

Dan Butler KC

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EDUCATION

- 2003** **Master of Laws (Hons I), University of Cambridge**

Cambridge Commonwealth Trust Scholar
St Edmund's College Prize for Academic Excellence
First in class, Corporate Insolvency
- 2000** **Post-Graduate Diploma in Applied Finance & Investment**
Securities Institute of Australia
- 1998** **Bachelor of Laws (Hons), University of Queensland**
- 1996** **Bachelor of Commerce, University of Queensland**

CAREER SUMMARY

- 2022** Appointed as King's Counsel
- Since 2010** Barrister in private practice at the Queensland Bar
- 2008 - 2009** Senior Associate in the Commercial Dispute Resolution Group, Blake Dawson, Melbourne
- 2003 - 2007** Associate in the Corporate Insolvency & Finance Litigation Group, Mayer Brown, London, UK
- 1999 - 2002** Articled clerk and lawyer, Litigation and Corporate Advisory, Phillips Fox and Blake Dawson, Brisbane

ADMISSIONS

- 2010** Called to the Bar
- 2005** Solicitor Advocate, England & Wales
- 2004** Solicitor, England & Wales
- 2001** Solicitor, Supreme Court of Queensland

SELECTED CASES

Corporate & Commercial

Acting for Fluor in a 5 month trial, defending claims by Santos exceeding \$1.6 billion in relation to the construction of an LNG plant (led by Couper QC, L Kelly QC and D O'Sullivan QC).

Acting for Glencore in a \$65 million dispute with the Queensland Government concerning the payment of coal royalties (led by O'Donnell QC).

Acting for the BMD Group in a series of disputes involving derivative proceedings and statutory oppression claims, as well as claims for fraud and breach of contract, for damages nearing \$200 million concerning a large property joint venture (led by Sofronoff QC and D Kelly QC, as their Honours then were):

Mango Boulevard Pty Ltd v Whitton [2019] FCA 490; [2018] FCA 399; *Mio Art Pty Ltd v Mango Boulevard Pty Ltd & Ors* [2016] QSC 205; [2016] QCA 148, [2014] QSC 55; *Mio Art Pty Ltd v Macequest Pty Ltd & Ors* [2014] QCA 339, (2013) 95 ACSR 583, [2013] QSC 211, [2013] QSC 271.

Acting for Central Petroleum Ltd in a jurisdiction contest relating to a \$60 million claim in both Texas and the Supreme Court of Queensland concerning a petroleum tenement: *Central Petroleum Limited v Geoscience Resource Recovery LLC* [2017] QSC 223, [2018] 2 Qd R 371, [2018] QCA 216, [2019] 2 Qd R 276 (led by O'Donnell QC and Traves QC).

Acting for individuals being sued for \$50 million for alleged breach of trust following the division of assets of the Stanbroke Pastoral business: *Menegazzo v Pricewaterhousecoopers & Ors* [2016] QSC 94 (led by L Kelly QC).

Acting for Aurizon and Queensland Rail in defending separate proceedings for property damage following freight train derailments: *Pacific National Pty Ltd v Aurizon Network Pty Ltd* [2016] QSC 218 (led by Derrington QC, as his Honour then was, and Duffy QC).

Acting for Aquila Coal in a \$450 million dispute with its joint venture partner Vale relating to the development of the Eagle Downs mine: *Aquila Coal Pty Ltd v Bowen Central Coal Pty Ltd* [2013] QSC 78; [2011] QSC 264; [2011] QCA 334 (led by O'Donnell QC, F Douglas QC and B Dharmananda SC).

Acting for the liquidator of the Bell Group of companies suing a consortium of 20 banks for \$1.6 billion: *The Bell Group Ltd (in liq) v Westpac Banking Corporation* [No 9] [2008] WASC 239; [No 10] [2009] WASC 107.

Acting for a European bank in respect of US\$14 billion of money market transactions with Iranian banks in potential contravention of US sanctions.

Defending the Bank of America in a £6 billion claim before the English High Court for fraudulent trading brought by the BCCI liquidators under the *Insolvency Act 1986* (UK).

