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Areas of Practice

- Administrative Law
- ADR (including arbitration, expert determination and mediation)
- Appellate
- Banking and Finance
- Bankruptcy and Insolvency
- Class Actions and Representative Proceedings
- Commercial Law
- Common Law (major torts)
- Competition and Consumer Law
- Contractual Disputes
- Corporations and Securities
- Criminal Law (corporate/white collar crime)
- Defamation
- Environmental and Planning Law (mining, town planning and gaming)
- Equity and Trusts
- Family Law (property disputes and family provision)
- Inquests, Inquiries, Tribunals and Commissions
- International Commercial and Public Law
- Judicial Review
- Merits Review
- Occupational Health and Safety
- Property and Probate

Educational Qualifications

LL.B. (Hons)(Melb); B.A. (Melb); LL.M. (Melb); S.J.D. (Virginia)

Professional Experience

Since February 2017: President, Trans-Tasman IP Attorneys Disciplinary Tribunal

22 November 2016: Appointed Senior Counsel (Queen's Counsel, 21 March 2017)

Since 2001: Visiting Professor of Law, University of Virginia School of Law – annual appointment since 2001 teaching Conflict of Laws

Since 2010: Fellow and Senior Tutor in Law, Ormond College, The University of Melbourne

2011-2012: Fulbright Professional Scholar in Australia-US Alliance Studies and Visiting Scholar, Georgetown University Law Center, Washington DC

2004-2011: Reporter for the Victorian Reports

22 November 2002: Signed Victorian Bar Roll

1996-2002: Solicitor and Senior Associate, Freehills, Melbourne and Sydney, Commercial Litigation and Competition Law Groups

1998-2002: Member, Australian Delegation of Experts to the Special Commission of the Hague Conference on Private International Law (Jurisdictions and Judgments Convention)

1 April 1996: Admitted to practice as a Barrister and Solicitor of the Supreme Court of Victoria

1994-1995: Associate to the Chief Justice, Federal Court of Australia

Matters

Overview:

Practises in the State Supreme Courts and the Federal Court at trial and appellate level in Australian and international commercial law, in public law, and in major torts including defamation. Also appears before boards of inquiry, disciplinary tribunals, the Coroners Court and State Supreme Courts in disciplinary matters, investigations, and criminal proceedings, as well as in property proceedings in the Family Court.

Substantial experience in class actions, multi-jurisdictional litigation, freezing orders, fraud and asset tracing claims, stay applications and the recognition and enforcement of foreign judgments.

Also significant health and medical regulatory and disciplinary experience, and extensive commercial and administrative law advisory practice.

Selection of Significant Recent Cases:

General Commercial and Competition Law

Whirlpool (Australia) Pty Ltd v Castel Electronics Pty Ltd (claim for unpaid monies under terms of a distribution agreement; cross claim seeking damages for misleading and deceptive conduct; commenced 2015 by the applicant in the Federal Court of Australia, commenced in parallel by the respondent in the Supreme Court of Victoria, antisuit injunction in the Federal Court of Australia – [2015] FCA 906; settled during the course of trial before Beach J in the Federal Court in April 2017)

REA Group v Fairfax Media [2017] FCA 91 (claim before Murphy J in the Federal Court of Australia seeking damages for misleading and deceptive conduct in advertising)

REA Group v Fairfax Media [2018] FCA 633 (claim before Murphy J in the Federal Court of Australia alleging contempt for various alleged breaches of undertakings)

Ying Mui & Ors v Frank Kiang Ngan Hoh & Ors [2017] VSC 29 (claim involving questions of contract, resulting and constructive trusts, directors' and other equitable duties before Vickery J in the Supreme Court of Victoria)

Primebroker Securities Ltd v Christopher Scott (claim for unpaid monies pursuant to Australian Master Securities Lending Agreements and guarantees; commenced September 2013 in the Supreme Court of Victoria and settled in March 2015 shortly prior to trial)

Minh Nguyen v Tu Phan & Ors [2015] FCA 634 (oppression, breach of trust and breach of fiduciary duties proceeding before Elliott J in the Supreme Court of Victoria; see also *Nguyen v Phan* [2015] VSC 32)

Growthpoint Properties Australia Ltd v Australia Pacific Airports (Melbourne) Pty Ltd [2014] VSC 556 (construction of a commercial lease, Supreme Court of Victoria before Croft J)

Arhangelschi v Ussher [2013] 94 ACSR 86 (contract and trust proceeding in the Supreme Court of Victoria before Ferguson J)

ABN Amro Clearing Sydney Pty Ltd v Primebroker Securities Ltd (in liquidation) [2012] VSCA 287 (appeal from decisions of Judd J in the Supreme Court of Victoria concerning proper construction of Australian Master Securities Lending Agreements)

Primebroker Securities Ltd (receivers and managers appointed) (in liquidation) v Fortis Clearing Sydney Pty Ltd (No 3) (2011) 83 ACSR 119; [2011] VSC 182 (proceeding concerning the proper construction of Australian Master Securities Lending Agreements in the Supreme Court of Victoria before Judd J)

