

CHRISTOPHER R. BROWN
MATTERS IN WHICH HE HAS APPEARED

APPEALS

- ***Shaw v The Official Trustee in Bankruptcy* [2023] FCA 570**
Practice and procedure – application for leave to appeal – whether primary decision attended by doubt sufficient to warrant review by full court – whether applicant would endure substantial injustice unless leave to appeal were granted.

- ***Sivanantha v Angelie Pty Ltd* [2021] VSCA 333 (with Annabel Tresise as junior)**
Practice and procedure – Default judgment for possession of land – Application by bankrupt registered proprietors to set aside default judgment, dismissed.

- ***Westpac Banking Corporation v Paras* [2021] FCA 616**
Bankruptcy – appeal against sequestration orders made against appellants – whether respondent bank entitled to issue a bankruptcy notice – unconscionable conduct or other disentitling conduct.

- ***Cant v Mad Brothers Earthmoving Pty Ltd* [2020] VSCA 198 (led by Michael Galvin KC)**
Corporations – External administration – Voidable transactions – Unfair preference – Whether payment to creditor by related company a payment ‘from’ the debtor company.

- ***Shaw v The Official Trustee in Bankruptcy* [2020] FCAFC 136 (and related matter *Shaw v The Official Trustee in Bankruptcy* [2020] FCAFC 142**
Bankruptcy – appeal from decision of primary judge confirming trustee’s decision to admit a proof of debt under s 104 of the Bankruptcy Act 1966 (Cth).

- ***Re Eliana Construction and Developing Group Pty Ltd (No. 2)* [2019] VSC 546**
Corporations - Appeal from decision of associate justice finding that payment of debt by an associated company of the debtor to the creditor constituted an unfair preference payment to the creditor.

- ***Midland Metals Overseas Pte Ltd v Powercor Network Services Pty Ltd* [2019] VSCA 76 (and related matter *Midland Metals Overseas Pte Ltd v Powercor Network Services Pty Ltd (No. 2)* [2019] VSCA 90**
Corporations - Setting aside of statutory demands - Genuine dispute as to whether cables supplied complied with specifications under the contract - Construction of contract.

- ***Doggett v Commonwealth Bank of Australia* (2015) 47 VR 302; [2015] VSCA 351 (led by Nick Hopkins KC)**
Banking – Guarantee – Code of Banking Practice – Relevant provisions of Code applied to guarantee – Exercise of care and skill of diligent and prudent banker.
Contract – Compromise – Whether breach of Code within scope of compromise.

- ***Babcock & Brown DIF III Global Co-Investment Fund LP v Babcock & Brown International Pty Ltd* [2017] VSCA 138** (led by Chris Caleo KC)

Practice and procedure – Stay of proceedings – Exclusive jurisdiction clause – Application of foreign law

- ***SY Financial Services Pty Ltd v Risk Business Pty Ltd* [2015] VSC 607**

Corporations – Winding up application – Failure to serve s 459G application within time – Section 459S application.

- ***Shirreff v Beck Legal Pty Ltd (No 2)* [2011] FCA 603 (and related matter *Shirreff v Beck Legal Pty Ltd (No 3)* [2011] FCA 604)**

Practice and procedure – Application for adjournment of appeal – Summary dismissal of appeal for want of prosecution.

CORORATIONS/CORPORATE INSOLVENCY (OTHER THAN WIND-UP/STAT DEMAND)

- ***Re Amerind Pty Ltd (in liq)* [2023] VSC 350** (with Pat Miller as junior)

Corporations Application for approval of compromise likely requiring more than three months to perform – Whether liquidators justified and acting reasonably in entering into proposed compromise – Where liquidator considers settlement in best interests of company.

- ***Re ABHG Contracting Pty Ltd & Ors* [2023] VSC 263** (with Rhiannon Malone as junior)

Corporations – Security interests Application to extend time pursuant to s 588FM of the Corporations Act 2001 – Personal Property Securities – Application to extend time for registration of purchase money security interests pursuant to s 293 of the *Personal Property Securities Act 2009* – Inadvertence in registration.

- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd (Formerly Brookfield Multiplex Constructions Pty Ltd) (No 4)* [2022] FCA 1575**

Corporate insolvency – refusal of declaratory relief sought by applicants - refusal of declaratory relief sought by applicants – consideration of referral of questions to a referee - application by respondents for costs forthwith of liability trial and for costs on indemnity basis.

- ***Dixon (Liquidator), in the matter of Victoria Project Pty Ltd v Austhome Group Pty Ltd* [2023] FCA 42**

Corporate insolvency – application by liquidator pursuant to s 90-15 of the Insolvency Practice Schedule (Corporations) – liquidator remuneration – interpretation of deed of settlement and release - meaning of the phrase “costs of the liquidation”.

- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd (Formerly Brookfield Multiplex Constructions Pty Ltd) (No 3)* [2022] FCA 1280** (led by Anthony LoSurdo SC)

Corporate insolvency – action for debt brought by companies in liquidation and liquidator against numerous respondents – matters of principle common to various claims determined in this ‘liability trial’ – s 553C of Corporations Act – statutory set-off – “bank guarantees” – autonomy principle –

whether companies in liquidation have proprietary interests in proceeds of bank guarantees drawn down by respondents.

- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd [2021] FCA 1344***
Corporations – application for leave to proceed against respondents under s 444E(3) of the Corporations Act 2001 (Cth)–factors to take into account.
- ***Re WITS Holdings Pty Ltd (in liq) [2021] VSC 179***
Corporations – Application by former administrators for approval of remuneration.
- ***Cant v Mad Brothers Earthmoving Pty Ltd [2020] VSCA 198*** (led by Michael Galvin KC)
Corporations – External administration – Voidable transactions – Unfair preference – Whether payment to creditor by related company a payment ‘from’ the debtor company.
- ***Re Mandeville Group Pty Ltd (in liq) [2020] VSC 293***
Corporate insolvency - Liquidator’s application for orders and directions under Sch 2, ss 90-15, 90-20, and s 1318 of the *Corporations Act 2001*(Cth).
Trusts - Ipso facto clause - Where bare trustee sought orders under s 63 of the *Trustee Act 1958* Vic for conferral of the necessary powers to carry on the business of the unit trust and preserve, realise and distribute the assets.
- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd [2020] FCA 1824***
Practice and procedure – Pleadings amendment – Whether substantially different case - Multiple respondents – Whether common issues exist in relation to all respondents - Applications to remove respondents from proceedings - Cross-vesting.
- ***Re Centennial Mining Limited (subject to deed of company arrangement) (No. 2) [2020] FCA 633 (and related matter Re Centennial Mining Limited (subject to deed of company arrangement) (No. 3) [2020] FCA 794)*** (led by Hamish Austin KC)
Corporations – equity – general principles – subrogation–payment of mortgage by third party – presumption of intention by third party to keep mortgage alive.
- ***Re Centennial Mining Limited (subject to deed of company arrangement) [2020] FCA 250***
Corporations – whether deed of company arrangement had terminated due to non-satisfaction of conditions precedent – whether orders should be made pursuant to s 447A of the Corporations Act that Pt 5.3A operate in a particular way in relation to a company.
- ***Re Eliana Construction and Developing Group Pty Ltd (No. 2) [2019] VSC 546***
Corporations - Appeal from decision of associate justice finding that payment of debt by an associated company of the debtor to the creditor constituted an unfair preference payment to the creditor.

- ***Re Brimson Pty Ltd (in liq); Cremin (2019) 136 ACSR 649; [2019] FCA 1023***

Corporate insolvency – trustee company – right of indemnity – right of exoneration – where trustee company ceased to be the trustee of a trading trust upon the company going into liquidation.
- ***Re O’Keefe Heneghan Pty Ltd (in liq)(No. 3) [2019] NSWSC 106***

Corporations – where partners to a partnership are corporations that are in liquidation – whether should order that ss 556 and 561 of the *Corporations Act* do not apply to payment of the debts of a partnership from partnership assets.
- ***Re Daily Planet Pty Ltd (in liq) [2019] VSC 265***

Corporations - Company in liquidation - Related company debts - Judicial advice in relation to proofs of debts.
- ***Re O’Keefe Heneghan Pty Ltd in Liq and Ors (2018) 133 ACSR 314; [2018] NSWSC 1885***

Corporations - Winding Up Partnership - Distribution of partnership assets - Where all partners of partnership are companies in liquidation- application for directions that priority regime prescribed by the *Corporations Act 2001* (Cth) does not apply to the payment of the debts of a partnership from partnership assets.
- ***Re Eliana Construction and Developing Group Pty Ltd (in liq) [2018] VSC (Efthim AsJ, 1 Nov 2018)***

Corporations – Voidable transactions – Unfair preferences – Good faith – Whether payment to creditor by related company a payment made by the debtor company – Whether debtor company a party to transaction between related company and debtor company’s creditor.
- ***Re Amotran Pty Ltd [2017] VSC 637***

Corporations - Application to extend time for registration of security interest - Discretionary considerations.
- ***Re Amerind Pty Ltd (receivers and managers appt)(in liq) (2017) 121 ACSR 206; [2017] VSC 127***
(led by Jonathan Evans KC)

Corporations - Receivers appointed to the trustee of a trading trust - Whether trustee’s right of indemnity is property of the company - Whether receivers are justified in distributing the receivership surplus in accordance with the priority regimes in ss 433, 556, 560 of the *Corporations Act* - Nature of the trustee's right of indemnity- Nature of trust creditors right of subrogation
- ***Re Bank Mansion Pty Ltd (subject to deed of company arrangement) [2016] VSC 814*** (led by Garry Bigmore KC and Michael Galvin KC)

Corporations - Whether a deed of company arrangement can be set aside for non-disclosure - Whether s 439A information could reasonably be expected to have been material to the creditors decision to pass transactions likely to be voidable in a liquidation.
- ***Entwisle v Minken Pty Ltd [2015] VSC 561*** (led by Daniel Aghion KC)

Corporations – Application for leave to proceed with counter claim against companies in liquidation – s 471B of the *Corporations Act 2001* (Cth) – Whether there is a serious question to be tried – Whether there is a sufficient foundation for proposed counterclaim.

