

## Michael Izzo: Selected Cases

### Commercial law and trade practices

- *Mt Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd* [2015] HCA 37 – \$130m claim for mining royalties in respect of iron ore won from the Pilbara (with N Y Young QC)
- *Papua New Guinea v Nautilus Inc* – international commercial arbitration under the UNCITRAL rules concerning the mining of seafloor sulphide deposits in the Bismark Sea (with J C Sheahan SC)
- *Lanco Resources Australia v Griffin Energy Group* (settled) - \$520m damages claim against company administrators for misleading and deceptive conduct in relation to the sale of a coal mine in Western Australia (with A S Bell SC)
- *Griffin Energy Group v ICICI Bank* [2015] NSWCA 29 – appeal relating to the construction of standby letters of credit worth \$150m (with A C Archibald QC)
- *Qantas Airways Ltd v Rolls-Royce plc* (e.g. [2010] FCA 1481) – acting for Qantas in claims for anti-anti suit injunctions and TPA relief arising from engine contracts for the A380 aircraft (with A S Bell SC)
- *ACCC v Jetstar Airways Pty Ltd* [2015] FCA 1263; [2017] FCA 205 – representing Jetstar in proceedings against Jetstar and Virgin for alleged misleading and deceptive conduct in relation to online booking and service fees (with P J Brereton SC)
- *Jones v Treasury Wine Estates Ltd* (settled) – Federal Court shareholder class action relating to \$190m write-down in TWE's 2013 accounts (with R A Dick SC)
- *Perpetual Trustee Co v HIH (NZ) Ltd* [2013] NSWCA 47 – \$247m claim under converting notes issued by HIH NZ (with A S Bell SC)
- *Xstrata Coal Sales v Bluescope Steel* (settled) - \$122m claim for breach of long-term coal purchase contracts in the Supreme Court of NSW (with I M Jackman SC)
- *ACCC v Link Solutions* (2010) 188 FCR 463 – defending third line forcing proceedings against telephone finance companies (with N C Hutley SC)
- *Bathurst Regional Council v LGFS* [2011] FCA 309 - representing Standard & Poor's in application to strike out proceedings brought by NSW local councils concerning allegedly misleading and deceptive investment advice (with A C Archibald QC)
- *Specsavers Pty Ltd v Coastal Contacts Pty Ltd* [2012] FCA 102 – injunction to restrain misleading and deceptive conduct in an internet comparative advertising campaign (with N C Hutley SC)
- *Waimoana Pty Ltd v Centuria Strategic Property Ltd* [2017] NSWSC 1091 – Supreme Court class action by investors in unlisted property trust (with R M McHugh SC)

- Advising Department of Premier and Cabinet in relation to commercial contracts involving the State of NSW (with M G Sexton SC, NSW Solicitor-General)

### Corporations law and insolvency

- *MacarthurCook Fund Management Ltd v TFML* (2014) 254 CLR 168 – High Court appeal concerning the construction of *Corporations Act* provisions governing withdrawals from illiquid managed investment schemes (with B W Walker SC)
- *Tamaya Resources Ltd v Callaghan* [2016] FCAFC 2 – acting for directors of listed mining company in \$36m claim for breach of directors’ duties (with P M Wood)
- *Re Featherston Resources Ltd* [2014] NSWSC 1139 - application concerning the availability of a derivative action against a foreign company in administration under the law of New Zealand (with A J Sullivan QC)
- *Re Trevor, in the Matter of Bell Group NV* [2017] FCA 927 – application to set aside examination summonses relating to the affairs of Bell Group companies (unled)
- *Snowside Pty Ltd v Boart Longyear Ltd* (pending, NSWSC) – oppression proceedings by minority shareholder arising from dilutive recapitalisation transactions (unled)
- *Re Courtenay House Capital Trading Group Pty Ltd* (pending, NSWSC) – acting for investors with claims to a \$50m fund resulting from a failed Ponzi scheme (unled)
- *Re Gippsland Secured Investments Ltd* [2013] FCA 1393 – application by trustee for debenture holders to appoint a receiver to debenture issuer (unled, for ASIC)
- *Re Banksia Securities Ltd* [2016] NSWSC 357 – application to appoint special purpose receivers to conduct proceedings for debenture holders (unled, for ASIC)
- *Re Eastmark Holdings Pty Ltd* [2015] NSWSC 1437 – challenge to validity of DOCA (with R M McHugh SC)
- *Re Kupang Resources Ltd* [2016] NSWSC 1895 – application under s 444GA to transfer shares in a company under administration (unled, for ASIC)
- *Re SCW Pty Ltd* [2013] NSWSC 302, [2013] NSWSC 578 – various applications for directions in the winding up of a company on the just and equitable ground (with A C Archibald QC and unled)
- Representing defendants in various proceedings for recovery of unfair preferences (e.g. *Sutherland v Hanson Construction* (2009) 254 ALR 650) (unled)
- Various applications for relief and directions in the winding up and administration of companies, managed investment schemes and debenture issuers (unled)
- Representing examinees in public examinations by liquidators and receivers (unled)

