

# SEAN RUSSELL

YEAR OF CALL: 2017

Since coming to the Bar from a commercial litigation and insolvency law firm, Sean has continued working with clients on an extensive range of commercial litigation matters. He has particular experience and interest in matters concerning bankruptcy & corporate insolvency, contracts, equity, professional negligence and the *Corporations Act*.

Previous clients include a diverse group of domestic and international insolvency practitioners, creditors, solicitors, miners, property developers, farmers, manufacturers and investors. They appreciate his ability to get across materials quickly, identify the key issues and provide a pragmatic way forward. Aware of the burdens litigation can bear on clients, Sean guides and appears as counsel for clients party to mediation and other ADR proceedings. Where out of court remedies do not provide suitable commercial solutions, Sean accepts unled briefs as well as instructions as part of larger teams in matters at all levels of the State, Federal and High Court.

## AREAS OF PRACTICE

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Banking, Building & Construction, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Insurance, Judicial Review & Administrative, Land Law & Property, Media & Defamation, Professional Discipline & Regulatory.

## CASES

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***In the matter of CGS Constructions (Qld) Pty Ltd* [2022] QSC 28**

March 2022, Corporate Insolvency & Bankruptcy

***Business and Personal Solutions Pty Ltd v John Clive Witherspoon & Ors* [2022] QSC 10**

February 2022, Contract

***Hutson v Nerang Subdivision Pty Ltd & ors* [2021] QSC 323**

December 2021, Arbitration, Land Law & Property

***Wallace (Liquidator), in the matter of Avestra Asset Management Ltd (In Liq) v Dempsey* [2021] FCA 1643**

November 2021, Corporate Insolvency & Bankruptcy, Corporations

***Merker & Ors v Merker & Anor* [2021] QSC 285**

LEVEL

TWENTY  
SEVEN

CHAMBERS



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November 2021, Succession

***Purdie v Queensland Law Society* [2021] QCAT 291**

September 2021, Professional Discipline & Regulatory

***Harrison (Trustee) v King (a Bankrupt) (No 2)* [2021] FCCA 2015**

August 2021, Corporate Insolvency & Bankruptcy

***Calabretta & another v Wiltshire* [2020] QSC 103**

May 2020, Corporate Insolvency & Bankruptcy

***Murphy Operator & Ors v Gladstone Ports Corporation & Anor (No 5)* [2020] QSC 36**

March 2020, Class Actions

***Cardtronics Australasia Pty Ltd v FX Investments Australia Pty Ltd* [2020] FCA 218**

February 2020, Contract

***Elan, in the matter of Guild Enterprises Australasia Pty Ltd v Cohen* [2020] FCA 79**

February 2020, Corporations

***Mulvey v Brisbane Roar Football Club Pty Ltd* [2019] QDC 239**

November 2019, Employment & Industrial, Contract

***Falkenhagen v West* [2019] FCA 2055**

November 2019, Intellectual Property

***LM Investment Management Limited & Anor v Whyte* [2019] QSC 233, 245 & 257**

October 2019, Corporate Insolvency & Bankruptcy

***Rozario & Anor v Delta Law Pty Ltd & Ors* [2019] QSC 159**

June 2019, Corporations

***Sword Holdings Pty Ltd v Skelton* [2019] QDC 89**

May 2019, Land Law & Property

***Coast Corp Pacific Pty Ltd v Stockland Development Pty Ltd* [2018] QSC 305**

December 2018, Contract, Land Law & Property

***Sentinel Citilink Pty Ltd v PS Citilink Pty Ltd* [2018] QSC 239**

October 2018, Land Law & Property, Contract

***Re Mallett and Inspector-General in Bankruptcy* [2018] AATA 3739**

October 2018, Corporate Insolvency & Bankruptcy

***John Bridgeman Ltd v Dreamscape Networks FZ-LLC* [2018] FCA 1279**

August 2018, Corporations, Media & Defamation

***Bowyer Group Pty Ltd v Cook Shire Council*[2018] QCA 159**

July 2018, Appellate, Planning & Environment

***Sexpo Pty Ltd v Collective Shout Ltd*[2018] FCA 544**

April 2018, Competition & Consumer

## **EXPERIENCE**

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Matters Sean has been instructed on since coming to the Bar include:

### **CLASS ACTIONS**

> Appearing for the State of Queensland unled opposite a Silk in proceedings related to the Gladstone Fisheries Class Action considering whether the production of documents was subject to confidentiality requirements.