- ***Allco Funds Management Ltd (recs and mgrs apptd) (in liq) v Trust Company (Re Services) Ltd* [2014] NSWSC 1251** (led by Ian Pike SC)

Equity – Corporations - Fiduciary duty of directors to avoid conflicts of interest – obligation of directors to act bonafide in the best interests of the company for a proper purpose and not improperly to use their position to gain an advantage for another person – unconscionable conduct

- ***Re Gunns Finance Limited (in liq) (recs & mgrs apptd); and Re Gunns Plantations Limited (in liq) (recs & mgrs apptd) (No 2)* (2013) 281 FLR 121; [2013] VSC 365** (led by Garry Bigmore KC and Sam Hopper)

Corporations – Managed investment schemes – Change of responsible entity – Whether trustee’s general law right of indemnity extinguished by Corporations Act 2001(Cth) – Misleading and deceptive conduct – Whether explanatory memorandum issued to growers by prospective new responsible entity misleading or deceptive.

- ***Re Alan Fisher Pastoral Company Pty Ltd* [2013] VSC 405**

Corporations – External administration – Application for further extension of convening period pursuant to section 439A(6) of the Act.

- ***Re National Personnel Pty Ltd (in liquidation)* [2012] VSC 508** (led by Philip Crutchfield KC)

Corporations – Liquidator’s application for directions – Whether liquidator would be justified in accepting certain employees as employees of the company – Company trustee of two trusts.

- ***Sevior v Morgan (in his capacity as liquidator of RANS Pty Ltd (in liq))* [2012] VSC 480**

Corporations – Termination of winding-up – Solvency – Public interest ‘commercial morality’– Insolvent trading – Phoenix activity.

- ***Australian Securities and Investments Commission v Letten (No 12)* [2011] FCA 500** (led by Ted Woodward SC)

Corporations – Sale of property by receivers – Court approval – Determination on contract of sale.

- ***Australian Securities and Investments Commission v Letten (No 4)* [2010] FCA 571**

Receivers – Powers and duties – Power to sell or dispose of assets – Conditions Application for power of sale in relation to assets of schemes – Respondents involved in numerous commercial schemes which were wound up.

- ***Acconci v Alpha Technologies Corp Ltd (in liq)* (2010) 79 ACSR 505; [2010] FCA 970** (led by Michael Wyles KC)

Winding up – Application for termination of winding up – Considerations to be taken into account in ordering termination of winding up – Whether solvency established – Other relevant considerations.

WIND UP OR STATUTORY DEMAND

- ***Re Nature One Dairy (Australia) Pty Ltd [2021] VSC (Efthim AsJ, 25 Aug 2021)***
Corporations – Application to set aside a statutory demand pursuant to s 459G of the *Corporations Act 2001* (Cth) – Genuine dispute – Offsetting claim.
- ***Re Sneakerboy Pty Ltd [2020] VSC 348***
Corporations – Application for winding up in insolvency – Application by supporting creditor to be substituted as plaintiff – Whether genuine dispute about debt.
- ***Midland Metals Overseas Pte Ltd v Powercor Network Services Pty Ltd [2019] VSCA 76***
Corporations Appeal - Setting aside of statutory demands - Genuine dispute as to whether cables supplied complied with specifications under the contract - Construction of contract.
- ***Powercor Network Services Pty Ltd v Midland Metals Overseas Pte Ltd [2018] VSC (Efthim AsJ, 13 April 2018)***
Corporations – Contract – Setting aside of statutory demands – Contract for supply of electricity cables – Technical specifications – Construction of contract .
- ***Re Gawpap Developments Pty Ltd [2017] VSC (Efthim AsJ, 13 Dec 2017)***
Corporations – application to terminate winding up – dispute in relation to alleged debt.
- ***Slap Corporation Pty Ltd v Civil, Infrastructure & Logistics Pty Ltd [2017] VSC 168***
Companies – Winding up – Creditor’s statutory demand – Application to set aside demand – When demand served – Service by post – Failure of applicant to include notice under *Service and Execution of Process Act*.
- ***Solene Investments (Aus) Pty Ltd v Seylol Pty Ltd (VSC, Unreported, 14 December 2016)***
Corporations – application to set aside statutory demand – genuine dispute in relation to alleged debt.
- ***Re Shaolin Temple Foundation (Australia) Ltd [2016] NSWSC 804 and [2016] NSWSC 1232*** (led by James Lockhart SC)
Corporations – Creditor’s statutory demand – Application to set aside creditor’s statutory demand – where creditor contended that application to set aside the creditor’s statutory demand was not served within the statutory 21 day period – whether genuine dispute as to existence of debt – whether defect in demand.
- ***Deputy Commissioner of Taxation v ASD Laguna Investments Pty Ltd [2016] FCA 1481***
Corporations – application to set aside statutory demand – whether genuine dispute as to the amount of the debt – whether genuine dispute as to whether debt due and payable – whether written demand required before debt due and payable.