Primebroker Securities Ltd (receivers and managers appointed) (in liquidation) v Fortis Clearing Sydney Pty Ltd (No 2) [2010] VSC 35 (proceeding concerning the proper construction of Australian Master Securities Lending Agreements)

Primebroker Securities Ltd (receivers and managers appointed) (in liquidation) v Fortis Clearing Sydney Pty Ltd (2009) 28 VR 479; (2009) 74 ACSR 46; [2009] VSC 364 (proceeding concerning the proper construction of Australian Master Securities Lending Agreements)

Administrative Law

Mortimer v West [2018] VSCA 188 (judicial review proceeding on appeal to the Victorian Court of Appeal concerning coronial decision to refuse to reopen investigation)

Stirling v Minister for Finance [2017] FCA 874 (judicial review proceeding before Tracey J in the Federal Court of Australia)

Chief Commissioner of Police v Chen and Police Registration and Services Board [2015] VSC 380 (judicial review proceeding before T Forrest J in the Supreme Court of Victoria)

Chief Commissioner of Police v McCann and Police Registration and Services Board [2015] VSC 379 (judicial review proceeding before T Forrest J in the Supreme Court of Victoria)

State of Victoria v Stichling [2014] VSC 62 (appeal to the Supreme Court of Victoria from the Magistrates Court of Victoria on an error of law before Rush J)

Mitchell v Marlios [2013] VSC 480 (judicial review for jurisdictional error before Beach J in the Supreme Court of Victoria)

Class Actions

Erin Downie v Spiral Foods Pty Ltd & Ors (multi-jurisdictional product liability class action in the Supreme Court of Victoria, acting for Japanese manufacturer, settled shortly prior to trial in November 2014)

Regent Holdings Pty Ltd v State of Victoria [2013] VSC 601 (negligence class action before Beach J in the Supreme Court of Victoria)

Earglow Pty Ltd v Sigma Pharmaceuticals Limited [2012] FCA 1496 (shareholders' class action for misleading and deceptive conduct in securities trading before Middleton J in the Federal Court of Australia, acting for a class of beneficiaries objecting to the terms of the settlement)

Common Law

FBX18 as litigation representative for FBY18 v Minister for Home Affairs [2018] FCA (injunction to restrain breach of ongoing tort before Murphy J)

John Setka v The Honourable Tony Abbott MP & Anor, M133 of 2014, 19 June 2015, High Court of Australia (resisting application for special leave to appeal judgment of Victorian Court of Appeal)

John Setka v The Honourable Tony Abbott MP & Anor [2014] VSCA 287

John Setka v The Honourable Tony Abbott MP & Anor (No 2) [2013] VSCA 376

John Setka v The Honourable Tony Abbott MP & Anor [2013] VSCA 345

John Setka v The Honourable Tony Abbott MP & Anor (No 2) [2013] VSC 726

John Setka v The Honourable Tony Abbott MP & Anor [2012] VSC 534 (these cases concerned challenges to defamation pleadings)

Kino v Prestige Philately Pty Ltd & Ors [2014] VSC 469 (conversion and detinue case before Vickery J in the Supreme Court of Victoria)

Criminal Law

R v Humphrey John Polycarp Gomes [2018] TASSC, May 2018 (dishonest obtaining of financial advantage, Commonwealth Criminal Code, before Estcourt J in the Supreme Court of Tasmania)

Selected Legal Writing

Common Law versus Statutory Approaches to Enforcing Foreign Judgments: The Australian Experience, in Stephan (Ed) *Foreign Court Judgments and the United States Legal System*, Brill Nijhoff, 2014

“Sound Business Reasons”: A Panacea for the exclusionary conduct of monopolists? (2001) 75(2) *Law Institute Journal*, 71

Provisional and Protective Measures in International Litigation: *Mareva* and *Grupo Mexicano*, *Proceedings of the 94th Annual Meeting of the American Society of International Law*, April 2000, 60

Proposed Hague convention on international litigation (1999) 73(4) *Law Institute Journal*, 78

Prejudgment Attachment in the United States (1998), Report to the Deputy Secretary General, Hague Conference on Private International Law

The Preliminary Injunction as a Prejudgment Security Device in the United States (1998), Report to the Deputy Secretary General, Hague Conference on Private International Law

Mareva-Style Prejudgment Protective Measures in English and Australian Law: An Overview (1997), Report to the Deputy Secretary General, Hague Conference on Private International Law

Administrative Proportionality: *Leask v Commonwealth* (1997) 4 *Australian Journal of Administrative Law*, 216

The QIW Case and Section 87B Undertakings (1996) 14 *Company and Securities Law Journal*, 175

Res Judicata, Issue Estoppel and the Commonwealth AAT: Square Pegs Into A Round Hole? (1996) 4 *Australian Journal of Administrative Law*, 37

Takeovers and the TPC: The Use of Interim Injunctions in Response to Alleged Violations of the Trade Practices Act 1974, (1995) 3 *Competition and Consumer Law Journal*, 87

New Flesh on Old Bones: Recent Developments in Jurisprudence Relating to Wednesbury Unreasonableness, (1995) 3 *Australian Journal of Administrative Law*, 36

The Implications for Australia of the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, (1994) 68 *Australian Law Journal* 576