

Dion Fahey



Dion Fahey has a broad commercial law practice with particular expertise in corporations and securities matters, and class actions

QUALIFICATIONS

Master of Laws (Melb)
Bachelor of Laws (Hons)(Melb)
Bachelor of Commerce
(Accounting)(Melb)

CORRESPONDENCE

P 03 9225 8558
F 03 9225 8668
E dion.fahey@vicbar.com.au

CHAMBERS

Aickin Chambers
Level 28
200 Queen Street
Melbourne VIC 3000

COMMERCIAL LAW

Appellate | Banking & Finance | Class Actions | Consumer Law | Contractual Disputes |
Corporate Insolvency | Corporations & Securities | Energy & Resources | Equity & Trusts | Private
International Law

TORT LAW

Appellate | Class Actions | Major Torts | Negligence | Product Liability | Professional
Negligence

PUBLIC LAW

White Collar Crime

Given Dion's accounting background, he has particular proficiency in accounting and financial matters. Dion also has significant expertise in trade practices, tort, equity, and restitution.

Dion has appeared in the High Court of Australia, Full Court of the Federal Court of Australia, Victorian Court of Appeal, NSW Court of Appeal, Federal Court of Australia, Supreme Court of Victoria, and the Supreme Court of New South Wales, in a range of commercial and corporate matters. These matters include class actions (including securities, mass tort and consumer class actions), misleading or deceptive conduct claims, professional negligence claims, prevention of a reverse takeover, injunction applications, freezing order applications, oppression claims, breaches of fiduciary duty claims, and contract and trust claims. Dion has experience, among other things, examining, cross-examining and re-examining witnesses in superior courts.

Prior to joining the Bar, Dion was a Senior Associate in the Litigation and Dispute Resolution Group at Herbert Smith Freehills. While at the firm, Dion worked exclusively in litigation and dispute resolution and was involved in many large scale and high-profile disputes including class actions, international litigation and international arbitration.

Please see below for Dion's recent cases.

Liability limited by a scheme approved under the Professional Standards Legislation

Recent Cases

CLASS ACTIONS

[Car Loan Flex Commission Class Actions] – *Fox & Anor v Westpac Banking Corporations & Anor; Crawford v Australia and New Zealand Banking Group Ltd* – acting for the plaintiffs in consumer class actions in the Supreme Court of Victoria against various lenders concerning the payment of flex commissions to car dealers. Acting in the first group costs application under s 33ZDA of the *Supreme Court Act 1986* (Vic). (with J Stoljar SC, instructed by Maurice Blackburn).

[Allianz Car Dealer Add-on Insurance Class Action] – *Wilkinson v Allianz Australia Insurance Limited* – acting for the plaintiff in a consumer class action in the Supreme Court of Victoria against Allianz concerning insurance sold to consumers at car dealerships, which was “added on” to consumer loans for the purchase of motor vehicles or motorcycles. (with LWL Armstrong and R Francois, instructed by Maurice Blackburn).

[Westpac Class Action] – *Yong v Westpac Banking Corporation* – acting for the applicant in a shareholder class action in the Federal Court of Australia (Vic) alleging continuous disclosure breaches and misleading or deceptive conduct by the Commonwealth Bank of Australia concerning its compliance with the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (with E Collins, instructed by Phi Finney McDonald).

[CBA Class Actions] – *Zonia Holdings Pty Ltd v Commonwealth Bank of Australia; Baron & Anor v Commonwealth of Australia* – acting for the applicants in two shareholder class actions in the Federal Court of Australia (NSW) alleging continuous disclosure breaches and misleading or deceptive conduct by the Commonwealth Bank of Australia concerning its compliance with the *Anti-Money*

Laundering and Counter-Terrorism Financing Act 2006 (Cth) (with M Darke SC and W A D Edwards, instructed by Maurice Blackburn Lawyers and Phi Finney McDonald).

[Woolworths Class Action] - *Wills & Anor v Woolworths Ltd* - acting for the applicants in a shareholder class action in the Federal Court of Australia (VIC) alleging continuous disclosure breaches and misleading or deceptive conduct by Woolworths concerning concerning forecast financial information (with B Quinn QC and R Craig, instructed by Maurice Blackburn Lawyers).

[Domino's Class Action] - *Gall v Domino's Pizza Enterprises Limited* - acting for the applicant in an employee class action in the Federal Court of Australia (VIC) alleging misleading or deceptive conduct by Domino's leading to alleged underpayment of employees (with R Doyle SC and S Kelly, instructed by Phi Finney McDonald).

[Pitcher Partners Class Action] - *Matthew Hall v Pitcher Partners* - acting for the applicant in a shareholder class action in the Federal Court of Australia (VIC) alleging misleading or deceptive conduct by Pitcher Partners concerning the audit of Slater & Gordon's financial statements (with P Brereton SC and W A D Edwards, instructed by Maurice Blackburn Lawyers).