- ***Deputy Commissioner of Taxation v VFS Employment Services Pty Ltd* [2016] FCA 1054**
Corporations – winding up – whether leave should be granted *nunc pro tunc* to allow voluntary winding up of company – s 490(1) of *Corporations Act 2001* (Cth).
- ***Dynamic Windows Systems Pty Ltd v Robinson* [2016] VSC 152**
Corporations – Set aside statutory demand – Demand claimed that applicant was indebted to respondent in sum of \$250,000 arising from business purchase agreement. Applicant submit there appeared dispute as to terms of loan and repayment.
- ***SY Financial Services Pty Ltd v Risk Business Pty Ltd* [2015] VSC 607**
Corporations – Section 459P Winding up application – Failure to serve s 459G application within time – Section 459S application – Appeal from Associate Judge.
- ***Re Cummins Equipment Hire Pty Ltd* [2015] NSWSC 2085**
Practice and procedure – application to set aside creditor statutory demand – summary dismissal – where originating process served interstate on registered office and on nominated address for service – whether originating process validly served under *Service and Execution of Process Act 1992*.
- ***Access Solutions International Pty Ltd v Angelo Gabriel Taglieri* [2015] VSC 494**
Corporations – Section 459G of the *Corporations Act 2001* (Cth) – Setting aside statutory demand.
- ***SY Financial Services Pty Ltd v Risk Business Pty Ltd* [2015] VSC 421**
Corporations – *Corporations Act 2001* (Cth) – s 459P winding up application – Failure to serve s 459G application within time – s 459S application.
- ***Super Choice Now Pty Ltd v BrisConnections Management Co Ltd* (2009) 259 ALR 451; [2009] FCA 1026** (led by Philip Crutchfield KC)
Practice and procedure – Application for company to be represented by an agent not being a solicitor or counsel – Statutory demand – Application pursuant to s 459G of the *Corporations Act 2001* (Cth) to set aside statutory demands – Whether a party making an application to set aside a statutory demand is, in substance, a defendant.

BANKRUPTCY

- ***The Official Trustee in Bankruptcy v Shaw (No 3)* [2023] FCA 1178 [2023] FCA 1178** (with Tessa Meyrick as junior)
Bankruptcy – application by Official Trustee for vexatious proceedings orders against a bankrupt pursuant to s 37AO of the *Federal Court of Australia Act 1976* (Cth) – whether Official Trustee authorised under the Bankruptcy Act 1966 (Cth) to bring such proceedings.
- ***Shaw v Official Trustee in Bankruptcy of the Australian Financial Security Authority* [2022] FCA 775**

Bankruptcy – applications by the respondent (Trustee) for a stay of each of the appellate proceedings NSD 9 of 2022 and NSD 42 of 2022 (appellate proceedings) pending the determination of separate proceedings in the original jurisdiction of the Court.

- ***Shaw v The Official Trustee in Bankruptcy* [2021] FCA 1569**

Bankruptcy – application by bankrupt for orders for the trustee to compensate the bankrupt estate for alleged breaches of trustee’s duty interlocutory application to reopen case – where evidence and no proper basis demonstrated for permitting applicant to amend his pleadings.

- ***Westpac Banking Corporation v Paras* [2021] FCA 616**

Bankruptcy – appeal from Federal Circuit Court – appeal against sequestration orders made against appellants – whether respondent bank entitled to issue a bankruptcy notice – whether deed of settlement between appellants and respondent was an accord and satisfaction – whether respondent bank engaged in unconscionable conduct or other disentitling conduct

- ***Westpac Banking Corporation v Paras* [2020] FCCA 1156**

Bankruptcy – creditor proceeding with petition in 2017 – proceeding leading to deed of settlement – debtors not complying with deed of settlement – whether deed amounted to an accord executory or accord and satisfaction – unconscionable conduct from proceeding to bankrupt debtors.

- ***Shaw v The Official Trustee in Bankruptcy* [2020] FCAFC 142**

Bankruptcy – appeal from decision of primary judge confirming trustee’s decision to admit a proof of debt under s 104 of the Bankruptcy Act 1966 (Cth).

