

BRETT LE PLASTRIER

Qualifications and Awards

- 2017** **Doyle's Guide Recommended Infrastructure and Construction Junior**
- 2008-2009** **Bachelor of Civil Law** (University of Oxford)
- Restitution; Corporate Finance Law; Evidence; Administrative Law
 - Commonwealth Scholar 2008-2009
- 2001-2006** **Bachelor of Laws (First Class Honours; University Medal)** (University of Queensland)
- Ross Anderson Memorial Prize
 - Walter Harrison Prize
 - Union College Academic Medal
 - Dean's List (all years)
- Bachelor of Arts** (University of Queensland)
- Dean's List (all years)

Admissions

- August 2012** Barrister of the Supreme Court of New South Wales
- July 2009** Barrister of the Supreme Court of Queensland, the Federal Court of Australia, and the High Court of Australia
- March 2008** Solicitor of the Supreme Court of Queensland

Experience

- July 2009-** ***Barrister-at-Law***
- 2008** ***Russells***
Solicitor in insolvency and general commercial litigation.
Cases worked on include *Octaviar Limited (Formerly MFS Limited)*, Re [2008] QSC 216
- 2007-2008** ***Australian Government Solicitor***
Solicitor advising on and acting in respect of competition law matters.
Cases worked on include *ACCC v Qantas & Others*

Judge's Associate (Tipstaff)

Associate (tipstaff) to Jerrard JA, Queensland Court of Appeal

List of Significant Cases as Counsel - Hearings

Corporations / Insolvency / Bankruptcy

- *Slap Corporation Pty Ltd v Civil, Infrastructure & Logistics Pty Ltd* (2017) 50 VR 542; (2017) 317 FLR 456; [2017] VSC 168 (whether a statutory demand was void; whether a line of cases decided by Brereton J was correct; instructed by McBride Legal; unled)
- *Qualify Me Pty Ltd v Get Qualified Australia Pty Ltd* [2017] FCA 676 (application for personal costs against liquidator; instructed by Birchall Legal unled)
- *Seeto Kni (Holdings) Ltd v Chow* (foreign judgments; *Companies Act 1997* (PNG); meaning of “judgment creditor” under the *Foreign Judgments Act*; instructed by Turner Freeman Lawyers)
 - Appeal – [2016] QCA 112 (led by N Ferrett)
 - Trial - [2015] QSC 193 (unled)
- *ASIC v Meerkin & Ors* [2015] FCA 259 (five-day trial regarding breach of disclosure provisions under the *Corporations Act*; instructed by Atanaskovic Hartnell; unled against Senior Counsel with junior counsel)
- *Re S2 Corporation* (public examination of a director for liquidators; instructed by Patane Lawyers; unled)
- *Bankrupt Estate of Brian Edward Carroll* (public examination of bankrupt, accountant, and transferee of property under the *Bankruptcy Act*; instructed by Piper Alderman; unled)
- *David Lewis Clout as Trustee of the Property of Salvatore Mario Littore and Aurora Littore v Vincent John Littore and David Alan Littore* 2015 NSWSC; unreported; (cross-vesting application; instructed by Gadens; leading JA Granger)
- *Bowcher (Liquidator); In the Matter of Meares Nominees Pty Ltd (In Liq)* (2014) 98 ACSR 1; [2013] FCA 631 (application; opposing section 588FF(3) leave; instructed by BCK Lawyers; unled)
- *Van Wijk (Trustee), in the matter of Power Infrastructure Services Pty Ltd v Power Infrastructure Services Pty Ltd* [2014] FCA 1430 (application; successful appointment of a provisional liquidator to a subsidiary of a publicly listed company; instructed by Redmond + Redmond; led by C Coulsen)
- *Creswick v Coast RV Pty Ltd* [2013] NSWSC 1078 (appeal; agency; instructed by Lynch Andrews; unled)
- *In re Tabtill Pty Ltd* [2012] QSC 204 (opposition to winding-up by co-guarantor of a company; ambit of discretion after *Lanepoint v ASIC* [2011] HCA 18; instructed by Thomsons Lawyers; unled)
- *Findlay v Next Financial Limited* [2012] FCA 241 (managed investment schemes; request for particulars; instructed by King & Wood Mallesons; unled)
- *Deputy Commissioner of Taxation v C-Change Cairns Pty Ltd* [2011] 85 ATR 789; [2011] FCA 1372 (opposing a winding-up application; instructed by Loel Solicitors; unled)
- *ASIC v Global Rule Pty Ltd & Ors* [2010] QSC 342 (managed investment scheme winding-up application; instructed by Minter Ellison; led by KE Downes QC)
- *ASIC v Edwards & Ors* [2009] QSC 360 (application to distribute funds after a winding-up; instructed by Ashurst; led by KE Downes QC)
- Various opinions for banks, insurers, and ASIC (the latter with Flanagan SC, now Justice Flanagan of the Queensland Supreme Court)