## **Schemes of arrangement**

- *Re Boart Longyear Ltd* [2017] NSWSC 567; [2017] NSWCA 116; [2017] NSWSC 1105; [2017] NSWCA 215 – creditors scheme (with I M Jackman SC, R G McHugh SC, and unled)
- *Re Medical Australia Ltd* – members scheme (unled, for acquirer)
- *Re Vitaco Ltd* – members scheme (with A Bell SC and unled)
- *Re Trust Co (RE Services) Ltd* – Spicers Ltd trust scheme (unled, for acquirer)
- *Re Atlas Iron Ltd* [2016] FCA 366 – creditors scheme (with J C Sheahan QC)
- *Re REI Ltd and RE2 Ltd* [2014] NSWSC 762 – trust scheme for restructure of Westfield Retail Trusts (for ASIC, unled)
- *Re Doctors Health Fund* [2012] FCA 220 – demutualisation scheme (unled, for acquirer)
- *Re Ricegrowers Ltd* [2011] FCA 408 - takeover scheme (with F Gleeson SC)
- *Re Centro Retail Ltd* [2011] NSWSC 1175 and *Re Centro Properties Ltd* [2011] NSWSC 1171 – creditors’ and members’ schemes (unled, for ASIC)
- *Re CSR Ltd* (2010) 183 FCR 358 – demerger scheme (with M B Oakes SC)
- *Re Eastern Star Gas Ltd* [2011] FCA 1225 – takeover scheme (with M B Oakes SC)
- *Re Fitness First Australia Ltd* – creditors’ scheme for landlords of Fitness First premises (with M B Oakes SC)

## **Corporate, prudential and securities regulation**

- *ASIC v Westpac Securities Administration Ltd* (pending, FCA) – test case concerning the alleged giving of personal advice in relation to superannuation products by telephone consultants (with R G McHugh SC)
- *Abela v APRA* [2008] AATA 653 – appearing in a successful appeal by a former officer of HIIH from against a decision by APRA disqualifying him from acting in a senior insurance role (with J S Hilton SC)
- *Rickus v MTAA* [2010] FCAFC 16; 265 ALR 112 – appearing for APRA in a dispute between MTAA Superannuation and its former chairman (unled)
- *Re Allco Finance Group Ltd* (2012) 203 FCR 436 –application concerning the use of use of documents obtained in receivers’ examinations (unled, for ASIC)

- Representing and advising various examinees in ASIC s 19 examinations (unled)
- Advising ASIC and APRA on regulatory and policy issues including managed investment schemes, disclosure obligations, and examination powers (led and unled)

### **Insurance and reinsurance**

- *General Reinsurance v HHH Casualty & General Insurance* [2009] NSWCA 22 – meaning of “trade credit” insurance in claim under a reinsurance treaty (with G J Nell SC)
- *HHH Casualty Ltd & General Insurance v Wallace* (2007) 68 NSWLR 603 – representing Lloyd’s syndicate in an application for a stay of proceedings on a reinsurance treaty under the International Arbitration Act (with J R Sackar QC)
- *HHH Casualty & General Insurance Ltd v Assetinsure Pty Ltd* (settled) – defending proceedings in Commercial List seeking indemnity under reinsurance treaty (unled)
- *Sagacious Legal Pty Ltd v Wesfarmers General Insurance Ltd* [2011] FCAFC 53 – appeal relating to an insured’s duty of disclosure under s 21 of the *Insurance Contracts Act* 1974 (with P S Braham SC)
- *Pandurevic v Southern Cross Constructions Ltd* [2012] NSWSC 623 – acting for QBE Insurance defending claim for indemnity under an insurance contract (unled)
- Advising reinsurers, insurers and insureds on indemnity issues (led and unled)
- Various portfolio transfer schemes under Pt IIIA of the *Insurance Act* 1973 (unled)