- ***Quin v Bitcon* [2020] FCA 1065 (with Katherine Wangmann as junior)**

Bankruptcy – application for declaration that surplus funds from sale of property vest in trustee in bankruptcy – where bankrupt involved in domestic building dispute and charged and found guilty of causing criminal damage to property.

- ***Shaw v Official Trustee in Bankruptcy (No. 2)* [2019] FCA 1574**

Bankruptcy – proof of debt – application to review trustee’s decisions to admit proof of debt – whether the court should go behind costs orders – whether debt is owed – whether a joint proof of debt is permissible.

- ***Doggett v Commonwealth Bank of Australia* [2019] FCAFC 19**

Bankruptcy – appeal from a decision of a single judge – whether primary judge erred in refusing to go behind the judgment debt upon which a bankruptcy notice was based.

- ***Doggett v Commonwealth Bank of Australia* [2018] FCA 1253**

Bankruptcy – application to dismiss appeal for incompetency – application to dismiss appeal for failure to comply with directions of the Court – whether notice of appeal is incomprehensible

- ***Commonwealth Bank of Australia v Doggett* [2017] FCA 1176**
Bankruptcy – creditor’s petition – act of bankruptcy comprised failure to comply with bankruptcy notice founded on a judgment debt — application to review decision of Registrar making sequestration orders against the respondents' estates.
 - ***Patel v Ruhe* [2016] FCA 520**
Bankruptcy – application by bankrupt for an inquiry into the conduct of the trustees pursuant to s 179 of the *Bankruptcy Act 1966* (Cth) – creditors voted to replace the original trustee – whether conduct of new trustee sufficient to necessitate an inquiry.
 - ***Nelson v Berhe* [2014] FCCA 1975**
Bankruptcy – Application by Trustee for vacant possession of the property – property occupied by the Bankrupt’s Wife – Bankrupt died on 29 November 2009 – whether the Respondent entitled to benefit of a constructive trust.
 - ***Sutherland v Jatkar* (2014) 222 FCR 601; [2014] FCA 532** (led by Garry Bigmore KC)
Bankruptcy – Provable debts – Whether a claim for statutory contribution from a joint tortfeasor is a provable debt – meaning of 'provable debt' – whether claim for contribution under s 23B of the Wrongs Act 1958 (Vic) approvable debt.
- BA and BB v Sutherland* [2013] VSC 336** (led by Garry Bigmore KC)
- Bankruptcy – Jurisdiction of State court in bankruptcy – Application for stay of contribution proceedings – Contribution claims under Part IV Wrongs Act 1958 – Whether contribution claims contingent liabilities under s 82(1) *Bankruptcy Act 1966* (Cth).
- ***Horne (Trustee); Tebb (Bankrupt) v Tebb* [2013] FCA 585**
Practice and procedure – Bankruptcy – application to transfer proceeding to Family Court of Australia under section 35A of the *Bankruptcy Act 1966* (Cth) – considerations relevant to whether discretion to transfer should be exercised—order that proceeding be transferred.
 - ***Owners Corporation PS334337A v Hoiles* [2012] FMCA 218**
Bankruptcy – Application of trustees under s 146 of the *Bankruptcy Act 1966* (Cth) for distribution of dividends – no statement of affairs received in relation to deceased’s estate.

SHAREHOLDER OPPRESSION/SHAREHOLDER DISPUTE/PARTNERSHIP DISPUTE

- ***Re Project Collaboration Pty Ltd* VSC (Efthim AsJ, 21 April 2020)**
Corporations – Shareholder dispute – application to wind up company
- ***CC Growth Pty Ltd v Amiga Growth No 2 Pty Ltd* [2019] VSC 340**
Equity and Contract – Principles of promissory estoppel discussed – Unclean hands – Whether equitable defences are available to a claim for declaratory relief Fiduciary duties – Whether implied duty to co-operate extends to non-parties to the contract – Breach of duty of good faith.

- ***Re F Vitale & Sons Pty Ltd and Ors* [2018] VSC 111** (led by Michael Galvin KC)
Corporations - Dispute between brothers in relation to numerous companies and trusts - Claims and cross-claims alleging oppression - Remedies sought under s 233 of *Corporations Act 2001* (Cth)
- ***Re Line Accord Pty Ltd* [2016] VSC 203** (led by Garry Bigmore KC and Daniel Aghion)
Contract – Whether parties intended a loan agreement, mortgage and guarantee and indemnity to be legally binding.
- ***Naumovski v Ugrinovski* [2015] VSC 49** (led by Michael Galvin KC)
Subpoenas - Subpoena issued to non-party – Objection to subpoena - Costs on an indemnity basis – Breach of overarching obligations – Court power to sanction.
- ***Re Deep Creek Marina Hotel Pty Ltd; Cunnington Investments Pty Ltd v Matheson (No 2)* [2010] FCA 39** (led by Ted Woodward SC)
Practice and procedure – serious question to be tried – balance of convenience – undertakings given to the Court – non-compliance with undertakings – interlocutory injunctions granted.
- ***Re Deep Creek Marina Hotel Pty Ltd; Cunnington Investments Pty Ltd v Matheson* [2009] FCA 1529** (led by Ted Woodward SC)
Practice and Procedure – interlocutory injunctions – relevant principles – whether serious question to be tried – Stakeholders Agreement – whether breach of director’s duties – whether undertakings by defendants should be accepted – balance of convenience