[G8 Education Class Action] - acting for the plaintiff in a shareholder class action in the Supreme Court of Victoria alleging continuous disclosure breaches and misleading or deceptive conduct by G8 Education concerning forecast financial information (with F Forsyth QC, instructed by Slater and Gordon).

[Boral Class Action] - *Martini Family Investments Pty Ltd v Boral Limited* - acting for the applicant in a shareholder class action in the Federal Court of Australia (NSW) alleging continuous disclosure breaches and misleading or deceptive conduct by Boral (with M Darke SC, instructed by Phi Finney McDonald).

[Arrium Class Action] - *Bogan & Anor v The Estate of Peter John Smedley Deceased & Ors* - acting for the plaintiffs in a shareholder class action in the Supreme Court of Victoria alleging misleading or deceptive conduct by directors of Arrium and KPMG (auditor) (with W A D Edwards, instructed by Banton Group).

[Davantage Car Warranties Class Action] - [*Evans v Davantage Group Pty Ltd \(No 3\) \[2021\] FCA 70*](#) - acted for the applicant in the settlement of a consumer class action against Davantage Group in the Federal Court of Australia (VIC) concerning the sale of car warranties (with B Quinn QC, instructed by Baker & McKenzie).

[Uber Class Action] - [*Stewart v Uber Technologies Incorporated \[2020\] NSWCA 208*](#) - acted for the plaintiff on the question of whether or not the Supreme Court of New South Wales should, of its own motion, transfer the NSW class action to the Supreme Court of Victoria (with W A D Edwards, instructed by Maurice Blackburn).

[Vocus Class Action] - [*Fisher \(trustee for the Tramik Super Fund Trust\) v Vocus Group Limited \(No 2\) \[2020\] FCA 579*](#) - acted for the applicants in a shareholder class action in the Federal Court of Australia (VIC) alleging continuous disclosure breaches and misleading or deceptive conduct by Murray Goulburn concerning forecast financial information (with W A D Edwards, instructed by Slater and Gordon).

[Lendlease Class Action] - *Fletcher v Lendlease Corporation Limited & Anor* - acted for the applicant

in a shareholder class action in the Supreme Court of New South Wales alleging continuous disclosure breaches and misleading or deceptive conduct by Lendlease (with M Szydzik, instructed by Phi Finney McDonald)

[AMP Class Action] - *Wileypark Pty Ltd v AMP Limited* - acted for the applicant in a shareholder class action in the Supreme Court of New South Wales alleging continuous disclosure breaches and misleading or deceptive conduct by AMP, and arising from the revelations made during the Financial Services Royal Commission (with A Leopold SC, and W A D Edwards, instructed by Phi Finney McDonald).

[PFAS Contamination Class Actions] - appointed counsel assisting special referee in the three class actions commenced in the Federal Court of Australia.

[Murray Goulburn Class Action] - [*Endeavour River Pty Ltd v MG Responsible Entity Limited \(No 2\) \[2020\] FCA 968*](#) - acted for the applicant in a shareholder class action in the Federal Court of Australia (VIC) alleging continuous disclosure breaches and misleading or deceptive conduct by Murray Goulburn concerning forecast financial information (with D Collins QC and B Quinn QC, instructed by Slater and Gordon).

[Slater & Gordon Class Action] - [*Hall v Slater & Gordon Limited \[2018\] FCA 2071*](#) - acted for the applicant in a shareholder class action in the Federal Court of Australia (VIC) that alleged continuous disclosure breaches and misleading or deceptive conduct by Slater & Gordon (with J Sheahan QC and W A D Edwards, instructed by Maurice Blackburn Lawyers).

[Allco Class Action] - [*Blairgowrie Trading Pty Ltd v Allco Finance Group Ltd \(No 3\) \[2017\] FCA 330*](#) - acted for the applicants in shareholder class action in the Federal Court of Australia (NSW) alleging continuous disclosure breaches by Allco and misleading or deceptive conduct by Allco and KPMG (auditor); first decision where a commission rate was set for a common fund order (with M B J Lee SC and W A D Edwards, instructed by Maurice Blackburn Lawyers).

[Bellamy's Class Action] - *Basil v Bellamy's Australia Limited* - acted for the applicant in a shareholder class action in the Federal Court of Australia (VIC) alleging continuous disclosure breaches and misleading or deceptive conduct by Bellamy's concerning forecast financial information (with W A D Edwards, instructed by Maurice Blackburn Lawyers).

[*Timbercorp Finance Pty Ltd \(In Liq\) v Collins \[2016\] HCA 44*](#) - appeared for the successful defendants in the High Court of Australia, Court of Appeal, and Supreme Court of Victoria on the question of whether class members who do not opt out of a class action are precluded from running individual claims in subsequent proceedings (with M D Wyles QC).

