

CURRICULUM VITAE

NAME:

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CHAMBERS:

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CALLED TO THE BAR: August 1996.

APPOINTED SENIOR COUNSEL: October 2010.

EDUCATION:

Bachelor of Economics, Honours, University of Sydney.

- Commonwealth Bank Undergraduate Scholarship Industrial Relations.
- The Economics Graduates' Association Prize.

Bachelor of Laws, Honours, University of Sydney

- Sir Peter Heydon Prize for the best contribution to the Sydney Law Review.

Bachelor of Civil Laws, Honours, University of Oxford

- Oxford University Overseas Students' Scholarship.
- Balliol College Bursary University of Oxford.

Graduate Diploma Finance and Investment

- Cutler Hughes and Harris Prize the First Prize in Securities Industry Law.

PRACTICE AREAS:

I have a broad practice encompassing the following areas:

- Criminal - concentrating on Commonwealth prosecutions;
- Summary prosecutions including Work Health and Safety Prosecutions;
- Common Law – including malicious prosecution, false arrest and misfeasance in public office;
- Pecuniary/Civil penalties under the Fair Work Act and Corporations Act;
- Disciplinary proceedings;
- Administrative law;
- Inquests and inquiries;
- Commercial disputes;
- Sports Law; and
- Industrial and Employment law.

I have a particular strength in written and oral advocacy across a range of different legal areas and I have appeared in trials and appeals in the District and Supreme Court of NSW and the Federal Court of Australia.

PROFESSIONAL EXPERIENCE.

Criminal Law

My practice in the criminal law has concentrated on:

- (i) Commonwealth offences;
- (ii) Offences under the Occupational Health and Safety Act and Work Health and Safety Act; and
- (iii) Environmental Offences prosecuted in the Land and Environment Court.

I have appeared as counsel prosecuting for the Commonwealth Director of Public Prosecutions and other agencies in summary hearings in the Local and Supreme Court and in jury trials in the District Court and the Supreme Court. The proceedings include prosecutions for offences against the *Crimes Act 1914* (Cth) and the *Criminal Code Act 1995* (Cth), the *Corporations Act*, the *Bankruptcy Act* and the *Financial Transactions Reporting Act* and in areas such as fraud, tax evasion, breach of director's duties and money laundering. I have appeared for the Commonwealth Director in trials involving large importations of commercial quantity of border controlled drugs.

In 2009 I appeared as junior to the Commonwealth Solicitor General Stephen Gageler SC in *R v LK; R v RK* (2010) 241 CLR 177 on behalf of the Commonwealth Attorney General on the issue of the constitutionality of s107 of the *Crimes (Appeal and Review) Act 2001* (NSW).

I have appeared and advised in criminal matters involving applications for stay of prosecution based on the High Court judgments in *X7 v ACC* and *Lee v R*. These matters include appearing for the Attorney General of NSW in *R v Hill, Mewing and Ors* (District Court, judgment of McClintock SC DCJ, restricted) which involves

issues arising from the use of compulsory powers by the Police Integrity Commission when investigating police officers who are subsequently charged with criminal offences.

Recent trials in the District and Supreme Court include:

