

Michael Henry SC

Called to the Bar: 2000
Appointment as Senior Counsel: 2013

PRINCIPAL AREAS OF PRACTICE:

About 85 % of my practice is in the fields of equity and commercial law.
This portion of my practice covers a broad range of disputes.

Some examples include:

- acting for a non-executive director of a public company in civil penalty proceedings;
- a multi-national company in relation to a dispute concerning the construction of a catering contract;
- a publicly listed company in a dispute over statutory access entitlements to telecommunications services;
- mining companies in relation to deeds of company arrangement;
- Liquidators in respect of unfair preference claims and claims for uncommercial transactions;
- And by way of contrast, the executor of the deceased estate of Mr Richard Pratt in proceedings brought in contract, estoppel and restitution by his former mistress.

I have appeared in each of the High Court, the Full Court of the Federal Court and the NSW Court of Appeal.

Those appearances include:

- appearing for a non-executive director of James Hardies Industries Limited in an High Court appeal concerning civil penalty proceedings brought against him by ASIC;
- appearing in the Full Court of the Federal Court on appeals against a trial judge's dismissal of claims under s46 and s48 of the *Trade Practices Act 1974*;
- appearing in the NSW Court of Appeal on an appeal concerning the conduct and outcome of a second meeting of creditors under Part 5.3A of the *Corporations Act 2001*;

- appearing in the NSW Court of Appeal on appeals concerning the proper measure of equitable compensation for breaches of fiduciary obligations and whether exemplary damages are available for civil conspiracy in the absence of other damages; and
- appearing in applications for special leave to appeal in the High Court and applications for leave to appeal in the NSW Court of Appeal.

In addition, I appear regularly in the NSW Supreme Court and the Federal Court before single judges in a variety of matters on both interlocutory applications and final hearings.

The remaining 15% of my practice involves appearing in varied matters.

I have appeared at the Australian Competition Tribunal on several occasions on appeals from and reviews of determinations made under the *Trade Practices Act 1974*.

I have appeared in the Federal Court and the Full Federal Court on numerous occasions in judicial review proceedings; including proceedings for judicial review of declarations and orders made by the Takeovers Panel and judicial review of administrative decisions to cancel visas held by incarcerated migrants facing deportation.

I have also appeared in the Land & Environment Court of New South Wales in relation to various matters: including judicial review proceedings, disputes over compensation payable for compulsorily acquired land, applications to restrain persons for unlawful use of land and defending accused persons prosecuted under the *Protection of the Environment Operations Act 1997 (NSW)* for illegal dumping of asbestos contaminated landfill.

I have appeared in the Family Court in a matter involving a trust for the maintenance of a disabled child.

Finally, I note that I appeared as junior counsel for the accused in the committal proceedings in the insider trading case: *ASIC v Rene Rivkin*.

I cross-examined the expert stockbroker witness called by the prosecution in those proceedings.

SHORT RECENT HISTORY PRIOR TO THE BAR

- During 1999 I worked as the associate to Justice Hely in the Federal Court.
- Prior to that I was employed at Blake Dawson Waldron for about 2 years whilst I completed my legal studies.
- I obtained First Class Honours in a Bachelor of Laws degree at the University of Sydney
- Between about 1993 and 1995 (inclusive) I was employed by Macquarie Bank as a trader in financial markets – in particular, I traded over the counter interest rate swaps and options.
- In 1992 I obtained a Bachelor of Economics from the University of Sydney