### **CONTRACT**

> Appearing unled in the trial of a matter before the Federal Court of Australia in relation to the provision of Automatic Teller Machines where there was conflicting evidence as to oral conversations.

> Appearing led in a trial of a matter before the Supreme Court of Queensland where the primary issue was whether a property developer had been induced to enter into a collateral contract based on representations made by the vendor of development land.

> Appearing unled opposite a Silk on behalf of Brisbane Roar in proceedings concerning the contract of a former head coach of the football team.

> Proceedings concerning an oral agreement between parties whereby, amongst other matters, the Applicant agreed to assign the respondent the sole rights to the intellectual property to an invention, a certain proportion of shares in the company developing the invention and share certain proportions of the profits made from the invention.

> Appearing led in a matter concerning the sale of a commercial property considering whether the seller breached its contractual obligation to do all acts and execute all documents necessary for the purpose of completing the sale.

> A matter arising from a contract of sale for a commercial property. The dispute was over the obligation to pay “the balance of the Purchase Price” on the settlement date and a special contractual condition provided that the seller must pay to the buyer, by way of an adjustment to “the balance Purchase Price payable on settlement”.

### **CORPORATE INSOLVENCY & BANKRUPTCY**

- > Appearing led in a series of applications by the liquidator of an investment management company in a complex administration for directions as to how the registered managed investment scheme was to be wound up consequent upon earlier orders resolving an earlier directions application court.
- > Multiple proceedings involving applications for remuneration of insolvency practitioners and orders dealing with the position of the company in liquidation as trustee of a trading trust.
- > Acting for a bankrupt who applied to review a decision of the Inspector-General in Bankruptcy relating to their discharge from bankruptcy.

## **CORPORATIONS**

- > Proceedings where the court considered whether to grant a disqualified director to manage a corporation under the *Corporations Act 2001* (Cth) s 206G(1). ASIC proposed that the director be given conditional leave to manage affairs of the company whilst it was facing other court proceedings.

## **MEDIA & DEFAMATION**

- > A matter concerning alleged misleading representations made online by an unknown publisher. The applicants sought discovery of documents relating to the description of the publisher. Issues included whether legal professional privilege applies to a person's communication of their name to a solicitor whom they wish to engage.

## **PLANNING & ENVIRONMENT**

- > Dispute concerning whether the holders of a rolling term lease for pastoral purposes under the Land Act 1994 are "owners" of the relevant land within the meaning of the *Sustainable Planning Act 2009*.

## **PROFESSIONAL DISCIPLINE & REGULATORY**

- > Appearing unled for the Queensland Law Society in an application for review of a solicitor's practising certificate where the solicitor had their practising certificate cancelled due to failures to comply with their taxation and superannuation obligations.
- > Appearing unled in an application to restrain a person who was not a solicitor from holding themselves out as entitled to practise.

## **RECOMMENDATIONS**

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### **Doyle's Guide to the Australian Legal Profession**

#### *Insolvency & Restructuring*

2022 – Recommended Junior Counsel (QLD)

## MEMBER

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Bar Association of Queensland

LawRight

## CAREER

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**2017** Barrister

**2011-2017** Associate, Russells

## EDUCATION

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**2011** Bachelor of Laws, University of Queensland

**2011** Bachelor of Arts (History and International relations), University of Queensland

## PUBLICATIONS

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**Insolvency Law Update - Badenoch and the End of the Peak Indebtedness Rule**

June 2021, Corporate Insolvency & Bankruptcy

**Quantum meruit claims following the High Court's decision in Mann v Paterson Constructions Pty Ltd**

November 2019, Building & Construction

**Insolvent Trading Trusts: Clarification Re Amerind**

August 2019, Corporate Insolvency & Bankruptcy

**Insolvent corporate and personal trustees, the Re Amerind High Court appeal, what you need to know**

July 2019, Corporate Insolvency & Bankruptcy

**Current Issues in Voidable Transactions**

September 2017, Corporate Insolvency & Bankruptcy, Corporations

**Expert Evidence**

June 2017, Insurance

**Unfair preferences: Putting an end to the peak indebtedness “rule”**

August 2016, Corporate Insolvency & Bankruptcy

*Liability limited by a scheme approved under professional standards legislation*