- *R v Sigalla* – I represented the Commonwealth Crown in a six week trial in the Supreme Court of NSW before Adamson J; Mr Sigalla was found guilty of 24 counts under s184(2) of the Corporations Act 2001 (Cth) which arose from an extensive investigation by ASIC; his conduct occurred over the period December 2006 to March 2009 during which he dishonestly used his position as a director of TZ Ltd with the aim of gaining an advantage for himself and others amounting to over \$8m.
- *R v Moubarak* – The offences arise from the accused’s practice as an accountant and include 34 counts under s134.2(1) *Criminal Code* (Cth) - Obtaining a financial advantage by deception; 1 count under s400.4(1) *Criminal Code* (Cth) - Dealing in proceeds of crime; 10 counts under s178BA(1) *Crimes Act 1900* (NSW) - Obtain money etc. by deception; and 4 counts under s192E(1) *Crimes Act 1900* (NSW) - Dishonestly obtain financial advantage etc. by deception.
- *R v Gazall and Georges* – money laundering prosecuted for offences against s400.9(1) of the Criminal Code 1995 (Cth) as a joint commission – [2017] NSWDC 65.
- *R v MAK* – originally an application to exclude evidence based on High Court judgments in *X7 v ACC* and *Lee v R*, subsequently an application for a permanent stay of proceedings.
- *R v Enright* – 9 offences including child pornography (s474.19(iv) of the Criminal Code), grooming offences (s474.27(1) of the Criminal Code) and using a carriage service in a menacing way (s474.17(1) of the Criminal Code).
- *R v Miao and Friess* – dissemination of child abuse material against s91H(2) of the Crimes Act 1900 (NSW). I proved urgent advice and appeared on a *voir dire* concerning whether a silicon doll was caught by the statutory provisions.
- *R v Almaddene* – importation of commercial quantities of heroin and pseudoephedrine.
- *R v Nguyen and Ream* – importation of commercial quantities of cocaine and methamphetamine.
- *R v Ariff* – trial of a liquidator for 13 counts of fraud and 6 counts under Corporations Act.
- *R v Rundle* – 2 fraud offences arising from the collapse of the Westpoint Group.
- *R v Leather* – market manipulation offence.
- *R v Cooper* – overseas sexual assault offences under Criminal Code.
- *R v Bangaru* – 13 fraud offences.
- *R v Stephenson* – sentence for insider trading.
- *R v Camilleri* – fraud offence.
- *R v Whitehouse* – dishonesty as a director.
- *R v Rowntree* – offence under s911A Corporations Act.
- *R v Hay* – taxation fraud.

I have also appeared for the Commonwealth Director in appeals to the Court of Criminal Appeal and also in the District Court from appeals from the Local Court.

- *MAK v R* [2017] appeal from refusal by District Court to grant a permanent stay of a prosecution; on 27 March 2017 the Court dismissed the appeal with the judgment to be handed down subsequently.
- *PC v R* – [2016] NSWCCA 137; sentence appeal by offender before NSW Court of Criminal Appeal in November 2015, judgment reserved.
- *R v Blackman and Jomaa* – [2014] NSWCCA 90 – Crown appeal on sentence.
- *Rundle v R* – [2013] NSWCCA 200 – conviction appeal by offender.
- *Bangaru v R* – [2012] NSWCCA 204 – conviction appeal by offender.
- *Camilleri v R* – conviction appeal by offender, withdrawn on the day of the hearing before the Court of Criminal Appeal.
- *Zhang v R* [2011] NSWCCA 233.
- *Hay v R; R v Hay* [2009] NSWCCA 228; appeal against conviction and Crown appeal on sentence.
- *Starmer v R* [2008] NSWCCA 27.
- *R v Macarthur* [2005] NSWCCA 65.

Prosecutions before the Land and Environment Court:

I have appeared for defendants in prosecutions brought in the Land and Environment Court. Notable cases include the following:

- *EPA v Patrick Distribution Pty Limited* (2005) NSWLEC 433 (Prosecution under *Dangerous Goods Act* – stay application).
- *EPA v Patrick Distribution Pty Limited* [2006] NSWLEC 123.
- *EPA v Hochties AG and Thiess Pty Limited* [2007] NSWLEC 177 – (Offence under Section 120(1) of the *Protection of the Environment Operations Act 1997*).

Prosecutions in the summary jurisdiction of the Supreme Court:

I have appeared in prosecutions under the *Road Transport Act* by the Road Maritime Services in which the compensation orders for over \$1m were obtained – *Endycott v Griffiths Garage Pty Ltd* [2012] NSWSC 1131 and *Endycott v Rapid Access Australia Pty Ltd* [2012] NSWSC 1132.

Prosecutions under the *Work Health and Safety Act* and the *Occupational Health and Safety Act*:

I have appeared in a number of prosecutions for offences against the *Work Health and Safety Act* and the *Occupational Health and Safety Act 2000* for the SafeWork NSW and its predecessor, WorkCover Authority and for defendants.

I have appeared for the prosecutor in the following recent prosecutions:

- *SafeWork NSW v Wollongong Glass Pty Ltd* (defended hearing judgment reserved).
- *WorkCover Authority v Romanous Contractors Pty Ltd and John Romanous*.

