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Introduction

Mitchell's main area of practice is in commercial litigation focusing on banking, corporations law, insolvency, contractual disputes and building and construction matters. Mitchell accepts briefs to appear and advise in other areas including administrative law, inquests, inquiries and disciplinary proceedings as well as regularly appearing for liquidators in public examinations.

Mitchell is also an officer in the Australian Army Legal Corp and currently holds the rank of Major. In this role he advises on and is involved in ADF Inquiries and appears as Counsel in Defence Force Magistrate and Court Martial hearings.

Practice areas

Administrative Law

Banking and Finance

Bankruptcy and Insolvency

Building and Construction

Corporations and Securities

Equity

Inquires, Inquests and Disciplinary Proceedings

Professional Negligence

Trade Practices and Competition

Selected cases

A selection of cases in which Mitchell has appeared include:

Appeals

- Sahab Holdings v Tonks [2023] NSWCA 12 – Appeal against a decision not to order an inquiry into the conduct of Court appointed receivers pursuant to s 423 of the *Corporations Act 2001* (led by AJL Bannon SC)
- McGuire v Sporting Shooters Association of Australia (NSW) Coffs Harbour Branch Inc [2023] FCA 23 – Appeal from a decision of the Federal Circuit and Family Court of Australia dismissing an application for review of a registrar's orders

- AEA Constructions Pty Ltd v Wharekawa; AEA Constructions Pty Ltd v Building Partners [2019] NSWCA 176 – Appeal from a decision of the Supreme Court of NSW with respect to the proper measure of apportionment of responsibility and award of damages (led by JE Maconachie QC)
- JCK Building Solutions Pty Ltd v Marr [2019] NSWCATAP 122 – Appeal with respect to a claim for breaches of the implied warranties under the Home Building Act
- Clancy v Director of Public Prosecutions [2018] NSWCA 102 – Judicial review of a decision of the District Court acting in its criminal appellate jurisdiction
- Ferella & Anor v Chief Commissioner of State Revenue [2014] NSWCA 378 - Appeal of a decision of the Administrative Decisions Tribunal under the Land Tax Management Act 1956 and its application to rural land.

First Instance

- Hinz, in the matter of KEAD Pty Ltd (Deregistered) v KEAD Pty Ltd (Deregistered) [2022] FCA 270 – Application for the reinstatement of the registration of a deregistered company and validation of act done while the company was deregistered pursuant to s 601AH of the *Corporations Act*
- In the matter of PIC Lindfield 19 Pty Ltd (in liq) [2022] NSWSC 271 – Application to inspect liquidators' confidential affidavit and set aside summonses issued under s 596B of the *Corporations Act* for liquidators' public examination
- In the matter of Sahab Holdings Pty Ltd [2022] NSWSC 4 – Application for an inquiry into the conduct of court appointed receivers under s 423 of the *Corporations Act* (led by AJL Bannon SC)
- Virtual IT Services Pty Ltd v Hamilton & Ors [2021] FCA 1637 – Application for an injunction in relation to post-employment restraints and misuse of confidential information
- Skytraders Pty Ltd v Meyer [2021] NSWSC 1670 – Application to set aside a search order due to alleged material non-disclosure by the plaintiff during the ex parte hearing at which the search order was obtained (led by AJL Bannon SC)
- Kanjian Holdings No 1 v Kanjian [2021] NSWSC 839 – Claim for unconscionable conduct, undue influence, equitable estoppel, estoppel by convention and for the removal of a trustee of a discretionary trust (led by AJL Bannon SC)
- Senses Northbridge Pty Ltd v Sahab Holdings Pty Ltd (No 3) [2020] NSWSC 345 – Claim for damages in addition to specific performance pursuant to s 68 of the Supreme Court Act (led by AJL Bannon SC)
- In the matter of Australian Worldwide Pty Ltd [2019] NSWSC 1475 – Claim for breaches of director's statutory and fiduciary duties together with a Barnes v Addy claims for knowing assistance and knowing receipt (led by T Faulkner SC)
- Eckford v Six Mile Creek Pty Ltd (No 2) [2019] FCA 1307 – Misleading and deceptive conduct and fraud claim with respect to representations made by a developer in connection with the sale of lots in a residential estate (led by DB Studdy SC)
- Eckford v Six Mile Creek Pty Ltd [2019] FCA 982 – Application seeking a declaration that the parties had entered into a binding agreement for the settlement of proceedings (led by DB Studdy SC)
- Jose v Secretary, NSW Minister of Health [2019] NSWIRComm 1031 – Interlocutory order restraining the dismissal of an employee of the Ministry of Health
- Makary v Hamdan [2019] NSWSC 460 – Equitable estoppel claim regarding the lease of a commercial property
- Kanjian v Kanjian [2019] NSWSC 166 – Appointment of a receiver and manager to trust property (led by R Stitt QC)
- Cao v Apollo Phoenix Resources Pty Ltd [2018] FCA 1445 – Oppression proceedings seeking the reinstatement of a director who was also a minority share holder

- Wharekawa v AEA Constructions Pty Ltd; Building Partners v AEA Constructions Pty Ltd [2018] NSWSC 684 – Claim for damages by a construction worker after being struck in the head by a nail fired from an explosive power tool (led by JE Maconachie QC)
- Hatziplis v Photios [2017] NSWSC 397 – Equitable estoppel claim in connection with a personal guarantee
- Egoroff v Hawkins [2015] FCCA 2473 – Resisting an application to set aside a bankruptcy notice
- L Associates v Conlan & Anor [2015] FamCA 659 – Application seeking variation of Court orders in order to lift a stay in separate proceedings

Inquiries, Inquests and Disciplinary Proceedings

- IGADF Afghanistan War Crimes Inquiry 2020 – Acting for a compelled witness (member of the special forces)
- Public Inquiry under the Charitable Fundraising Act (RSL Inquiry) 2017 – Acting for the auditors of RSL (NSW) (led by M Painter SC)
- ADF Commission of Inquiry into the death of SPR Penpraze 2017 – Acting for the driver of a service vehicle involved in a training accident resulting in a fatality (led by K Wolahan)
- Safe Work (NSW) v Karimbla Construction Services (NSW) Pty Ltd [2017] NSWDC 68 – Safe Work prosecution
- Inquest into the death of Michael Johnson (State Coroner's Court) 2016 – Acting for an interested party
- Royal Commission into Trade Union Governance and Corruption 2015 – Acting for an interested party in the CFMEU NSW Brian Parker, Darren Greenfield and George Alex Case Study
- Comeskey v Council of the NSW Bar Association [2015] NSWSC 824 – Appeal against a decision of the Bar Council to refuse to issue a practicing certificate (led by D McLure SC)