GENERAL COMMERCIAL

- ***Dixon (Liquidator), in the matter of Victoria Project Pty Ltd v Austhome Group Pty Ltd* [2023] FCA 42**
Consumer law – claim for misleading or deceptive or unconscionable conduct pursuant to the Australian Consumer Law – where liquidator made representations as to the remuneration for his appointment as liquidator.
- ***Laurus Group Pty Ltd v Mitsui & Co (Australia) Ltd* [2022] VSC 360**
Contract – Offer and acceptance – Exchange of emails – Whether parties made binding contract – When was the contract formed – Battle of the forms – Whether email constituted acceptance or counteroffer – Estoppel by convention – Whether party believed guarantee was not legally binding – Whether photograph of document is sufficient evidence.
- ***Melbourne Property Group Investments Pty Ltd v Knight 43 Martin Street Pty Ltd* [2022] VSC 41** (with Annabel Tresise as junior)
Contract – Where moneys lent for the purpose of property development – Breach of contract – Construction of commercial contracts – Implication of terms – Whether implied term not to unreasonably withhold consent to sale – Existence and indicia of partnership – Duties of trustee – ‘No

conflict' rule – 'No profit' rule – Breach of trust – Knowing receipt – Knowing involvement in breach of trust.

- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd [2020] FCA 1824***

Practice and procedure – Pleadings amendment – Whether substantially different case - Multiple respondents – Whether common issues exist in relation to all respondents - Applications to remove respondents from proceedings - Cross-vesting.

- ***Re Grant Thornton (WA) RSE Services Pty Ltd [2012] VSC 428*** (led by Garry Bigmore KC)

Trusts – Dissolution of fund in portions – Proposal to distribute surplus funds to identifiable members – Whether identified members were members remaining at the date on which the fund was dissolved – Whether proposed distribution of funds is reasonable.

- ***Gippsreal Ltd v Hausfeld Johnson Pty Ltd [2012] FCA 956***

Practice and procedure – Leave to amend defence – filing defence without seeking leave to amend – proportionate liability – requirement for joinder of parties – effect of joinder on trial date.

- ***BW Offshore Ltd v Anzon Australia Ltd [2009] FCA 1133*** (led by Alan Archibald KC, Alan Sullivan KC and Philip Crutchfield KC)

Practice and procedure – Application for security for costs – contract dispute

BANKING OR DEBT

- ***Westpac Banking Corporation v Paras [2021] FCA 616***

Bankruptcy – appeal against sequestration orders made against appellants – whether respondent bank entitled to issue a bankruptcy notice – unconscionable conduct or other disentitling conduct.

- ***Re Carter Holt Harvey Wood Products (Australia) Pty Ltd (No 1) [2017] VSC 499***

Equity – Claim that debt was secured by a charge over all assets of debtor – Whether there was an agreement to charge – Whether terms of a guarantee and indemnity are enforceable to give an equitable charge of the chargee's property.

- ***Doggett v Commonwealth Bank of Australia (2015) 47 VR 302; [2015] VSCA 351*** (led by Nick Hopkins KC)

Banking – Guarantee – Code of Banking Practice – Relevant provisions of Code applied to guarantee – Exercise of care and skill of diligent and prudent banker.

Contract – Compromise – Whether breach of Code within scope of compromise.

- ***Commonwealth Bank of Australia v Doggett [2014] VSC 423*** (led by Nick Hopkins KC)

Banking – Whether Code of Banking Practice published by the Australian Bankers Association incorporated into loan agreement and related guarantee – Whether compromise procured by illegitimate pressure – Whether scope of release in compromise agreement extended to particular claims.

- ***Gippsreal Ltd v Action Cycles Pty Ltd* [2012] VSC 279** (led by Jonathan Evans KC)
Practice and procedure – client legal privilege – loss of privilege – ‘issue waiver’ – mediation – validity of deed of settlement challenged.
- ***Shirreff v Beck Legal Pty Ltd (No 2)* [2011] FCA 603**
Practice and procedure – Application for adjournment of appeal – Summary dismissal of appeal for want of prosecution.