### **Tax, Trusts and superannuation**

- *Macedonian Orthodox Church St Petka v Metropolitan Petar* (2008) 237 CLR 66 - High Court appeal relating to judicial advice to trustee of charitable trust (with R P L Lancaster SC)
- *Griffiths v Trustees of Parliamentary Superannuation Fund* [2012] NSWCA 231 – claim by widow of former parliamentarian against pension fund (with M G Sexton SC)
- *Re KCA Super Pty Ltd* [2012] NSWSC 1301 - judicial advice relating to a restructure of Kimberley Clark Australia employee superannuation fund (with F Gleeson SC)
- *Asbestos Injuries Compensation Fund Ltd v Solicitor-General (NSW)* [2011] NSWSC 97 – judicial advice concerning the James Hardie asbestos injury fund (unled)
- *Macedonian Orthodox Church St Petka v Metropolitan Petar* [2013] NSWCA 223 – appeal concerning breach of trust by trustee of charitable trust (unled)
- *Macquarie Bank Ltd v Commissioner of Taxation* [2013] FCAFC 119 – appeal relating to tax assessments for Macquarie Bank overseas banking unit (with N C Williams SC)

- Advising and appearing for the Attorney-General for NSW in cases relating to the construction and enforcement of charitable trusts and schemes cy-pres (unled)

### **Trade law and dumping**

- *Schaefer Waste Technology v CEO Customs* (2006) 156 FCR 94 – challenge to dumping duties on mobile garbage bins from Malaysia (with G A Flick SC)
- *PanAsia Aluminium China Ltd v A-G* (2013) 217 FCR 64 – challenge to dumping and countervailing duties on aluminium extrusions from China (with N C Williams SC)
- *Dalian Steelforce Hi-tech Co v Min for Home Affairs* [2015] FCA 885 – challenge to dumping and countervailing duties on hollow structural steel sections from China (with M R Speakman SC)
- *POSCO v Anti-Dumping Commissioner* (settled) – challenge to dumping duties on hot rolled coil steel from Korea (unled)
- *Rio Tinto (Bell Bay) Aluminium v Minister for Science* [2016] FCA 681 – challenge to countervailing duties on silicon metal from China (unled)
- Advising exporters/importers on tariff concession orders and dumping and subsidy investigations (unled)

### **Public and administrative law**

- *ICAC: Operations Credo and Spicer* (2014) – representing Darren Williams of Buildev in inquiry into alleged breaches of the Electoral Funding Act (unled)
- *Cole Inquiry into the AWB* (2006) - representing Prime Minister Howard, Ministers Vaile and Downer, DFAT, Austrade and Austrac in Royal Commission (with A Robertson SC and I M Neil SC)
- *Hemmes Trading v NSW* [2009] NSWSC 1303 - representing NSW in a challenge to licensing laws brought by the Ivy and Establishment Hotels (with B W Walker SC)
- *Heli-Aust Pty Ltd v Cabill* (2011) 194 FCR 502 – inconsistency under s109 of the Constitution between Commonwealth civil aviation safety laws and State occupational health and safety laws (with R P L Lancaster SC)
- *Darkinjung v Min for Aboriginal Affairs* [2006] NSWLEC 291 and *Aidon v Minister* [2006] NSWLEC 169 - challenges by aboriginal land council to the appointment of an administrator and the holding of elections (with A Robertson SC)
- *SZBYR v Min for Immigration* [2007] HCA 26 – representing an applicant in a migration appeal in the High Court (with G O’L Reynolds SC)
- *Hanson v Johnston* [2011] NSWSC 621 - representing NSW Electoral Commissioner in proceedings in the Court of Disputed Returns brought by Pauline Hanson (unled)