [2017] FCA 1509	(As junior to Mr R Douglas QC) appeal from the Superannuation Complaints Tribunal. Obligation of superannuation trustee to furnish information.
<i>Woods v Australian Taxation Office & Ors</i> [2017] QCA 28	Jurisdiction of state courts to interpret Commonwealth Acts and purported discharge of tax liability by use of unilateral bills of exchange.
<i>Robson & Ors v Commissioner of Taxation</i> [2015] QSC 76	Whether a liquidator of an incorporated association in Queensland had the power to recover a payment from the Commissioner as an unfair preference.
<i>Campbell v Superannuation Complaints Tribunal</i> [2016] FCA 808	Whether a benefit pursuant to Military Superannuation Benefits Scheme was a defined benefit interest or a superannuation interest and the obligation of superannuation trustee to furnish information.
<i>Raschta Coatings Pty Ltd as trustee for the Raschta Coatings Trust and Commissioner of Taxation</i> [2015] AATA 34	Income tax and GST liability – whether assessments excessive.
<i>Deputy Commissioner of Taxation v McKenzie</i> [2014] QSC 193	Recovery of director's penalties.
<i>Deputy Commissioner of Taxation v Specialised Finance Group Pty Ltd, in the matter of Specialised Finance Group Pty Ltd</i> [2013] FCA 1415	Winding up, GST.
<i>Deputy Commissioner of Taxation v Eskdale South Cattle Company Pty Ltd, in the matter of Eskdale South Cattle Company Pty Ltd</i> [2013] FCA 740	Two day hearing. Income tax and GST. Appointment of provisional liquidator to trustee via trustee's right of indemnity.
<i>Hefner and Commissioner of Taxation</i> [2013] AATA 407	Private ruling, non-commercial business activity.
<i>Deputy Commissioner of Taxation v Priestdale Property Holdings Pty Ltd</i> [2012] FCA 1325	Two day hearing. GST, provisional winding up.
<i>The Taxpayer and Commissioner of Taxation</i> [2012] AATA 695	Private rulings – deferral of losses from a primary production business.
<i>Deputy Commissioner of Taxation, in the matter of ABW Design & Construction Pty Ltd v ABW Design & Construction Pty Ltd</i> [2012] FCA 346	Winding up – statutory demands.

Decision	Nature of Matter
<i>Applicant 1761 of 2011 and Commissioner of Taxation</i> [2011] AATA 779	Private ruling – business deductions.
<i>The Taxpayer and Commissioner of Taxation</i> [2011] AATA 508	Employee incentive share schemes.

Commercial Practice

I take briefs in all areas of commercial law. Recent examples are as follows:

Matter	Nature of Matter
<i>Ideal Group Aust Pty Ltd v Southern Stainless Pty Ltd</i> [2018] QDC 4	Four day trial. Contract claim.
<i>Allways Resources Holdings Pty Ltd & Anor v Samgris Resources Pty Ltd & Anor</i> [2017] QSC 74	8 day trial as junior to Ms K Downes QC. Winding up, Oppression/ Unfair conduct.
<i>Hussain v CSR Building Products Limited, in the matter of FPJ Group Pty Ltd (In Liq)</i> [2016] FCA 392	Corporations, Insolvency – Unfair Preferences.
<i>Anne v Ask Funding Ltd</i> [2015] FCA 1111	Appeared on behalf of the Australian Financial Security Authority, whether bankruptcy notice a nullity.
<i>Morton & Anor v Rexel Electrical Supplies Pty Ltd</i> [2015] QDC 49	Corporations, Insolvency – Unfair Preferences.
<i>Coomber v Meiklejohn</i> [2014] QDC 95	Appeal – summary judgement.

Regulatory Practice

Examples are as follows:

Matter	Nature of Matter
<i>Maltby v Queensland Building and Construction Commission</i> [2019] QCAT 66	2 day hearing concerning 21 counts of either unsatisfactory or professional misconduct by a building certifier.
<i>JM Kelly Builders Pty Ltd & Ors v Queensland Building and Construction Commission</i> [2018] QCAT 333	8 day hearing. Administrative law, whether general manager was an “influential person”.
<i>Lowe v Queensland Building and Construction Commission</i> [2015] QCAT 110	Whether a builder was a permitted individual – creditors’ voluntary winding up and members’ voluntary winding up – debt to Australian Taxation Office – reasonable steps to avoid circumstance.
<i>Queensland Department of Justice and Attorney General v Halmarn Pty Ltd t/as Magnetic International Resort & Anor</i> [2013] QCAT 750	Disciplinary proceedings against a property agent in respect of more than 1000 breaches of the <i>Property Agents and Motor Dealers Act 2000</i> .
<i>Troy Richardson’s Building Approvals & Inspections v Queensland Building Services Authority</i> [2013] QCAT 113	Whether a private certifier had engaged in professional misconduct or unsatisfactory conduct.

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