PERSONAL PROPERTY SECURITIES ACT

- ***Laurus Group Pty Ltd (admin apptd) v Mitsui & Co. (Australia) Ltd (No 2)* [2023] VSC 412** (with Hamish McAvaney as junior)
Personal Securities – Whether moneys paid into Court by way of security for costs pursuant to a consent order gives rise to a security interest pursuant to s 12(1) of the *Personal Property Securities Act 2009* (Cth) (‘PPSA’)– Role of Court when receiving consent orders – Whether order should be made for payment out of moneys held in Court on account of security for costs without taxation first occurring.
- ***Re ABHG Contracting Pty Ltd & Ors* [2023] VSC 263** (with Rhiannon Malone as junior)
Corporations – Security interests Application to extend time pursuant to s 588FM of the Corporations Act 2001 – Personal Property Securities – Application to extend time for registration of purchase money security interests pursuant to s 293 of the *Personal Property Securities Act 2009* – Inadvertence in registration.
- ***Re O’Keefe Heneghan Pty Ltd (in liq) and Ors (No 2)* [2018] NSWSC 1958**
Personal Property and Equity – constructive trust – where payments were made from partnership account to account of corporate partner to partnership immediately prior to it being placed in voluntary administration – priority of security interests.
- ***Re Amotran Pty Ltd* [2017] VSC 637**
Corporations - Application to extend time for registration of security interest - Discretionary considerations.

PROCEDURE OR COSTS

- ***The Official Trustee in Bankruptcy v Shaw (No 3)* [2023] FCA 1178 [2023] FCA 1178** (with Tessa Meyrick as junior)
Practice and procedure – application by Official Trustee for vexatious proceedings orders against a bankrupt pursuant to s 37AO of the *Federal Court of Australia Act 1976* (Cth) – whether Official Trustee authorised under the Bankruptcy Act 1966 (Cth) to bring such proceedings.
- ***Laurus Group Pty Ltd (admin apptd) v Mitsui & Co. (Australia) Ltd (No 2)* [2023] VSC 412** (with Hamish McAvaney as junior)

Personal Securities – Whether moneys paid into Court by way of security for costs pursuant to a consent order gives rise to a security interest pursuant to s 12(1) of the *Personal Property Securities Act 2009* (Cth) (‘PPSA’)– Role of Court when receiving consent orders – Whether order should be made for payment out of moneys held in Court on account of security for costs without taxation first occurring.

- ***Dixon (Liquidator), in the matter of Victoria Project Pty Ltd v Austhome Group Pty Ltd (No 2)* [2023] FCA 146**

Practice and procedure – costs - where minority and majority shareholders opposed application by liquidator for judicial advice as to construction of a deed – Referral by consent to judicial registrar for determination of the question of the costs of the liquidation upon a proper construction of the deed.

- ***Hastie Group Limited (in liq) v Multiplex Constructions Pty Ltd (Formerly Brookfield Multiplex Constructions Pty Ltd) (No 4)* [2022] FCA 1575**

Practice and procedure – refusal of declaratory relief sought by applicants - refusal of declaratory relief sought by applicants – consideration of referral of questions to a referee - application by respondents for costs forthwith of liability trial and for costs on indemnity basis.

- ***Shaw v Official Trustee in Bankruptcy of the Australian Financial Security Authority* [2022] FCA 775**

Practice and procedure – applications by the respondent (Trustee) for a stay of each of the appellate proceedings NSD 9 of 2022 and NSD 42 of 2022 (appellate proceedings) pending the determination of separate proceedings in the original jurisdiction of the Court.

- ***Melbourne Property Group Investments (MPGI) Pty Ltd as trustee for the MPGI Trust v Knight 43 Martin Street Pty Ltd (No 2)* (with Annabel Tresise as junior)**

Costs – General principles – Pragmatic or aggregate approach – Statutory interest – *Supreme Court Act 1986* (Vic) s 60(1).

- ***Shaw v Singh* [2021] FCA 1207**

Practice and procedure – application for temporary stay – similar proceedings in Federal Court in another matter where judgment currently reserved.

- ***Re WITS Holdings Pty Ltd (in liq)* [2021] VSC 179**

Corporations – External administration – Application by former administrators for approval of remuneration

- ***Angelie Pty Ltd v Jeevaratnam* [2020] VCC 705 (and related matter *Angelie Pty Ltd v Jeevaratnam* [2020] VCC 989)**

Applications to set aside default judgments for possession - both mortgagors going bankrupt and being discharged.

- ***Westpac Banking Corporation v Paras (No 2)* [2020] FCCA 1719**

Bankruptcy – Ex tempore ruling on application for a stay of sequestration orders pending appeal.

