

SHANE MONKS

YEAR OF CALL: 2004

During a legal career of over twenty-five years, Shane has practised in national and international commercial dispute resolution as a solicitor and barrister as well as an academic. With insights gained from having worked at leading international, national and boutique law firms and a world class university, Shane brings an intellectual and strategic approach tailored to each matter.

His practice encompasses cases concerning building & construction and contractual disputes; corporations law; insolvency; professional indemnity claims; real property; restraint of trade, securities and trade practices. Shane also acts in succession matters, tort claims and has specialist experience in public and private international law. More recently, Shane has built a sizeable practice in class action matters and was listed in this area by the Australian Financial Review's *Best Lawyers*® 2020.

Shane is a highly experienced, adaptable and approachable lawyer who is adept at assisting at all stages of dispute resolution. His experience, both led and unled, includes matters in the Supreme, Federal and High Courts. He has also represented parties in mediations and other forms of ADR.

Shane is a national councillor and the Queensland convener for the Chartered Institute of Arbitrators. He is visiting counsel at 12 Wentworth Selborne Chambers, Sydney.

AREAS OF PRACTICE

Appellate, Arbitration, Banking, Building & Construction, Class Actions, Commercial Equity, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Insurance, Intellectual Property, International, Land Law & Property, Professional Negligence, Resources & Energy, Shipping, Succession, Tax.

CASES

Webb v Sunshine Coast Hospital and Health Services[2019] QSC 316
December 2019, Employment & Industrial

LEVEL

TWENTY
SEVEN

CHAMBERS



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Williams & Kersten Pty Ltd v Walton Construction (Qld) Pty Ltd (in liq), in the matter of Walton Construction (Qld) Pty Ltd (in liq) [2019] FCA 1201

August 2019, Corporations, Corporate Insolvency & Bankruptcy

Pipe Networks Pty Ltd v 148 Brunswick Street Pty Ltd [2019] FCA 598

May 2019, Contract, Competition & Consumer, Resources & Energy

Kadam v MiiResorts Group 1 Pty Ltd (No 5) (2018) 129 ACSR 74; [2018] FCA 1086

July 2018, Class Actions, Commercial Equity, Corporations, International, Land Law & Property

Principal Properties Pty Ltd v Brisbane Broncos Leagues Club Ltd [2017] QCA 254

October 2017, Contract, Land Law & Property

Mineralogy Pty Ltd v BGP Geopexplorer Pte Ltd [2017] QSC 219

October 2017, Contract, Competition & Consumer, Resources & Energy

Kadam v MiiResorts Group 1 Pty Ltd (No 4) (2017) 252 FCR 298; [2017] FCA 1139

September 2017, Class Actions, Commercial Equity, Corporations, International, Competition & Consumer

Kadam v MiiResorts Group 1 Pty Ltd (No 3) [2017] FCA 1138

September 2017, Class Actions, Commercial Equity, Corporations, Competition & Consumer, International

Steer v McLellan (no2) [2016] QDC 305

November 2016, Land Law & Property

Principal Properties Pty Ltd v Brisbane Broncos Leagues Club Ltd (No2) [2016] QSC 252

November 2016, Contract, Land Law & Property

Steer v McLellan [2016] QDC 260

October 2016, Land Law & Property

Kadam v MiiResorts Group 1 Pty Ltd [2016] FCA 1205

October 2016, Class Actions, Corporations, Commercial Equity

Mackay Sugar Limited v Wilmar Sugar Australia Limited [2016] FCA 789

July 2016, Corporations

Badenach v Calver [2016] HCA 18

May 2016, Professional Negligence, Succession

Hayes v Westpac Banking Corporation [2015] QCA 260

December 2015, Appellate, Banking

Meijer (Executors, Estate of Hendrik van Leeuwen Dec'd) v Zabusky [2014] QCA 40

March 2014, Commercial Equity, Contract

Re Rod Mathiesen Truck Hire Pty Ltd (As Trustee for the Mathiesen Family Trust) and Federal Commissioner of Taxation [2013] AATA 496