- *WorkCover Authority v White's Plumbing Pty Ltd and Robert White.*
- *WorkCover Authority v Plumber Supplies Co-operative.*
- *WorkCover Authority v CH Stop N Save Pty Ltd and Hayek.*
- *WorkCover Authority v G.H.Varley Pty Ltd.*
- *WorkCover Authority v Southern Cross Demolition and McCracken.*
- *WorkCover Authority v Resco Engineering Pty Ltd.*
- *WorkCover Authority v ACN 140 9979 193 Pty Ltd.*
- *WorkCover Authority v Omega International Coatings Pty Ltd and Shetty.*

I have represented defendants in Work Health and Safety prosecutions. I have represented companies such as Rawson Homes, CoilCoaters Pty Ltd (a subsidiary of Arrium Ltd), Endeavour Coal Pty Limited, Bi Lo Pty Ltd, Coles Supermarkets Australia Pty Limited, Roads Traffic Authority and Rail Corp. I have represented a manager of Connell Wagner who was prosecuted for an offences arising from an incident in the Cross City Tunnel. These prosecutions have been heard in the Industrial Court of New South Wales, and the District Court of NSW. Notable cases include:

- *SafeWork NSW v Rawson Homes Pty Limited* [2016] NSWDC 237, the defendant was acquitted.
- *SafeWork NSW v NMK Pty Limited.*
- *WCA v CoilCoaters Pty Ltd; judgment of Scotting DCJ 2015.*
- *Inspector Rowe v Roads and Maritime Services* [2012] NSWIRComm 43.
- *Inspector James v RTA* [2011] NSWIRComm 27.
- *Inspector Farmer v One Steel Limited* [2011] NSWIRComm 133.
- *Inspector Ching v Simpson Design Associates Pty Ltd* [2011] NSWIRComm 7 (appeal) and [2009] NSWIRComm 205.
- *Capital Aluminium Limited v WorkCover Authority* (2000) 49 NSWLR 610.
- *WorkCover Authority of New South Wales v ABB Australia* [2006] NSWIRComm 68.
- *WorkCover Authority of New South Wales v Chubb Security Pty Limited* [2005] NSWIRComm 263.
- *WorkCover Authority of New South Wales v Mousalli and Infinity Constructions Pty Ltd* [2007] NSWIRComm 153 and [2008] NSWIRComm 58.
- *Coombs v Patrick Stevedoring Pty Limited* [2005] NSWIRComm 56 and [2004] NSWIRComm 77.

Common Law

I have appeared and advised parties in common law matters involving intentional tortious conduct such as malicious prosecution, false arrest and misfeasance in public office; these matters include *Hastings v State of New South Wales* (Supreme Court 2015 – settled).

I appeared for the State of NSW before the Court of Appeal in *State of NSW v Avery* [2016] NSWCA 147 which dealt with the calculation of maximum costs recoverable in personal injury cases under the Legal Profession Act 2004.

Proceedings for pecuniary penalty and disciplinary proceeding:

I am currently briefed by ASIC in disciplinary proceedings against a liquidator.

I am currently briefed in Federal Court and Federal Circuit Court proceedings by the Fair Work Ombudsman. I am appearing for the Australian Building and Construction Commission (previously the Fair Work Building Industry Inspectorate) in the civil penalty proceedings brought against Dean Hall and Ors in the Federal Circuit Court in the ACT.

I appeared for the Fair Work Ombudsman before the Federal Circuit Court and on appeal before the Federal Court in *FWO v Toyota Material Handling Pty Ltd* [2012] FMCA 122; (2012) FCR 428; (2013) FCCA 1881.

I have appeared for and advised the Australian Building and Construction Commission on civil penalty proceedings under the Workplace Relations Act.

I have appeared for ASIC in disciplinary proceedings brought against liquidators.

I have been briefed by the Australian Government Solicitor in civil penalty proceedings before the Federal Magistrates Court. In 2010 I appeared before the Full Federal Court in an appeal concerning the civil penalty provisions of the Workplace Relations Act - *Hogan v Riley* (2010) 182 FCR 583.

I have also appeared in disciplinary proceedings before the Medical Tribunal, Nurses and Midwives Tribunal, Dental Board for the Health Care Complaints Commission in respect of professional misconduct proceedings.

Administrative Law.

I include in this area of my practice my appearance for the Commonwealth Attorney General in extradition proceedings.

In respect of the following matters I appeared in the initial determination under s19 of the Extradition Act by a Magistrate, in the review under s21 of the Extradition Act before a single judge of the Supreme or Federal Court, the appeal to the Full Federal Court and in some cases in special leave applications.

Dutton v O'Shane (2003) 132 FCR 352 – this is the citation for the Full Federal Court judgment in which I was led by P. Neil SC and the appellant was represented by T. Game SC. I appeared for the Commonwealth Attorney General in all stages of the extradition proceedings.

