

Ian Pike SC

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TERTIARY EDUCATION

1986-1990

University of Sydney

1988 Bachelor of Economics

1990 Bachelor of Laws (Honours Class 1)

PROFESSIONAL HISTORY

1991

Associate to the Honourable Justice D G Hill
Federal Court of Australia, Sydney

1992-1998

Senior Associate, Mallesons Stephen Jaques
Solicitors (now King & Wood Mallesons), Sydney

1998 to date

Barrister, principally practicing in NSW

2011

Appointed Senior Counsel

PROFESSIONAL EXPERIENCE

I have a broad national practice. My areas of specialty include:

- Appellate
- Commercial Law
- Commissions of Inquiry
- Equity
- Insolvency and bankruptcy
- Insurance Law
- Professional Liability
- Real property
- Representative proceedings (class actions)
- Trade Practices and Competition law
- White collar crime

I also appear in arbitral tribunals both in Australia and overseas. I also regularly appear in domestic tribunals including the Racing Appeals Panel and Racing Appeals Tribunal.

A list of some of the cases in which I have appeared is attached. Where interlocutory decisions are referred to I generally hold a brief in the underlying matter. There are also many other cases which have settled as well as matters that are ongoing. Further details can be provided on request.

IAN ROBERT PIKE**LIST OF CASES****More Recent Cases**

A sample of some of the more recent cases in which I have appeared as a silk are set out below.

2020

- *Deloitte Touche Tomatsu (A Firm) v Sadie Ville Pty Limited (As Trustee for the Sadie Ville Superannuation Fund)* (2020) 144 ACSR 1, and at first instance [2019] FCA 132, [2018] FCA 1107 (357 ALR 695) – privilege against self-incrimination in audit negligence proceedings. (Full Federal Court, Federal Court of Australia).
- *Wormald v Maradaca Pty Ltd* [2020] NSWCA 289 – misleading or deceptive conduct in sale of business (NSW Court of Appeal).
- *De Lorenzo v De Lorenzo* [2020] NSWCA 351 and at first instance [2020] NSWSC 188 – construction of will re shares in a commercial entity. (NSW Court of Appeal, NSW Supreme Court).
- *ISG Management Pty Ltd v Mutch* (2020) 385 ALR 146 and at first instance [2020] FCA 362 – declassing and summary judgment application in sham contracting representative proceedings (Full Federal Court, Federal Court of Australia).
- *Smith v Commonwealth of Australia (No 2)* [2020] FCA 837 – settlement approval in PFAS contamination proceedings against Department of Defence at Williamtown RAAF Base. (Federal Court of Australia).
- *Kossaiji v ACN 111 804 383 Pty Limited* (2020) 147 ACSR 143 – professional negligence against solicitor. (NSW Supreme Court).
- *Nadinic v Drinkwater* [2020] NSWCA 2 – misleading or deceptive conduct (NSW Court of Appeal).
- *KRM v Classicbet Pty Ltd* [2020] NSWCA 92 and [2020] NSWCA 6, and at first instance [2019] NSWSC 1773 – entitlement to trailing commissions (NSW Court of Appeal, NSW Supreme Court).

- *Carrafa v Asfar* [2020] NSWSC 530 – professional negligence, leave to amend. (NSW Supreme Court).
- *In the matter of Courtenay House Capital Trading Group* (2020) 147 ACSR 1, (2019) 139 ACSR 469, (2018) 125 ACSR 149 – application for contested directions by liquidator of failed Ponzi scheme. (NSW Supreme Court).
- *Chubb Insurance Australia Limited v Giabal Pty Limited* [2020] NSWCA 309 first instance [2020] NSWSC 1070 – leave to join insurers to representative proceedings. (NSW Court of Appeal, NSW Supreme Court).

