

## Brad Holmes



Brad Holmes practises in all aspects of commercial litigation

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### QUALIFICATIONS

Bachelor of Laws

Bachelor of Arts

### CORRESPONDENCE

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### CHAMBERS

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### COMMERCIAL LAW

Banking & Finance | Class Actions | Commercial Arbitration | Corporate Insolvency | Corporations & Securities | Equity & Trusts | Private International Law

### TORT LAW

Class Actions | Defamation

Brad has particular expertise in corporations and securities law (including schemes of arrangement), professional negligence claims and banking and financial services litigation.

He also has experience in insolvency matters, class actions, regulatory investigations (involving ASIC and the ACCC), breach of confidence proceedings, and defamation.

Before joining the Bar, Brad worked in the litigation departments of Herbert Smith Freehills and King & Wood Mallesons.

Brad read with Penny Neskovic KC.

*Liability limited by a scheme approved under the Professional Standards Legislation*

## Recent Cases

### SECURITIES CLASS ACTIONS

McFarlane atf S McFarlane Superannuation Fund v Insignia Financial Ltd [2023] FCA 1628 (For Insignia in proceedings alleging breach of continuous disclosure obligations and misleading and deceptive conduct where share price of Insignia fell following publication of media articles containing allegations of misconduct)

RK Doudney Pty Ltd atf the RK Doudney Superannuation Fund v IOOF Holdings Ltd (Supreme Court of NSW, settled) (For IOOF in proceedings alleging breach of continuous disclosure obligations and misleading and deceptive conduct relating to the alleged use of trust assets to compensate beneficiaries of a superannuation fund)

TPT Patrol Pty Ltd atf Amies Superannuation Fund v Myer Holdings Limited (2019) 293 FCR 29 (briefed by Myer to assist with evidence preparation in proceedings alleging breach of continuous disclosure obligations and misleading and deceptive conduct where share price of Myer fell following Myer's announcement of its expected financial performance)

IOOF Holdings v Maurice Blackburn Pty Ltd (Supreme Court of Victoria, settled) (For IOOF seeking to restrain the use of confidential information by Maurice Blackburn to commence a shareholder class action)

### CONTRACT AND STATUTORY INTERPRETATION

Fonterra Brands (Aust) Pty Ltd v Bega Cheese Ltd (2021) 159 IPR 494 (For Bega Cheese in lengthy proceedings alleging breach of contract, rectification for mistake, restraint of trade and misleading and deceptive conduct)

Eni Pty Ltd v Transocean Ltd (Supreme Court of Western Australia, settled) (For Transocean in proceedings alleging breach of contract relating to the supply and operation of a drilling rig in the Timor sea)

Tabcorp Holdings v State of Victoria (2016) 328 ALR 375 (For Tabcorp in the High Court of Australia seeking a refund of its gaming and wagering licence fees)

Funtastic Limited v Madman Film & Media Pty Limited [2016] VSC 708 (For Funtastic in a dispute regarding completion of a share sale agreement and an expert accountant's determination of the treatment of various adjustments)

Bapcor Ltd v Specialist Wholesalers Pty Ltd (Supreme Court of Victoria, settled) (For Bapcor in proceedings

alleging breach of contract and restraint of trade concerning a competing business)

Mair v Rhodes & Beckett [2018] VSC 132 (For Rhodes & Beckett in a dispute concerning the termination of a shareholders agreement and for breach of contract and breach of fiduciary duty by companies that own and operate shirt and suit retail and wholesale businesses, and related oppression proceedings).

#### TRUSTS

Australian Prudential Regulation Authority v IOOF Holdings & Kelaher (2019) 138 ACSR 459 (For IOOF in proceedings alleging breach of duties by the trustee and the directors where disqualification orders sought)

Re Diversa Trustees Ltd (in its capacity as Future Super Fund) [2023] VSC 279 and Re Guild Trustee Services Pty Ltd (in its capacity as Guild Retirement Fund) [2023] VSC 629 (For trustees seeking consent to receive and give a benefit in the context of the retirement of existing trustees and appointment of new trustees)

#### ROYAL COMMISSIONS

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry - for IOOF Holdings Ltd and separately for Zurich Australia Ltd

#### CORPORATIONS AND SECURITIES

Re Structural Monitoring Systems PLC [2022] FCA 473 (For SMS seeking relief from liability for failure to give cleansing notice)

Re EDN Supplies Pty Ltd (subject to Deed of Company Arrangement) (Supreme Court of Victoria, settled) (For EDN defending an application to terminate a DOCA).