Acting for a lender in relation to a claim before the English High Court concerning the insolvency of a structured investment vehicle whose liabilities exceeded £7 billion: *Re Cheyne Finance Plc* [2007] EWHC 2402 (Ch).

Acting for GE Healthcare in a 2.5 week trial before the English High Court for breach of a patent for drug screening technology: *GE Healthcare v PerkinElmer* [2006] EWHC 214.

Tax litigation

Dan also acts in complex tax litigation involving corporates and individuals:

Conducting s.353 interviews on behalf of the Commissioner of Taxation in relation to transactions involving the sale of coal tenements for more than \$200 million (with M Windsor).

Acting for the Commissioner of Taxation in a \$58 million garnishee dispute with the liquidators of Octaviar Ltd (settled after trial) (led by N Williams SC, with A Psaltis). See *Kerr, in the matter of Octaviar Limited (in liquidation)* [2019] FCA 1614 and *Re Octaviar Ltd* [2020] QSC 353.

Acting for the Commissioner in the first cases to reach the Full Federal Court in more than 40 years concerning tax residency: *Harding v Commissioner of Taxation* [2018] FCA 837; 108 ATR 137; 2018 ATC 20-660; [2019] FCAFC 29; special leave refused [2019] HCA Trans 91 (led by Treiston QC and Lloyd SC); *Pike v Commissioner of Taxation* [2019] FCA 2185; [2020] FCAFC 158 (led by Looney QC).

Acting for the Commissioner in test cases concerning the validity of the 'backpacker tax' under Australia's double tax treaty with the UK (*Addy v Commissioner of Taxation* [2021] HCA Trans 17) and the application of the backpacker tax (*Stockton v Commissioner of Taxation* [2019] FCA 1679).

Acting for the Commissioner in a dispute involving \$30 million in GST liabilities concerning the ATS Travel Group: *ATS Pacific Pty Ltd v Commissioner of Taxation* [2013] FCA 341 (led by Wigney SC, as his Honour then was, and Brennan QC).

SELECTED PUBLICATIONS

Directors' Duties on the Precipice of Insolvency: The Sequana Decision, (2023) 30 **Insolvency Law Journal**, 183.

Suing Foreign Defendants in Contract: Does a Court Have Jurisdiction Where the Contract May Not Exist?, (2023) 97 **Australian Law Journal**, 321.

Limitation Period for Breach by a Trustee of the "Self-dealing" and "Fair-dealing" Rules, (2020) 94 **Australian Law Journal**, 128.

Enforcement of Foreign Judgments: Does an Issue Estoppel Arise from a Foreign Court's Determination of its Own Jurisdiction? (2019) 93, **Australian Law Journal**, 558.

In-house counsel advising on foreign law: Is it privileged? (2014) 42 **Australian Business Law Review** 5.

Equitable Remedies for participation in a breach of directors' fiduciary duties: the mega litigation in Bell v Westpac: (2013) 31 **Company & Securities Law Journal** 307.

The Entitlement to Preference Proceeds: Cook v Italiano Family Fruit Company Pty Ltd (in liq) (2010) 190 FCR 474; 80 ACSR 680; (2011) 19 **Insolvency Law Journal**, 128.

Ethical Considerations in Dealing with Experts, **Hearsay**, Issue 47, February 2011.

Contested Proprietary Claims to the Assets of an Insolvent Company: Re Timbercorp Securities [2009] VSC 510, (2010) 18 **Insolvency Law Journal**, 170.

Client legal privilege: changes under the Evidence Amendment Act: **Civil Procedure News, NSW**, 2009, Vol 6, No 3.

Undervalue Transactions and Preferences: the "Good faith" defence, **Insolvency Intelligence**, Vol 20, No 5, June 2007.

Liquidators' litigation expenses, funding arrangements and the amendment to rule 4.218, **Insolvency Law & Practice**, Vol 20, No 4, 2004.

Re MDA Investment Management Limited: the insolvency implications of dividing sale proceeds between related entities, **Insolvency Law & Practice**, Vol 20, No 2, 2004 (reprinted in the **Journal of Banking and Finance Law and Practice**, Volume 16, December 2005, Number 4).