2019

- *Australian Health & Nutrition Association v Hive Marketing Group Pty Limited* (2019) 99 NSWLR 419 and at first instance [2018] NSWSC 1231 – application to say proceedings on foreign exclusion jurisdiction clause (NSW Court of Appeal, Supreme Court of NSW).
- *Re Global Advanced Metals Pty Ltd* (2019) 141 ACSR 222 – application to commence derivative proceedings (NSW Supreme Court).
- *Commissioner of Taxation v Iannuzzi* [2019] FCAFC 39, 268 FCR 349 and at first instance [2018] FCA 1053 [2019] FCA 1818, 140 ACSR 497 – application for inquiry into conduct of registered liquidator. (Full Federal Court, Federal Court of Australia).
- *Telford Offshore Australia Pty Limited v Inpex Operations* [2019] WASC 24 – application to set aside statutory demand (Supreme Court of Western Australia).
- *Arwon Finance v Wilson* [2019] WASC 244 – enforceability of loan agreement, promissory estoppel. (Supreme Court of Western Australia).
- *Rushleigh v Forge Group* [2019] FCA 2113 – representative proceedings, settlement approval. (Federal Court of Australia).
- *ASIC v Wiley and Hurst* (2019) 137 ACSR 1 – application for inquiry into conduct of registered liquidator (NSW Supreme Court).
- *Jahani: Re Northern Energy Corporation Limited and Colton Coal* [2019] FCA 382 – extension of time. (Federal Court of Australia).

2018

- *Re Australian Style Holdings Pty Ltd (as trustee of Australian Style Investments Unit Trust)* [2018] NSWSC 1368 – security for costs. (NSW Supreme Court).
- *Wigmans v AMP Limited* [2018] NSWSC 1045, 128 ACSR 534, see also *Wigmans v AMP Limited (No 3)* [2019] NSWSC 162, *Wigmans v AMP Limited (No 4)* [2019] NSWSC 257 – beauty parade in competing class actions. (NSW Supreme Court).
- *Marsten v CVS Lane* [2018] FCA 921, 124 ACSR 100 – contested application by liquidator for extension of time (Federal Court of Australia).
- *BB Australia Pty Ltd v Danset Pty Ltd* [2018] NSWCA 101, and at first instance see [2017] NSWSC 1307, *BB Australia v Danset (No 2)* [2018] NSWSC 1475 and *BB Australia v Danset (No 3)* [2018] NSWSC 1823 – franchisee/franchisor dispute, restraint of trade. (NSW Court of Appeal, NSW Supreme Court).
- *Capic v Ford Motor Co of Australia Ltd (No 7)* [2018] FCA 1631, *Capic v Ford Motor Company of Australia Limited (No 6)* [2018] FCA 982 – judgment reserved after 6 week hearing in mid 2020 – defective motor vehicle, breach of consumer guarantee. (Federal Court of Australia).
- *Kiriwina Investment Company Pty Ltd v Green Lees Developments Pty Ltd* [2018] NSWCA 210 – farm debt mediation. (NSW Court of Appeal).
- *Trust Company of Australia v NEXTDC Ltd* [2018] NSWSC 736, [2018] NSWSC 1361, [2018] NSWSC 1384 – landlord and tenant. (NSW Supreme Court).
- *Hodges and Sandhurst Trustee Ltd* [2018] FCA 1346, (2014) FCA 1223 – representative proceedings arising out of collapse of financial planning business. (Federal Court of Australia).
- *Shine v Raynish* [2018] NSWSC 1021 – family dispute interim estate distribution. (NSW Supreme Court).
- *Re Galtari Ltd (In Liq)* [2018] NSWSC 917 – summary dismissal – relying on release of claims in bankruptcy. (NSW Supreme Court).
- *Dillon v RBS Group (Australia) Pty Ltd (No 2)* [2018] FCA 395 – representative proceedings, settlement approval. (Federal Court of Australia).

- *Mirus v Gage* [2018] NSWSC 35 – contempt by reason of destruction of documents penalty hearing. (NSW Supreme Court).
- *Global Consulting Services Pty Limited v Gresham Property Investments Ltd* [2018] NSWCA 255, 365 ACR 143, and at first instance [2016] NSWSC 415 [2018] NSWSC 433 [2018] NSWSC 141 – joint venture dispute, marshalling of securities. (NSW Court of Appeal, NSW Supreme Court).
- *Re Paladin Energy (Subject to a Deed of Company Arrangement)* [2018] NSWSC 11 – application under s444GA of the Corporations Act for leave to transfer shares pursuant to deed. (NSW Supreme Court).