Hermanowski v United States of America (2006) 149 FCR 93

Griffith v United States of America (2005) 143 FCR 182 – these proceedings involved a request to extradite Mr. Griffith for copyright piracy.

In *Rivera v United States of America* (2004) FCAFC 154 I appeared alone for the Commonwealth Attorney General at all stages of the extradition proceedings – before the Magistrate for the determination under s19, the review by Bell J in the NSW Supreme Court and initially in the appeal before the Full Federal Court.

In *Brock v United States of America* (2007) 157 FCR 121 I appeared alone at first instance, before Jacobson J on review and before the Full Federal Court.

I appeared against Fullerton SC (as her Honour then was) in *United States of America v Kuang-Hua Chen* in proceedings under s19 of the Extradition Act before a Magistrate.

I have also appeared in the Federal Court in proceedings challenging the issue of search warrants under the *Crimes Act 1914* (Cth) and for *Australian Securities and Investment Commission* in respect of claims for privilege and public interest immunity over subpoenaed documents in Federal Court proceedings and District Court proceedings.

Inquests and Royal Commissions.

I appeared as counsel for the Salvation Army at the Royal Commission into Institutional Responses to Child Sexual Abuse.

I have appeared as counsel assisting in a number of inquests including:

- *Inquest into the death of Cassandra Vaicekonis*, before State Coroner Jerram;
- *Inquest into the death of Peter Wilson* before Deputy State Coroner Dillon;
- *Inquest into the death of Carmel Giannasca* before Deputy State Coroner Dillon; and
- *Inquest into the death of Jehan Nassif* before Deputy State Coroner Pinch.

I have appeared for interested parties in a number of inquests. For example I appeared for a manager of Connell Wagner in the *Inquest into the Death of Ronald Shores* (the Inquest was known as the Cross City Tunnel Inquest). I appeared for the City of Sydney Council in the *Inquest into the Death of Thomas Hwee Hsen Lee*. I appeared for Road Maritime Services in the *Inquest into the Death of Catherine Scott*.

Employment Law

I have an interest in employment law as reflected in my part time lecturing position in employment and industrial law at the University of Sydney and my employment as research assistant to Maddern J, President of the Australian Industrial Relations Commission.

Before the advent of the WorkChoices legislation I appeared in a number of proceedings under s106 of the Industrial Relations Act and I have appeared in unfair dismissal proceedings.

I was briefed in Supreme Court proceedings - *Stage Constructions Pty Ltd v Hackett and Costley* by Maddocks for Mr. Costley which involved contract of employment issues. This matter settled before trial.

Sports Law.

I have an interest in sports law which was generated when I was junior counsel to Henric Nicholas QC when we appeared for Canada in the Court of Arbitration for Sport as part of the NSW Bar Association's Pro bono scheme for the 2000 Sydney Olympics. During the 2000 Olympics I appeared as junior to M. Williams SC (now Williams SC DCJ) for the United States of America before the Court of Arbitration for Sport.

I have appeared before the Court of Arbitration in Sport for an affected party Joanne Carter in *Appeal by Ms Miriam Manzano re Ice Skating Australia Inc*; these proceedings concerned with the selection of Australia's representative in the female ice skating competition in the Winter Olympics.

I am a member of the NSW/ACT AFL Appeals Committee which is chaired by P. Hastings Q.C.

Professional Activities.

I have been active in the NSW Bar Association. I was a member and then Chair of the Equal Opportunity Committee for about ten years and I have been a member of a Professional Conduct Committee.

I was a mentor to Merinda Dutton, an indigenous law student at the University of NSW throughout her degree. Merinda is now employed as a solicitor at by the Legal Aid Commission of NSW.

I was previously on the Board of the Tristen Jepson Foundation an organisation which is concerned with issues of mental illness within the legal profession.

Legal Experience before being called to the Bar:

- 1988 -1990 - Research Assistant to Maddern J, President of the Australian Industrial Relations Commission;
- 1990 – Admitted as a legal practitioner of the Supreme Court of New South Wales and High Court of Australia and other Federal Courts;
- 1990 -1993 - Solicitor - Blake Dawson Waldron;
- 1990 – 1993 - Part-time lecturer in Employment and Industrial Law, University of Sydney; and
- 1994-1996 - Principal Legal Officer Commonwealth Director of Public Prosecutions.