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Solicitor 2014

Barrister 2018

Background

Michael accepts briefs in all areas from solicitors and in-house counsel. He has a strong background in working directly with corporate legal teams to deal with the difficult issues that arise for businesses during disputes. Michael focuses on developing commercial and ethical outcomes that align with his client's interests and public image.

He has appeared both led and unled in the Supreme Court of New South Wales and the Federal Court of Australia.

Before being called to the Bar, Michael was a solicitor at Kemp Strang in the Dispute Resolution & Insolvency practice group. He practiced across all areas of the group including in proceedings for major banking corporations, small business disputes, insolvency proceedings and tax disputes.

Michael was formerly the associate to the Chief Justice of the supreme Court of South Australia and a lecturer/tutor at Flinders University.

Focus Areas + Select Cases

Commercial & Equity

M&M Global Financials Pty Limited v Financial Elements Pty Limited [2022] NSWDC 386 (unled) – Jurisdiction of the District Court to hear cases seeking equitable orders of an account of profits.

AAI Limited trading as Vero Insurance v Technology Swiss Pty Ltd [2021] FCAFC 168 (led by Edward Cox SC) – Matter concerning the right of recoupment for an insurer in circumstances where the insurer had settled a dispute with the insured and the insured later recovered an amount from tortfeasor.

Lithgow State Mine Railway Ltd v City of Greater Lithgow Mining Museum Inc [2019] NSWSC 1131 (led by Terrence Lynch SC) – dispute arising out of the sale of land and the assertion of proprietary estoppel by a third party. Application by third party seeking joinder to proceedings in the Real Property list seeking specific performance of a contract.

The Owners Re: Strata Plan No. 80751 v AV Jennings (Cammeray) [2018] NSWSC 1080 (unled) - Appeared resisting a notice of motion for the court to grant leave for the Plaintiff to rely on expert evidence a month before final hearing.

Maritime and Admiralty Law

***Poralu Marine Australia Pty Ltd v MV Dijkgracht* [2023] FCAFC 147** (led by Edward Cox SC) – Dispute relating to formation of a contract of carriage of goods by sea, including the application of foreign law and the interpretation of the Hague-Visby Rules and associated treaties.

***Viva Energy Australia Pty Ltd v MT "AG Neptune"* [2022] FCA 522** (unled) – urgent application for orders moving a ship under arrest and taking on fuel.

***Owners of Cargo laden on board the MV "APL England" v CMB Ocean 13 Leasing Company Pte Ltd* [2022] FCA 565** (led by Edward Cox SC) – Settlement approval for a class action involving the loss or damage of cargo at sea.

Australian Maritime Safety Authority v The YM Eternity as surrogate ship – Federal Court of Australia (led by Edward Cox SC) – Dispute relating to the recovery of fees pursuant to the Protection of the Sea (Civil Liability) Act 1981.

***Tritton Resources Pty Ltd v Ever Rock Navigation S.A.* [2019] FCA 276** (led by Edward Cox SC) - This case determined whether the Plaintiffs as consecutive owners of a bill of lading were entitled to bring a claim against the owner of a ship on which their goods were carried and subsequently damaged.

Class Actions

***Owners of Cargo laden on board the MV "APL England" v CMB Ocean 13 Leasing Company Pte Ltd* [2022] FCA 565** (led by Edward Cox SC) – Settlement approval for a class action involving the loss or damage of cargo at sea.

***Brewster v BMW Australia Ltd* [2019] NSWSC 35** (led by John Sheahan QC and Elisa Holmes) - This case determined whether the NSW Supreme Court had the power to make a Common Fund Order and, whether a Common Fund Order was contrary to the Ch 111 or s 51 (xxxi) of the Australian Constitution. This matter was heard as part of a joint sitting of the NSWCA and the FCAFC in *Westpac Banking Corporation v Lenthall* [2019] FCAFC 34.

Constitutional Law

***Brewster v BMW Australia Ltd* [2019] NSWSC 35** (led by John Sheahan QC and Elisa Holmes) - This case determined whether the NSW Supreme Court had the power to make a Common Fund Order and, whether a Common Fund Order was contrary to the Ch 111 or s 51 (xxxi) of the Australian Constitution. This matter was heard as part of a joint sitting of the NSWCA and the FCAFC in *Westpac Banking Corporation v Lenthall* [2019] FCAFC 34.

Australian Maritime Safety Authority v The YM Eternity as surrogate ship – Federal Court of Australia (led by Edward Cox SC) – Dispute relating to the recovery of fees pursuant to the Protection of the Sea (Civil Liability) Act 1981, raising issues of legislative capabilities of the commonwealth parliament.

Insolvency & Bankruptcy

Edward Lee v Gang Il An (unreported, Supreme Court of New South Wales, corporations division) (unled) – Setting aside of a statutory demand pursuant to s 459G in circumstances where the time to comply was misstated due to the amendments to the *Corporations Act 2001* (Cth) arising out of the COVID pandemic and costs relating to the application.

Michael regularly appears in insolvency and bankruptcy lists in the Federal Court of Australia, Federal Circuit Court of Australia, and New South Wales Supreme Court. He has represented parties both seeking and opposing winding-up and bankruptcy orders. In most circumstances a commercial resolution has been reached.

CPD Presentation with Mr Stephen Ipp – Trust Issues for Insolvency Lawyers: Amerind and Beyond – CLE presentation dealing with the practical outcomes from Amerind and how solicitors and barristers should approach the distribution of trust assets in insolvency. Available at: <https://www.youtube.com/watch?v=ivetVCg9Eek> and <https://www.greenway.com.au/develop/cpd-library>

Appellate Law

DDG17 v Minister for Home Affairs & Anor [2020] HCATrans 82 (led by Edward Cox SC) – special leave application referred by the NSW Bar Association Legal Assistance Referral Scheme. Special leave sought to review the application of the duty of the Immigration Assessment Authority to consider and undertake to exercise statutory powers as applicable to Part 7AA (Fast Track) determinations.

BMW Australia Ltd v Brewster [2019] HCATrans 94 - Special Leave application (led by John Sheahan QC, with Elisa Holmes and Rachel Manstead) – preparation and drafting of response to the special leave application from the NSWCA appeal judgment in *Brewster v BMW Australia Ltd* [2019] NSWSC.

Employment Law

Barber-Fleming, Jonathan v Billi Australia Pty Ltd T/A Billi [2020] FWA 6029 (unled) – Claim of unfair dismissal of an employee.

Mei Chan v Advanced Health Invest Pty Ltd T/A Mastery Dental Clinic [2019] FWC 7824 – Unfair dismissal of an employee in a dental clinic. Determination of whether the Respondent was a small business within the meaning of the Fair Work Act.

Sports Law

Michael regularly appears in sporting tribunals representing players and clubs.