2017

- *Sydney Tools Pty Limited v Robert Bosch (Australia) Pty Limited* [2017] NSWSC 1709 – breach of contract supplier and customer. (NSW Supreme Court).
- *Brisconnections Finance Pty Limited v Arup Pty Limited* (2017) 252 FCR 450, [2017] FCR 590, FCA 906, [2016] FCA 438, [2016] FCAFC 117, [2015] FCA 1077 – traffic forecasting misleading or deceptive conduct. (Full Federal Court, Federal Court of Australia).
- *Re Ten Network Holdings Ltd* [2017] NSWSC 1247, [2017] NSWSC 1359 - application for further material to be put to second meeting of creditors. (NSW Supreme Court).
- *Bayside Council v Corp Constructions Pty Ltd* [2017] NSWSC 1247 [2017] NSWCA 120 – negligence, breach of contract, developer and local council. (NSW Court of Appeal).
- *Re FAL Healthy Beverages Pty Limited* [2017] NSWSC 630 – suppression orders, recall of reasons for judgment. (NSW Supreme Court).
- *Primary Agricultural Group Pty Limited v Cowley* [2017] NSWSC 74 – amendment of pleadings (part of larger of action for breach of directors’ duties which ultimately settled). (NSW Supreme Court).
- *Power Rental Op Co Australia LLC v Forge Group Power Co Pty Ltd* (2017) 93 NSWLR 765, first instance see: *Forge Group Power Pty Ltd v General Electric International* [2016] NSWSC 52 – applicability of the *Personal Property Services Act* to (alleged fixtures (power turbines). (NSW Court of Appeal, Supreme Court of New South Wales).

2016

- *Millers Point Fund Inc. v Lendlease (Millers Point) Pty Limited* (2016) 220 LGERA 333 – administrative law, judicial review of decision of Planning, Assessment Commission. (Land & Environment Court of NSW).
- *Smith v Acquire Asia Pacific Philippines Inc (No 2)* [2016] NSWSC 1285 – freezing orders re international assets; [2016] NSWSC 1084 – equitable remedies, set off, sale of business. (Supreme Court of New South Wales).
- *Kazacos v Shuangling International Development Pty Limited* [2016] NSWSC 1725 – freezing orders, costs as to innocent third party (Supreme Court of New South Wales).
- *On v Gore* [2016] NSWSC 950, [2016] NSWSC 1124 – partnership dispute (Supreme Court of NSW).
- *ACCC v Cement Australia Pty Limited* (2016) 242 FCR 389 – individual penalty proceedings. (Federal Court of Australia).
- *Re MF Global Australia Inc; Hopper v Campbell* [2016] NSWCA 371, first instance see: [2015] NSWSC 1409 – whether concluded employment agreement. (NSW Court of Appeal, Supreme Court of New South Wales).
- *Civic Video Pty Ltd v Paterson [No. 3]* [2016] WASCA 69, first instance see: [2014] WASC 321, [2013] WASCA 107 – franchisor/franchisee dispute, inducing breach of contract. (Western Australian Court of Appeal, Supreme Court of Western Australia).
- *Ritchie v Woodward* [2016] NSWSC 1715 – professional negligence (Supreme Court of New South Wales).

2015

- *JEA Holdings (Aust) Pty Ltd v Registrar General (NSW) & Anor* (2015) 88 NSWLR 321, first instance see: (2013) 16 BPR 31,745 – real property, easements. (NSW Court of Appeal, NSW Supreme Court). (Special leave refused by the High Court).
- *Johnston v Endeavour Energy* [2015] NSWSC 1117 – class action regarding Blue Mountains bushfire. (NSW Supreme Court).
- *KBL Mining v Kidman Resources* [2015] NSWSC 515 – contract interpretation and rectification. (Supreme Court of New South Wales).

- *Dallas Buyers Club LLC v iinet Limited & Ors* (2015) 245 FCR 129, [2014] FCA 1232, [2014] FCA 1320 – preliminary discovery to obtain identity of individuals downloading movies, illegally. (Federal Court of Australia).
- *Sharp v Harbour Radio Pty Limited* [2015] NSWSC 1536, *Sharp v Harbour Radio Pty Limited (No 2)* [2016] NSWSC 223 – Defamation. (Supreme Court of New South Wales).
- *Salad Fresh Pty Limited v P& M Quality Smallgoods Pty Limited* [2015] NSWSC 1717 – sale of business, contractual interpretation (Supreme Court of New South Wales).
- *Griffin Energy Group Pty Limited v ICICI Bank Limited* (2015) 317 ALR 395 – demand for payment under letters of credit (NSW Court of Appeal).
- *TICA Default Tenancy Control Pty Ltd v Selvi and Gwenda Champness* [2015] NSWCATAP 187 – privacy. (NCAT).