July 2013, Tax

Principal Properties Pty Ltd v Brisbane Broncos Leagues Club Ltd[2013] QSC 148

June 2013, Contract, Land Law & Property

Greene v Mclver[2012] QSC 181

June 2012, Contract

Mark Bain Constructions Pty Ltd v Avis[2012] QCA 100

April 2012, Appellate, Land Law & Property, Competition & Consumer

Amalia Investments Ltd v Virgtel Global Networks N.V. (No. 2)[2011] FCA 1270

November 2011, Contract, Appellate

Joyce v Sunland Waterfront (BVI) Ltd[2011] FCAFC 95

August 2011, International

Avis v Mark Bain Constructions Pty Ltd[2011] QSC 80

April 2011, Land Law & Property, Competition & Consumer

Sunland Waterfront (BVI) Ltd v Prudentia Investments Pty Ltd[2010] FCA 312

March 2010, International

UI International Pty Ltd v Interworks Architects Pty Ltd[2007] QCA 42

November 2007, Building & Construction, Professional Negligence

Cousins Securities P/L v CEC Group Ltd[2007] QCA 192

June 2007, Land Law & Property

Rich v BDO Kendalls[2007] QCA 147

May 2007, Contract, Competition & Consumer

Benzlaw & Assoc P/L v Medi-Aid Centre Foundation Ltd[2007] QSC 9

January 2007, Commercial Equity

IVI Pty Ltd v Baycrown Pty Ltd[2006] QCA 461

November 2006, Contract

Watkin v GRM International P/L[2006] QCA 382

September 2006, International, Insurance

Jefferson and Joiner v Shirlaw[2006] QSC 153

June 2006, Corporate Insolvency & Bankruptcy, Land Law & Property

EXPERIENCE

Examples of significant matters Shane has been briefed on include:

BANKING

> Appeal from refusal to set aside a judgment against a self-represented litigant in a long trial against a bank and mortgage broker in which fraud and misrepresentations were alleged.

CLASS ACTIONS

> Acting on behalf of 34,000 investors to recover over AUD 130 million invested in property in Australia by the Indian operators of the world's largest Ponzi scheme (claimed to be 58 million investors and over AUD 9 billion invested).

> Involved in a group of over 25 claims brought against a large national retail stockbroking and wealth management firm in relation to inappropriate financial advice involving clients of modest means (many soon to be retired) making highly geared investments in equities.

COMPETITION & CONSUMER

> Supreme Court of Queensland proceedings (led by H B Fraser QC) enforcing contractual restraint of trade against former partner of accountancy firm.

> Claim (with P Zappia QC) in the Supreme Court of Queensland for declaratory relief under the unwritten law that the plaintiff is not obliged to pay any sum to the defendant under a written contract of guarantee on a number of different grounds. Relief sought pursuant to s 87 of the Trade Practices Act 1974 or s 237 of the Australian Consumer Law, based on misleading or deceptive conduct or unconscionable conduct.

CONTRACT

> Highly technical dispute in the Federal Court of Australia (led by M Stewart QC) concerning a contract clause regulating the amount which a domestic property, as Lessor, might charge a commercial energy supplier, as Lessee for various utility and other services supplied. A further issue considered was the effect of enforceability of the Services Charges clause contrary to s 88 of the National Energy Retail Law (Queensland), requiring those selling electricity in Queensland to hold an authorisation or exemption and whether such authorisation or exemption could be granted retrospectively by the regulator.

> Acting unled in a claim by former State director of a political party (an unincorporated association) for breach of the contract ending his employment, and breach of the party's constitution.

> Proceedings (led by Glenn Newton QC) considering whether a transfer order ought to be made in circumstances where it appears to the Court that the Federal Court proceedings have been commenced as an abuse of process.