- ***Shaw v The Official Trustee in Bankruptcy* [2020] FCAFC 136**
Practice and procedure – where primary judge set aside three subpoenas to respondents
- ***Shaw v Official Trustee in Bankruptcy (No 2)* [2020] FCA 1575**
Practice and procedure – application to strikeout parts of defence in a bankruptcy and insolvency action.
- ***Shaw v Official Trustee in Bankruptcy* [2020] FCA 1570**
Practice and procedure – application for recusal – whether fair-minded lay observer might reasonably apprehend that judge does not have an impartial mind to the resolution of the proceeding.
- ***Re Centennial Mining Limited (subject to deed of company arrangement) (No. 3)* [2020] FCA 794**
(led by Hamish Austin KC)
Practice and procedure – costs – costs follow the event–relief to be confined to that claimed in originating application.
- ***Shaw v Official Trustee in Bankruptcy* [2019] FCA 1412**
Practice and procedure – interlocutory application – whether orders should be made to restrain the respondent’s solicitors from further acting in proceeding.
- ***Midland Metals Overseas Pte Ltd v Powercor Network Services Pty Ltd (No. 2)* [2019] VSCA 90**
Practice and procedure – Costs orders – Indemnity costs – Determination on costs order.
- ***Re Bank Mansion Pty Ltd* [2018] VSC 52**
Practice and procedure – Legal professional privilege – Production of documents in the course of a public examination – Solicitor’s invoices – Appropriate redactions – Inspection of documents for the purpose of determining the question.
- ***Pandolfo v Finadri* [2018] VSC 211** (with Reegan Morison)
Practice and procedure – Preliminary discovery – Whether reasonable grounds to believe that plaintiff may have right to obtain relief against defendants – Whether sufficient information to enable plaintiff to decide whether to commence proceeding.
- ***Babcock & Brown DIF III Global Co-Investment Fund LP v Babcock & Brown International Pty Ltd (No 2)* [2017] VSC 556** (led by Lachlan Armstrong KC)
Practice and procedure - Pleadings - Application to strike out parts of statement of claim.

- ***Babcock & Brown DIF III Global Co-Investment Fund LP v Babcock & Brown International Pty Ltd* [2017] VSCA 138** (led by Chris Caleo KC)
Practice and procedure - Stay of proceedings - Exclusive jurisdiction clause - Where parties seek to enforce exclusive jurisdiction clause in agreement to which they are not party.
- ***Re Amerind Pty Ltd (receivers and managers apt)(in liq)(No 2)* [2017] VSC 169** (led by Jonathan Evans KC)
Costs - Application by receivers for directions of winding up a trading trust - Whether all parties should be entitled to their costs from the receivership surplus - Order to pay funds into court.
- ***Babcock & Brown DIF III Global Co-Investment Fund LP v The Royal Bank of Scotland PLC* [2016] VSC 769** (led by Chris Caleo KC)
Practice and procedure - Application to set aside service on the basis of failure to comply with s 16 of the *Service and Execution of Process Act 1992* (Cth).
- ***Re Shaolin Temple Foundation (Australia) Ltd (No 2)* [2016] NSWSC 1766** (led by James Lockhart SC)
Practice and procedure – costs – successful application for orders setting aside statutory demands – much of the plaintiff’s evidence rejected by the court – costs of obtaining and tendering that evidence excluded from cost awarded to successful plaintiff.
- ***Reardon v Hall & Wilcox (No 2)* [2016] VSC 719**
Costs - Plaintiff sought declaration that redacted invoices provided by the defendant did not constitute sufficient information for the purposes of s 3.4.38(7) of the *Legal Profession Act 2004*.
- ***Babcock & Brown DIF III Global Co-Investment Fund LP v Babcock & Brown International Pty Ltd* [2016] VSC 623** (led by Philip Crutchfield KC)
Practice and procedure - Stay of proceedings - Exclusive jurisdiction clause – Where parties seek to enforce exclusive jurisdiction clause in agreement to which they are a non-signatory.
- ***Timbercorp Finance Pty Ltd (in liq) v Allan* [2016] VSC 481** (led by Jonathon Moore KC)
Practice and procedure – Service of originating process by agreement – Service interstate – Whether notice under *Service and Execution of Process Act 1992* (Cth) (‘SEPA’) required.
- ***Reardon v Hall & Wilcox* (2016) 50 VR 117; [2016] VSC 188**
Costs – Third party payer – Information sought from solicitors for purposes of determining whether to apply for costs review – Solicitors providing invoices redacting items subject to claims for client professional privilege.
- ***Salmon v WA Blue Gum Ltd* [2013] VSC 430** (led by Garry Bigmore KC and Sam Hopper)
Corporations – Application to reopen reasons after delivery of judgment – Relevant factors to be taken into account in exercise of discretion to reopen.

- ***Allco Funds Management Ltd (Recs and Mgrs Apptd) (in liq) v Trust Company (Re Services) Ltd*** [2014] NSWSC 1296 (led by Ian Pike SC)

Costs – appropriate costs order where not clear which party was successful at trial

- ***Shirreff v Beck Legal Pty Ltd (No 3)*** [2011] FCA 604

Practice and procedure – whether appeal should be dismissed for want of prosecution and failure to comply with court orders under s 25(2B) of the *Federal Court Act 1976*.