Building and Construction

- *Robert Huang and Others v Dong Chen and Anor* [2017] NSWSC 1699 (joint venture dispute involving construction of an apartment complex; instructed by Mills Oakley; led by N Kidd SC, then unled leading E Ball)
- *Zhou v Rosch* [2017] FCA 805 (*Home Building Act*; quantum meruit; estoppel; application to amend; instructed by Fielding Robinson; leading J Ambikapathy)
- *Empire Glass and Aluminium Pty Limited v Lipman Pty Ltd* (construction of a dispute resolution clause in a building contract; instructed by Vincent Young)
 - [2017] NSWCA 217 (led by D Miller SC)
 - [2017] NSWSC 253 (led by N Kidd SC)
- *D&K Developments Pty Ltd v Kumar* [2016] NSWSC 1307 (strike-out application; instructed by K&L Gates; unled)
- *J. Hutchinson Pty Ltd v Glavcom Pty Ltd* [2016] NSWSC 126 (judicial review of adjudicator's decision under the SOPA Act; fraud; natural justice; reference dates; instructed by Colin Biggers & Paisley, led by D Miller SC)
- *Tzaneros Investments Pty Limited v Walker Group Constructions Pty Limited* [2016] NSWSC 50 (assignment of warranties; negligence; instructed by Sarvaas Ciappara Lawyers, led by M Dempsey SC and J Hogan-Doran)
- *Committee of the Trangie Nevertire Irrigation Scheme v Smith* [2013] NSWSC 128 (trial; construction of a water channel; delay; easement; instructed by Lovett and Green; led by R Weber SC)
- *HIGB Pty Ltd v Townsville City Council* [2009] QSC 285 (contractual construction; instructed by Townsville City Council; led by RG Bain QC)
- *Viridian Noosa Pty Ltd v Neumann Contractors Pty Ltd* [2009] QSC 398 (arbitration provision; stay application; instructed by Herbert Smith Freehills; led by KE Downes QC)
- Various NCAT trials

Equity/Property

- *MJH Group Pty Ltd v Stockhausen* [2017] NSWSC 1702 (stay of proceedings based on concurrent criminal proceedings; instructed by K&L Gates; unled)
- *Hanson Construction Materials Pty Ltd v Roberts* (extension of caveat in the Real Property List in unique circumstances; applicable principles; instructed by Patane Lawyers)
 - Appeal – [2016] NSWCA 240 (led by J Giles SC)
 - Motion – [2016] NSWSC 989 (leading E Anderson)
- *Caratti v Commissioner of Taxation* [2016] FCA 754 (application; power of ATO to enforce a deed; instructed by Australian Government Solicitor; led by M Brabazon SC)
- *Rebuild Now Pty Ltd v McGrath* (whether plaintiff had standing to sue as trustee; instructed by Lynch Andrews)
 - Costs – [2016] NSWSC 858 (leading S Jayasuriya)

- Appeal - [2016] NSWSSC 636 (unled)
- *Gall v Pham* [2015] NSWSC 1710 (trial; Lindsay J; gift; trust; lottery winnings; vesting of title; instructed by Turner Freeman; leading JA Granger)
- *SEQ Homemaker One Pty Ltd v Spar Corporate Pty Ltd & Ors* [2015] QDC 238 (application; pleadings; rectification; estoppel; instructed by Clamenz Lawyers; unled)
- *Richmond Valley Council v Sneesby* [2015] NSWSC; unreported; Black J (motion; extension of a caveat; nature of a contractual right to caveat; whether *Troncone v Aliperti* is good law; instructed by Hannigans Lawyers; unled)
- *Macquarie Bank Ltd v The Two Eagles Pty Ltd* [2014] NSWSC 367 (motion; misappropriation of monies; tracing; opposing receiver's report and payment of receiver's costs from the fund; instructed by Bennett + Philp Lawyers; unled against Senior Counsel with a junior, and senior junior with a junior)
- *Butler v YT Pty Ltd & Ors* [2014] NSWDC unreported; Elkaim SC DCJ (six-day trial; *Barnes v Addy*; tortious interference with contract; misleading or deceptive conduct; restitution; rescission for common mistake; repudiation; appeared for three out of six parties as defendants and cross-claimants; instructed by Turner Freeman; unled)
- *Estate of Lock* [2013] QSC; unreported; Henry J (application; opposing leave by personal representative to commence proceedings; instructed by BCK Lawyers; unled)
- *Ramzy v Body Corporate for GC3 CTS38396 & Anor* [2012] QDC 397 (appeal against orders of a magistrate; test for leave; body corporate title; instructed by QLD Law Group; unled)
- *Wilson v Snip* [2012] QDC 400 (trial; proprietary estoppel; instructed by LynchMorgan; unled)