Re Brandy Creek Development Pty Ltd (Supreme Court of Victoria, settled) (For plaintiffs in application to wind up partnership and related companies on just and equitable ground and appoint a liquidator)

Re 333D Ltd [2021] FCA 349 (For 333D seeking relief from liability for failure to give cleansing notice)

Mair v Rhodes & Beckett [2017] VSC 54 (For Rhodes & Beckett in corporate administration where injunction sought to restrain payment of assigned debts)

Bill Express Ltd (in Liq) v KPMG (Supreme Court of Victoria, settled) (For KPMG in proceedings alleging professional negligence and misleading and deceptive conduct relating to the conduct of audits of Bill Express)

Gunns Ltd (in Liq) v KPMG (Supreme Court of Tasmania, settled) (For KPMG in proceedings alleging professional negligence, misleading and deceptive conduct and breach of directors' duties relating to the conduct of audits of Gunns Ltd)

#### SCHEMES OF ARRANGEMENT

Appeared for the target company in numerous schemes of arrangement, including takeover schemes, re-domicile

schemes and trust schemes, including:

*Re Surf Lakes Holdings Limited (No 2)* [2023] FCA 1601 (For Surf Lakes, unled)  
*Re AWA Mutual Ltd* ) [2023] FCA 1551 (For AWA, unled)  
*Re Incannex Healthcare Limited (No 2)* [2023] FCA 1450 (For IHL, unled)  
*Re Carbon Revolution Limited* [2023] FCA 1081 (For Carbon Revolution, unled)  
*Re Newcrest Mining Limited* [2023] FCA 1080 (For Newcrest, led by Philip Crutchfield KC)  
*Re Oz Minerals Limited* [2023] FCA 197 (For BHP, unled)  
*Re Security Matters Limited* [2023] FCA 19 (For Lionheart III Corp, unled)  
*Re Telstra Corporation Limited* (2022) 163 ACSR 429 (For Telstra, led by Neil Young KC)  
*Re ANZ Banking Group Limited* [2022] FCA 1547 (For ANZ, led by Philip Crutchfield KC)  
*Re Nearmap Ltd (No 2)* [2022] FCA 1464 (For Nearmap, led by Neil Young KC)  
*Re Angel Seafood Holdings Ltd* [2022] FCA 717 (For Angel Seafood, unled)  
*Re Unity Group Limited* (2022) 160 ACSR 602 (For Unity Group, led by Philip Crutchfield KC)  
*Re iSelect Ltd (No 2)* (2022) 166 ACSR 41 (For iSelect, unled)  
*Re Japara Healthcare Ltd* (2021) 156 ACSR 695 (For Japara, led by Philip Crutchfield KC)  
*Re American Pacific Borates Limited* [2021] FCA 1590 (For ABR, unled)  
*5G Networks Limited* [2021] FCA 1189 (For 5GN, unled)  
*Re Asaleo Care Limited (No 2)* [2021] FCA 636 (For Asaleo, unled)  
*Re APN Property Group Limited* [2021] VSC 490 (For APN, led by Philip Crutchfield KC)  
*Re RXP Services Limited* [2021] FCA 38 (For RXP, unled)  
*Re DWS Ltd* (2020) 148 ACSR 616 (For DWS, unled)  
*Re Amcor Ltd* [2019] FCA 842 (For Amcor, led by Philip Crutchfield QC)  
*Re Healthscope Ltd* [2019] FCA 759 (For Healthscope, led by Philip Crutchfield QC).  
*Re Tronox Ltd* [2019] FCA 312 (For Tronox, led by Michael Borsky QC)  
*Re DuluxGroup Ltd* (2019) 136 ACSR 546 (For DuluxGroup, led by Neil Young QC)

#### APPEALS FROM MARKET RENTAL DETERMINATIONS

*Bevendale Pty Ltd v Lucky Eights Pty Ltd* [2020] VSCA 312 (For Lucky Eights in proceedings in VCAT, the Victorian Court of Appeal and the High Court)

*Verraty Pty Ltd v Richmond Football Club Ltd* (2020) 63 VR 150 (For Verraty in proceedings in the Victorian Court of Appeal)

*128 Bourke St Pty Ltd v ESM Nominees Pty Ltd* [2023] VCAT 1265 (For 128 Bourke St Pty Ltd in proceedings in VCAT)

#### DEFAMATION

*Yunghanns v Colquhoun-Denvers* [2019] VSC 433 (For Peter Yunghanns in lengthy defamation proceedings in the Victorian Supreme Court)

## Memberships

Victorian Bar - Commercial Bar Association