2014

- *Doppstadt Australia Pty Ltd v Lovick & Son Developments Pty Ltd* [2014] NSWCA 158 – misleading or deceptive conduct in relation to sale of machinery. (NSW Court of Appeal).
- *Commonwealth Bank of Australia v ZYX Learning Limited* [2014] NSWSC 1676, 103 ACSR 476 – claim for in excess of \$300 million against former directors of ABC Learning – summary dismissal. (NSW Supreme Court).
- *Hodges v Sandhurst Trustees Limited* [2014] FCA 1223 – representative proceeding against trustee of Ch. 2L *Corporations Act* fund – summary dismissal/strike out. (Federal Court of Australia).
- *Rivercity Motorway Finance Pty Ltd v Aecom Australia Pty Ltd (No. 2)* [2014] FCA 713 – claim for misleading or deceptive conduct by traffic forecaster – strike out of cross-claims. (Federal Court of Australia).
- *Lion Dairy and Drinks Pty Ltd v Jacobs Group (Australia) Pty Ltd (No. 2)* [2014] FCA 897; (No. 4) [2014] FCA 896, [2014] FCA 386, [2013] FCA 889 – claim for negligent design and misleading or deceptive conduct by engineering consultant. (Federal Court of Australia).
- *King v Benecke* [2014] NSWCA 399; first instance [2013] NSWSC 568 – professional negligence by a solicitor. (NSW Court of Appeal and NSW Supreme Court).

- *Allco Funds Management Ltd v Trust Co (Re Services) Ltd* [2014] NSWSC 1251, [2014] NSWSC 1296 – conflict of interest by directors, breach of fiduciary duty. (NSW Supreme Court).
- *Trust Company (Nominees) Limited v Angus Securities Limited* [2014] FCA 1397 – corporations, debenture scheme. (Federal Court of Australia).
- *Bissaker v Croft* [2014] NSWSC 1647 – professional negligence (Supreme Court of New South Wales), compulsory mediation.
- *Soong v Director of Public Prosecutions (Cth)* [2014] NSWSC 1030 – criminal law, appeal against conviction. (NSW Supreme Court).

2013

- *Fysh v R* [2013] NSWCCA 284 – appeal from conviction of insider trading. (NSW Court of Criminal Appeal). Also appeared in 6 week jury trial: see *Fysh v R (No 1)* [2012] NSWSC 1266, *Fysh v R (No 2)* [2012] 272 FLR 124, *Fysh v R (No 3)* [2012] NSWSC 1390 and *Fysh v R (No 4)* (2012) 92 ACSR 116. See also associated proceeds of crime proceedings *Commissioner of the Australian Federal Police v Fysh* (2013) 272 FLR 414.
- *Solarus Projects Pty Ltd v Vero Insurance Ltd (No 3)* [2013] NSWSC 603. (NSW Supreme Court).
- *Parbery v Nauru Phosphate Royalties Trust* [2013] NSWSC 489 – trust moneys, payment out of Court. (Supreme Court of New South Wales).
- *MSPR Pty Ltd v Advanced Braking Technology Pty Ltd* [2013] NSWCA 416 – claim for recovery of monies allegedly loaned; [2014] NSWCA 283 – release of monies held on account of security for costs. (NSW Court of Appeal).
- *Hung v Warner, Re Bellpac Pty Ltd* [2013] FCAFC 48 – conversion of convertible bonds, applicability of *Conveyancing Act* to personal property. (Full Court Federal Court).
- *Re Kavia Holdings Pty Ltd* [2013] NSWSC 721, [2013] NSWSC 737, [2013] NSWSC 1269 – recovery of property by receivers of secured creditor. (NSW Supreme Court).

2012

- *Willett v Thomas* [2012] NSWCA 97; [2010] NSWSC 1311; [2010] NSWSC 984 – equity, breach of fiduciary duty, misleading or deceptive conduct. (NSW Court of Appeal, NSW Supreme Court).

- *Australian Executor Trustees Ltd v Provident Capital Ltd* (2012) 203 FCR 461 – appointment of a receiver to issuer of debentures under Ch. 2L *Corporations Act*. (Federal Court of Australia).
- *Expense Reduction Analysts Group Pty Ltd v Armstrong* (2012) 250 CLR 303 – return of documents allegedly handed over by mistake. (High Court of Australia).
- *Bytan v BB Australia* (2012) 41 VR 46, first instance [2012] VSC 171 – franchisor/franchisee – restraint of trade (Victorian Court of Appeal, Victorian Supreme Court).
- *Ballard v Multiplex* [2012] NSWSC 426; [2013] NSWCA 18, [2013] NSWCA 82 – conspiracy. (NSW Court of Appeal, NSW Supreme Court).