CORPORATE INSOLVENCY & BANKRUPTCY

> *Appearing unled in Federal Court of Australia proceedings where creditors of two related companies in liquidation applied for the appointment of a Special Purpose Liquidator under Division 90, s 90-15 of the Insolvency Practice Schedule (Corporations).*

> *A Supreme Court of Queensland dispute (with M M Stewart QC) over proceeds of sale of land between court appointed receivers of the land and subsequent transferees of registered mortgages over that land.*

CORPORATIONS

> *Acting (with C M Kenny QC) in Federal Court of Australia proceedings connected to an allegation that funds from an alleged Ponzi scheme were traceably used in the purchase of properties by a commercial resort group to resorts properties it currently owned. The application was brought by the Securities and Exchange Board of India.*

> *A substantial dispute running over several years between the former owners of a Nigerian telecommunications business, involving proceedings in the British Virgin Islands, the Netherlands, Nigeria, Panama and Queensland.*

> *Appearing unled in a Federal Court of Australia injunction to restrain certain members from putting resolutions to a general meeting of a company limited by guarantee.*

INSURANCE

> *Defending (with D O J North SC) a workers compensation claim by a contractor working for the Solomon Islands prison service pursuant to an Australian foreign aid agreement.*

PUBLIC & PRIVATE INTERNATIONAL LAW

> *Briefed in a matter arising out of an oil spill from the MV Pacific Adventurer off the Queensland coast.*

> *Advising on questions concerning the conformity of duties legislation with the Chicago Convention on Civil Aviation.*

> *Instructed concerning the consequences for an Australian manufacturer arising out of allegations made against its foreign parent company of corrupt dealings with the government of a developing country.*

> *Instructed on various matters dealing with anti-terrorist legislation and its conformity with international law, particularly the International Covenant on Civil and Political Rights.*

PROPERTY & LAND LAW

> *Appearing (with Shane Doyle QC) in proceedings where a plaintiff sought to recover damages for loss of a commercial opportunity which is more likely to make a loss than a profit.*

> *Acting in a substantial dispute concerning misrepresentations over land sold in Dubai with proceedings in the UAE and Australia.*

> *Appearing unled in District Court proceedings addressing whether the defendants had caused substantial interference with the use or enjoyment of the plaintiff's land and whether that interference with the plaintiff's land was unreasonable.*

RECOMMENDATIONS

Australian Financial Review Best Lawyers®

2020 – Class Action Litigation

APPOINTMENTS

Chartered Institute of Arbitrators - Queensland State Convener

Chartered Institute of Arbitrators - National Councillor

International Law Association - Queensland Chapter President

International Law Association - Management Committee (Australia)

Bar Association of Queensland - International Law Committee

MEMBER

Bar Association of Queensland

Caxton Legal Centre Inc

Chartered Institute of Arbitrators (FCIArb)

International Law Association

New South Wales Bar Association

Society of Construction Law (SoCLA)

CAREER

1995 *commercial litigation at Hunt & Hunt (Brisbane, now Cooper Grace Ward)*

1996 Assistant to Justice M D Ireland, Common Law Division of NSW Supreme Court

1997 Assistant to Acting Justice Ian Temby, Common Law Division of NSW Supreme Court

1998 Insurance litigation at MinterEllison (Brisbane)

1999 Assistant solicitor at a leading boutique UK immigration and nationality specialist

2001-4 Lecturer (primarily contract law and international law), New College Oxford

2005 Private practice at the Queensland Bar

EDUCATION

Doctor of Juridical Studies, University of Sydney

Master of Studies (by thesis), University of Oxford

Bachelor of Laws (Honours), University of Queensland

Bachelor of Arts, University of Queensland

Postgraduate Diploma in Teaching in Higher Education, University of Oxford

PUBLICATIONS

Arbitrating with Guerrillas and Gorillas - Ethics & Remedies
February 2020, Arbitration, International

Flight MH370: International Law and How We Use It
August 2014, International

Worldwide Witnesses: Full Federal Court approves overseas video evidence
June 2012, International

Liability limited by a scheme approved under professional standards legislation