Contract/Banking/Trade Practices

- *Muddle v Cormie* [2017] NSWSC 1581 (appeal from Local Court trial; validity of a guarantee; instructed by Leyden Legal; leading J Ambikapathy)
- *GG Australia Pty Ltd v Sphere Projects Pty Ltd (No 2)* [2017] FCA 664 (security for costs; overlap between misleading or deceptive conduct and defamation; instructed by Nicholas Dibb Solicitors; unled)
- *Redmond Family Holdings v GC Access Pty Ltd & Ors* [2016] NSWSC 796 (four-day trial; Black J; future representations; indirect causation; instructed by EKM Legal; unled)
- *Allied Environmental Solutions Pty Ltd v North Burnett Regional Council* [2016] FCA 713 (contractual construction and estoppel; security for costs; instructed by KSAR Legal; led by M Rudge SC)
- *Stacks MIS Ltd v Tolteca P/L; Tolteca P/L v Lillas & Loel Lawyers P/L* (unconscionable conduct under the ASIC Act; instructed by Turner Freeman; led by N Ferret)
 - Four-day trial before A Lyons J - [2015] QSC 276
 - Joinder application - [2015] QSC 148
 - Costs - [2015] QSC 80
- *Westpac Bank v Henderson* [2015] NSWSC; unreported; Ball J (guarantee; summary judgment and application for informal service in novel circumstances; instructed by Kemp Strang; unled)
- *Hudson v Standfield* [2013] QDC 289 (two-day trial; agency; contractual construction; PAMD Act; instructed by Turner Freeman; unled)

- *Perpetual Custodians Ltd v IOOF Investment Management Ltd; Murray v Perennial Investment Partners Ltd* (contractual construction; takeovers; instructed by Atanaskovic Hartnell)
 - Appeal – (2013) 304 ALR 436; [2013] NSWCA 231 (led by I Jackman SC and R Scruby)
 - Trial – [2012] NSWSC 1318 (led by I Jackman SC and R Scruby)
- *Turcinovic v Curtsen Pty Ltd* [2010] QDC 251 (summary judgment; contractual construction; instructed by Denise Maxwell Solicitors; unled)
- Various Local Court trials

Negligence

- *Forster v Cooke & Turner* [2014] QSC; unreported; Bodice J and de Jersey CJ (professional negligence; financial advisors; strike-out application; subsequent application for costs due to amendments that reflected the basis for the strike-out; instructed by Gadens Lawyers; unled)
- *Zaphir v Chen* [2014] QLDMC 256 (trial; measure of damage for loss of use of a chattel; instructed by D’Arcy & Co; led by Dr DB O’Sullivan QC)

Intellectual Property

- *Qualify Me Pty Ltd v Get Qualified Australia Pty Ltd* (misleading or deceptive conduct; trademark infringement; strike-out application in relation to LinkedIn and Facebook; instructed by Birchall Legal)
 - Application for personal costs against liquidator – [2017] FCA 676 (unled)
 - Costs from a discovery application – (No 4) [2017] FCA 68 (unled)
 - Indemnity costs - [2016] FCA 460 (unled)
 - Costs – [2016] FCA 309 (unled)
 - Costs – [2017] FCA 68 (unled)
 - Strike-out application – [2016] FCA 192 (led by S Burley SC (now Justice Burley of the Federal Court))
- *NV Sumatra Tobacco Trading Company v British American Tobacco Australia Services Limited* (trademark infringement; instructed by Corrs Chambers Westgarth)
 - Costs – [2012] FCA 219 (unled)
 - *De novo* rehearing under the *Trademarks Act* – (2011) 283 ALR 743; (2011) 89 IPR 357; [2011] FCA 1051 (led by KE Downes QC)
 - Application to adduce opinion evidence – [2011] FCA 255 (led by KE Downes QC)
 - Application for further security for costs – [2010] FCA 1372 (led by KE Downes QC)