Independent Commission Against Corruption – appeared for the Hon. Joe Tripodi in Operation Spicer.

Acted for ANZ Bank in aspects of the Financial Services Royal Commission.

Acted for JKC Australia in arbitral proceedings in Singapore commenced by CPB Australia in relation to the Ichthys LNG plant. 3 month hearing.

Earlier Cases

Some of the earlier cases in which I appeared as a junior are set out below.

- Acted as junior counsel for North Sydney Council in proceedings commenced by Lavender View Regency Pty Ltd alleging negligence of the Council in granting and thereafter refusing to grant development consent for a large scale residential development at Lavender Bay in Sydney.
- Acted for Australian Meat Holdings in relation to a large number of District Court proceedings commenced by residents of the Guyra area alleging the contraction of Q fever whilst working at AMH's abattoir at Guyra.
- Acted for Smithfield Investors Pty Ltd in private arbitration proceedings against Integral Energy concerning the interpretation of a Power Purchase Agreement entered into in relation to the operation of a co-generation power plant at Smithfield in Sydney;
- Appeared as junior counsel for Truth About Motorways Pty Ltd in High Court proceedings against Macquarie Bank concerning the standing of persons to commence proceedings seeking an injunction under s 80 of the *Trade Practices Act* – see 200 CLR 591.
- Acted for Telstra Corporation Limited in proceedings under the *Administrative Decisions (Judicial Review) Act* challenging decisions by the Australian Competition and Consumer Commission to issue certain competition notices against Telstra alleging anti-competitive conduct by Telstra in contravention of the *Trade Practices Act 1974* (Cth).
- Acted for Telstra Corporation Limited in several negligence proceedings in the District Court of New South Wales against persons responsible for damaging Telstra infrastructure, e.g. severing Telstra cables during the course of construction work.
- Acted for AMP in several Administrative Decisions Tribunal proceedings commenced by tenants at the Chatswood Chase Shopping Centre alleging breaches of the *Retail Leases Act*.

- Acted for Meriton Group in various Supreme Court proceedings commenced by Deutsche Bank against Meriton seeking specific performance of a contract for the sale of a parcel of land at Rosebery.
- Acted for the Independent Group (and its associated real estate agents) in long running proceedings alleging misleading and deceptive conduct commenced by 50+ persons in the Supreme Court of the Australian Capital Territory relating to the purchase of units in what was formerly the Canberra International Hotel.
- Acted for St Barbara Mines Ltd in recent proceedings in the Supreme Court of Western Australia commenced by Westgold Resources NL alleging non-disclosure by St Barbara in contravention of the *Corporations Law*.
- Acted for Telstra Corporation Limited in the long running C7 proceedings before Sackville J in the Federal Court of Australia alleging various breaches of Pt IV of the *Trade Practices Act* relating to the award of the AFL and NRL television rights in 2000.
- Acted in various proceedings in the Supreme Court of New South Wales making claims under the *Family Provision Act*.
- Appeared as junior counsel in *Butcher v Lachlan Elder Pty Ltd* in High Court proceedings concerning the circumstances in which a real estate agent will be liable for misleading or deceptive conduct – see 218 CLR 592;
- Appeared for Sydney Airports Corporation Limited at the inquest into the death of Ms Hawa Ertas.
- Appeared as junior counsel for the Department of Infrastructure Planning and Natural resources, and its Director General, at the ICAC Orange Grove Inquiry before Acting Commissioner Harrison SC (now Harrison J).
- Acted for numerous liquidators, receivers and managers and administrators in relation to various *Corporations Act* matters including examinations, extension of time applications and applications to set aside statutory demands.
- Acted for a variety of franchisees in relation to attempts by franchisors to enforce restraint of trade provisions post-termination of Franchise Agreements in the video industry.

- Appeared for St Barbara Mines Limited in proceedings in the Supreme Court of Western Australia seeking \$1.6 billion in damages for alleged breach of contract.
- Acted for Telstra Corporation Limited in proceedings commenced by Optus Communications Limited against Telstra alleging misuse of confidential information.