[Melbourne Markets Group Proceeding] - *Perfection Fresh Australia Pty Ltd & Ors v Melbourne Market Authority* - acted for the defendant in statutory unconscionability claims commenced in the Supreme Court of Victoria by the store holders at the Melbourne Markets. Proceeding settled 1 month into the trial (with J H Karkar QC and M D Wyles QC, instructed by Herbert Smith Freehills).

[Murrindindi Bushfire Class Action] - *Rowe v AusNet Electricity Services Pty Ltd & Ors* - acted for the First Defendant in its cross-claims against State entities based on negligence and breach of statutory duty (with B Quinn QC and J Kirkwood, instructed by Herbert Smith Freehills).

[Litigation funding test case] - *Claims Funding Australia Pty Ltd* - appeared with Peter Jopling QC as

Amici Curiae in an application by a litigation funder to finance a class action in the Federal Court (NSW) (*Clasul Pty Ltd & Ors v Commonwealth of Australia*).

[Black Saturday Kilmore Bushfire Class Action] - While a Senior Associate at Herbert Smith Freehills, Dion acted for the defendant in *Matthews v SPI Electricity Pty Ltd*.

COMMERCIAL MATTERS

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry - appearing for Smartline Home Loans (with Rachel Doyle SC, instructed by Corrs Chambers Westgarth)

[*United Petroleum Australia Pty Ltd v Herbert Smith Freehills \[2018\] VSC 347; United Petroleum Australia Pty Ltd v Herbert Smith Freehills \[2020\] VSCA 15*](#) - acted for Herbert Smith Freehills in the successful defence of breach of duty and breach of contract claims in the Supreme Court of Victoria and Court of Appeal concerning United Petroleum's IPO (with P Crutchfield QC, instructed by Herbert Smith Freehills and Clyde & Co).

[*Hylepin Pty Ltd v Doshay Pty Ltd \[2020\] FCA 1370*](#) - acted for the plaintiff in an oppression claim and derivative action for breach of directors duties in the Federal Court of Australia (with G Dalton QC).

Gunns Limited (In Liq) v KPMG & Ors - acted for the plaintiff in proceedings commenced against Gunns Limited's auditors and directors (instructed by Johnson Winter & Slattery).

Bill Express Ltd (In Liq) v Pitcher Partners & Ors - acted for the plaintiff, a public company in liquidation, in its claims against its former auditors in the Supreme Court of Victoria alleging misleading or deceptive conduct and professional negligence (with M B J Lee SC and W A D Edwards, instructed by Johnson Winter & Slattery).

Oswal v Carson & Ors (Oswal / ANZ litigation) - acted for the tenth and eleventh defendants in the Supreme Court of Victoria (with T J Walker QC, instructed by Maddocks).

[*White v Timbercorp Finance Pty Ltd \(in liq\); Collins v Timbercorp Finance Pty Ltd \(in liq\) \[2017\] VSCA 361*](#) - appeared for the defendants in a month-long trial in the Supreme Court of Victoria, and appeal in the Court of Appeal, concerning the recovery of loans in the context of managed investment schemes (with M D Wyles QC).

[*Nguyen v Phan \(No 2\) \[2015\] VSC 634*](#) - appeared for the defendants in a 3-month trial in the Supreme Court concerning claims of breaches of fiduciary duties, the existence of trusts, and counterclaims against the plaintiffs seeking the imposition of constructive trusts, declaratory and injunctive relief, and other relief under the *Corporations Act 2001* (Cth) (with M D Wyles QC and T McEvoy, instructed by Arnold Bloch Leibler).

Asahi Holdings (Australia) Pty Ltd & Anor v Pacific Equity Partners Pty Ltd & Ors - acted for Pacific Equity Partners in its defence of a claim brought by Asahi in the Federal Court alleging misleading or deceptive conduct in the \$NZ1.5 billion sale of a business to Asahi and involved complex accounting and financial issues (with P Crutchfield QC and C Button, instructed by Arnold Bloch Leibler).

Lend Lease Services Pty Ltd v Sugar Australia Pty Ltd - acted for Lend Lease Services concerning

breach of contract claims, and an injunction application, arising out of the construction of a sugar refinery. (Led by P Jopling QC, instructed by King & Wood Mallesons).

In the matter of Discovery Africa Limited - in an application to the Federal Court under the *Corporations Act 2001* (Cth) seeking injunctive and declaratory relief to prevent a reverse takeover. This application was preceded by the successful opposition to an urgent application to the Takeovers Panel that sought to prevent a renounceable rights issue and alleged breaches of the ASX Listing Rules.

In the matter of Top Kat Fruits Pty Ltd - acted for the Defendant in an oppression claim under the *Corporations Act 2001* (Cth) in the Supreme Court of Victoria. (Led by T Di Lallo).

Memberships

Victorian Bar - Commercial Bar Association