Administrative Law / Planning Law / Native Title

- *Lang v Carron Investments Pty Ltd* (judicial review application; *Wednesbury* unreasonableness; instructed by Neumann & Turnour Lawyers)
 - Appeal – [2016] VSCA 287 (led by E Muston SC)
 - Hearing - [2016] VSC 165 (unled against Queen’s Counsel)

- *Chief Executive, Department of Justice and Attorney-General v Campaigntrack Victoria Pty Ltd & Ors*
 - Appeal - [2016] QCA 37 (appeal on whether QCAT Appeal Panel had erred in construction of PAMDA and QCAT Act; instructed by McLean & Associates; led by CL Hughes QC)
 - Hearing - [2015] QCATA 61 (appeal to QCAT Appeal Panel; whether QCAT has jurisdiction to extend time under PAMDA; instructed by McLean & Associates; unled against Queen's Counsel)
- *Miller on behalf of the Birriah People v State of Queensland (No 2)* [2016] FCA 1434 (appeared in long-running native title dispute for the holder of a crown lease; instructed by B&G Law; unled)
- *David Lewis Clout as Trustee of the Property of Salvatore Mario Littore and Aurora Littore v Vincent John Littore and David Alan Littore* [2015] NSWLEC 148 (application to extend a caveat under the *Water Management Act*; instructed by Gadens; unled)
- *IK Chemists Pty Ltd v CHOF4 Artarmon Pty Ltd*
 - Appeal - [2015] NSWCATAP 144 (appeal to NCAT Appeal Panel; instructed by Sparke Helmore; led by M Condon SC)
 - First instance - [2014] NSWCATCD 150 (statutory construction; successfully argued that NCAT has no jurisdiction to hear retail disputes in excess of \$400,000; instructed by Sparke Helmore; unled)
- *Philip Shayer v Byron Bay Retirement Villages Pty Ltd* [2014] NSWCATCD 160 (strike-out application; instructed by LynchAndrews; unled)
- *Lewani Springs Resort Pty Ltd v Gold Coast City Council & Anor*
 - Costs – [2011] QPELR 16 [2010] QCA 200 (led by CL Hughes QC)
 - Appeal – (2010) 174 LGERA 370; [2010] QCA 145 (led by CL Hughes QC)
- *Wirkus v The Body Corporate for Goldieslie Park* [2010] QSC 397 (strike-out application; planning law; negligence; instructed by McCullough Robertson; led by KE Downes QC)
- *State of Queensland v Springfield Land Corporation (No 2) P/L & Anor* (2009) 171 LGERA 38; [2009] QCA 381 (acquisition of land; instructed by Russells Law; led by SL Doyle QC and M Hinson QC)

Applications for Leave to Appeal

- *EDC Consultants Pty Ltd v Thiess Construction Pty Ltd* [2014] QSC; unreported; Mullins J (application for leave to appeal from Mullins J's costs order; successful; instructed by Keystone Lawyers; unled)
- *NV Sumatra Tobacco Trading Company v British American Tobacco Australia Services Limited* – (2011) 94 IPR 226; [2011] FCA 1228 (trademark infringement; instructed by Corrs Chambers Westgarth; led by KE Downes QC)
- *Lewani Springs Resort Pty Ltd v Gold Coast City Council & Anor* [2010] HCATrans 295 (special leave application; planning law; statutory interpretation; instructed by Macdonald and Balanda; led by CL Hughes QC)

Selected List of Significant Cases as Counsel That Did Not / Have Not Progressed to Hearing

Building and Construction

- Various adjudications under SOPA (NSW) and BCIPA (QLD)

