

SAM MCCARTHY

YEAR OF CALL: 2016

Sam has a broad commercial dispute resolution practice. He advises and appears in a wide variety of commercial disputes, including high-value and complex disputes concerning corporations law, contract, insurance, professional liability, corporate insolvency and bankruptcy, and construction and infrastructure litigation and arbitration. For the past four years he has been recognised in Doyle's Guide to the Australian Legal Profession as a recommended and leading construction and infrastructure junior counsel. Sam regularly appears led and unled in State and Federal Courts and in arbitrations.

He regularly appears for and advises clients in a variety of industries, most notably the insurance, professional services, construction and infrastructure, and property sectors.

Prior to joining the Bar, Sam was a commercial dispute resolution solicitor for five years at a leading Brisbane firm.

AREAS OF PRACTICE

Appellate, Arbitration, Banking, Building & Construction, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Inquiries & Coronial Inquests, Insurance, Judicial Review & Administrative, Land Law & Property, Media & Defamation, Professional Discipline & Regulatory, Professional Negligence, Resources & Energy, Succession.

CASES

Kelly v Chelsea on the Park Pty Ltd[2020] QLC 36

November 2020, Contract, Land Law & Property

King v Comiskey Management Services Pty Ltd & Anor[2020] QCA 229

October 2020, Media & Defamation

Brisbane Airport Corporation Pty Limited v Arup Pty Limited[2020] QSC 202

June 2020, Professional Negligence

Talbot v Boyd Legal (A Firm) & Ors[2020] QSC 185

June 2020, Professional Negligence

LEVEL

TWENTY
SEVEN

CHAMBERS



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Samios Plumbing Pty Ltd v John R Keith (QLD) Pty Ltd[2019] QDC 237

November 2019, Contract

Drivas Lakes Pty Limited as Tte v Valuer-General[2019] QLC 42*

November 2019, Land Law & Property

F A Pidgeon & Son Pty Ltd v Valuer-General; 310 Ann Street Nominees Pty Ltd v Valuer-General (No 2)
[2019] QLC 25

May 2019, Appellate, Land Law & Property

F A Pidgeon & Son Pty Ltd v Valuer-General[2019] QLC 26

May 2019, Land Law & Property, Judicial Review & Administrative

Talbot v Boyd Legal (A Firm) & Anor[2019] QSC 80

March 2019, Professional Negligence

Sentinel Homemaker 2 Pty Ltd as Tte v Valuer-General[2018] QLC 47

December 2018, Appellate, Land Law & Property

Scomparin v Sekisui House Services (Qld) Pty Ltd[2018] QCAT 426

October 2018, Building & Construction, Contract

Brisbane Airport Corporation Pty Ltd v Arup Pty Ltd[2017] QSC 232

October 2017, Building & Construction

Gailey Projects Pty Ltd v McCartney[2017] QSC 185

September 2017, Contract, Land Law & Property

Australian Securities and Investments Commission v Drake (no2)[2016] FCA 1552

December 2016, Commercial Equity, Corporations

EXPERIENCE

Notable matters as junior counsel include:

INSURANCE AND PROFESSIONAL LIABILITY

> Acting for insurers in Federal Court proceedings to resist a claim for declarations of entitlement to indemnity and damages under an Industrial Special Risk Policy.

> Acting for solicitors in Supreme Court proceedings defending allegations of negligence arising from the conduct of a retainer relating to a deceased estate.

> Acting for solicitors in Supreme Court proceedings defending allegations of negligent conduct of litigation.

- > Acting for solicitors in Supreme Court proceedings defending allegations of negligence arising from mortgage frauds.
- > Acting for an international firm of engineers in Supreme Court proceedings defending allegations of negligence and misleading or deceptive conduct arising from alleged defective design of transport infrastructure.
- > Acting for a developer in a claim for negligence and misleading and deceptive conduct by a geotechnical engineer.
- > Acting for an earthworks contractor in Supreme Court proceedings defending claims for negligence and breach of contract arising from a commercial development.
- > Acting for a developer in a claim for negligence against a certifier.
- > Advising the owner and operator of a public building on the implications of structural failure of the building.

BUILDING AND CONSTRUCTION

- > Acting in arbitral proceedings concerning contractual disputes between joint venturers on a LNG project.
- > Acting in an ICC arbitration for an international co-venture concerning claims arising from the design and construction of a major piece of transport infrastructure.
- > Appearing (unled) in numerous cases concerning allegations of defective design and workmanship.

LAND LAW

- > Appearing led and unled in the Land Court of Queensland on numerous appeals against annual statutory valuations of commercial land.

OTHER CONTRACTUAL AND COMMERCIAL DISPUTES

- > Advising and appearing for a major transport and logistics company in claims against an infrastructure owner following freight train derailments.
- > Advising and appearing for company directors in Federal Court of Australia civil penalty proceedings brought by ASIC alleging breaches of directors duties to the company.
- > Advising and appearing for a charity in the Federal Court of Australia defending allegations of misleading or deceptive conduct.
- > Advising and appearing (unled) in the District Court of Queensland for a company director defending claims for knowing involvement in the company's alleged misleading or deceptive conduct and in another person's alleged breach of fiduciary duty.

- > Advising and appearing in commercial tenancy disputes in the Supreme Court of Queensland, including applications for injunctive relief.
- > Advising joint venture partners in a contractual claim against a government entity.
- > Appearing in a trial in the Supreme Court of Queensland concerning whether an action had been compromised.
- > Advising and appearing (unled) on numerous *Corporations Act* issues and applications.
- > Advising on partnership disputes.

RECOMMENDATIONS

Doyle's Guide to the Australian Legal Profession 2020 – Leading Construction & Infrastructure Junior Counsel (Qld)

Doyle's Guide to the Australian Legal Profession 2019 – Recommended Construction & Infrastructure Junior Counsel (Qld)

Doyle's Guide to the Australian Legal Profession 2018 – Recommended Construction & Infrastructure Junior Counsel (Qld)

Doyle's Guide to the Australian Legal Profession 2017 – Emerging Construction & Infrastructure Junior Counsel (Qld)

MEMBER

Bar Association of Queensland

Society of Construction Law Australia

EDUCATION

LLB (Hons) (QUT)

LLM (Distinction) (University of London)

PUBLICATIONS

Avoiding hammer blows to programming analysis in delay disputes

July 2020, Building & Construction

Timing is Everything

July 2019, Insurance

Strategies for admissible and persuasive expert evidence

March 2018

Contiguous vs non-contiguous extensions of time

August 2017, Building & Construction

Liability limited by a scheme approved under professional standards legislation