- *Unique Urban Built Pty Ltd v Broken Hill City Council* (SASC; defects claim; instructed by Redenbach Lee; led by F Corsaro SC)
- *Hutchinson Builders Pty Ltd v Pendle Thorpe Walker Architects Pty Ltd* (NSWSC; delay claim; disruption claim; instructed by KSAR Law; led by D Miller SC)
- *Strata Plan No. 80787 v Oceania Property Corporation (Cremorne) Pty Ltd & Di Blasio Constructions Pty Ltd* (NSWSC; defects claim; instructed by Fielding Robinson; unled)
- *Stepanoski v Aslan Builders* (NSWSC; delay claim; defects claim; instructed by KSAR Law; led by F Corsaro SC)
- *Owners Corporation v Yaoub* (NSWSC; defects claim; instructed by Buckner Jones Solicitors; led by N Kidd SC)
- *O'Mahoney Constructions v Moama Resort* (NSWDC; defects claim; instructed by KSAR Law; unled)
- *245 Bridge Road Pty Ltd v Tomkins Commercial and Industrial Builders P/L* (QSC; appearance at security for costs application; construction dispute concerning the construction of a commercial building arising out of a BCISPA claim; delay claims; misleading or deceptive conduct; estoppel; instructed by Russells Law; led by D O'Brien QC)
- *Bailey Civil Contractors P/L v Rockhampton Regional Council* (QSC; three-year long construction dispute concerning water tunnels; defects; delay; instructed by McCullough Robertson; led by R Holt QC)
- *Sunland Homes v Scottish Pacific Factoring* (NSWDC; construction dispute concerning defective home building; instructed by BCK Lawyers; unled)

Equity and Contract

- Acting in the Supreme Court of New South Wales for MJH Group against an ex-employee in proceedings for breach of fiduciary duty (instructed by K&L Gates; unled)
- Acted in the Supreme Court of New South Wales in proceedings involving a question of whether a retention of title clause creates fiduciary obligations – settled prior to hearing (instructed by K&L Gates; leading EBS Ball, against Senior Counsel with junior)
- Acting in the Supreme Court of Queensland in an oppression suit (instructed by Fletcher Law; led by JC Giles SC)
- Acting in Supreme Court of Queensland proceedings for a lender acting under a loan agreement to recover monies (instructed by Makinson D'Apice; unled)
- *Arnotts v Walters* (NSWSC; contract; gift; dispute involving whether monies advanced as loans or gifts; instructed by Everingham Solomons; led by P Blackburn-Hart SC)
- *Ferris v Clarkson* (QLDSC; contractual construction; interpretation of *PAMDA*; instructed by McCormick and Williams Lawyers; led by T Thawley SC (now Justice Thawley of the Federal Court))
- *Yahoo7 v Google* (NSWSC; injunction; contractual construction; instructed by King & Wood Malleons; led by N Hutley SC)
- *Metcash Trading Ltd v Australian Executors and Trustees* (QLDSC; construction of a lease; instructed by Russells Law; unled)
- *Gonda v Singer & Ors* (NSWSC; three-week trial settled on day one; undue influence; unconscionability; fraud; instructed by David Geddes Solicitor; led by P Blackburn-Hart SC)

- *George v Perpetual Trustee Company* (QLDSC; fraud exception to indefeasibility; restitution; change of position; instructed by Corrs Chambers Westgarth; unled)
- *Larter & Larter v Ryan* (QLDSC; undue influence; estoppel; exceptions to indefeasibility; instructed by Turner Freeman; unled)
- *Jetz Pty Ltd v AAIP Pty Ltd* (QLDSC; trusts; penalty clauses; contractual construction; tracing; instructed by QLD Law Group; unled)

Trade Practices and Intellectual Property

- *Goyal v ANZ Bank & Ors* (FCA; misleading or deceptive conduct in relation to cancellation of broker accreditation; listed for seven-day trial in 2017; instructed by Turner Freeman; unled)
- *COZero v Det Norske Veritas* (FCA; misleading or deceptive conduct in relation to carbon credits trading with the United Nations; instructed by Birchall Legal; led by C Moore SC)

Taxation

- *MOGS Pty Ltd v Commissioner of Taxation* (FCA; bad faith; instructed by Clamenz Evans Ellis; led by F Kunc SC (now Justice Kunc of the NSW Supreme Court))

Negligence / Tort

- *Ray White Tamworth v Magdora Pty Ltd* (NSWDC; auditor professional negligence; instructed by Everingham Solomons; unled)

Native Title

- *SMMS v Malo* (High Court of the Solomon Islands; fraud exception to indefeasibility; whether traditional appointment process followed; instructed by Light Lawyers; led by E Holmes, then FM Douglas QC)

Defamation

- *Bellamy v Brooks* (NSWDC; defamation; instructed by BCK Lawyers; unled)

Publications

- Contributor, *Robson's Annotated Corporations Legislation* (Thomson Reuters; looseleaf)