

153 PHILLIP

BARRISTERS

Luke Chapman

Barrister (NSW) 2014, Solicitor (NSW), 2006

chapman@153phillip.com.au

+61 2 9132 5700

Luke has a broad practice which spans both commercial and public law (incl. crime).

Luke has considerable experience in insolvency; defamation; building and construction; public law (public interest immunity claims and Coronial proceedings) and crime. He is regularly instructed to appear in the Local, District and Supreme Courts of New South Wales, as well as the Federal Court and the Federal Circuit and Family Court of Australia.

Outside of practice, Luke is an officer in the Australian Army Legal Corps.

Areas of practice

Commercial disputes

Public law

Insolvency

Defamation

Corporate and financial crime (incl. Proceeds of Crime/AML)

Career

Barrister, 153 Phillip Barristers (2014 – present)

Senior Litigation Lawyer, Australian Federal Police (2012 – 2014);

Senior Associate, Henry Davis York Lawyers (2007 – 2012); and

Tipstaff, The Hon. Mr. Justice K R Handley AO, New South Wales Supreme Court, Court of Appeal (2006).

Selected cases (from 2020)

Commercial

In the matter of Gearhouse BSI Pty Ltd [2021] NSWSC 98 (separate applications before each of Black, Williams and Rees JJs): Acting (unled) for the successful plaintiff, an international broadcasting group, on an interlocutory application and subsequent expedited hearings for the winding up on the just and equitable ground (instructed by Norton Rose Fulbright Australia).

BIC Pty Limited ats Platinum Services Pty Limited [2021] – District Court of NSW: Acting (unled) in strike-out application relating to a defective pleading (instructed by Clayton Utz).

In the matter of Hawkesbury House Pty Limited (in liq) [2021] (Black J, ongoing): Acting for liquidator in examinations and in substantive proceedings for voidable transaction and claims against directors (instructed by Marsdens Law Group).

Frankling Custom Feeds Pty Ltd & ors ats Australian Keg Company Pty Limited – Federal Court of Australia (Moshinsky J) (settled): Acting (unled and led by B Kelleher) for respondents on security for costs applications and in complex substantive proceedings arising from claims of patent and trademark infringement relating to agricultural products (instructed by Rogers Legal).

Shotcrete Australia Pty Ltd v Libdy Developments Pty Ltd t/as Civil Transport [2021] NSWSC 783 (Ward CJ in Eq (as the President then was) and ongoing): Acting (unled) for principal contractor in respect of multifaceted commercial building dispute which included interpleader proceedings (instructed by Salim Rutherford Lawyers).

Chiu v Sheh [2021] NSWSC 19 (Slattery J and ongoing): Acting (unled) on procedural applications and in the substantive proceedings concerning the dissolution of commercial partnership (instructed by Avantro Lawyers).

Cappello & Anor v Scrivener & Anor [2020] NSWSC 1748 (Stevenson J): Acting (led by Studdy SC) for property development entity in a dispute concerning an alleged commercial partnership (instructed by Marsdens Law Group).

Trickey v Ewert [2020] NSWSC 691 (Robb J): Acting (unled) for the successful plaintiff in obtaining orders for vacant possession of property (instructed by Glowreys, Deniliquin).

Joliani v Cedrus Investments Pty Limited [2020] (Darke J, unreported): Acting (unled) for the successful respondent in proceedings seeking to challenge caveat and ancillary issues (instructed by Avantro Lawyers).

Public Law

Inquest into the death of Michael Farrell [2021] (Deputy State Coroner Grahame): Acting (unled) for the NSW Commissioner of Police in relation to public interest immunity application (instructed by HWL Ebsworths).

Patsalis v Local Court of NSW [2022] NSWSC 159 (unled before Garling J). Acting on behalf of the Attorney General of NSW concerning on an appeal from an interlocutory decision of a Magistrate of the Local Court (instructed by the NSW Crown Solicitor).

Garcia v R [2022] NSWCCA (reserved): Acting (unled) in application before Rothman Walton JJ on behalf of the Commissioner of Police (instructed by the NSW Crown Solicitor).

Over 150 applications to date in the Supreme, District and Local Courts of NSW (including NSWCCA) acting on behalf of the NSW Commissioner of Police and NSW Commissioner of Corrections in respect of public interest immunity applications and applications under the *Courts*

Suppression and Non-Publication Orders Act 2010 (NSW) as well as challenges to subpoenas (instructed by the NSW Crown Solicitor).

Proceeds of Crime / Financial Crime

Commissioner of the Australian Federal Police v Tjongosutiono [2020] NSWSC 1815 (Harrison J): Acting (led by B Walker AO SC) for the applicant on an application to be released from *ex parte* restraining orders brought by the Australian Federal Police (instructed by Avantro Lawyers).

Commissioner of the Australian Federal Police v Tjongosutiono [2020] NSWSC 908 (Wilson J): Acting (unled) for applicant on an application for stay of proceedings pending determination of similar proceedings in the High Court of Australia (instructed by Avantro Lawyers).

Commissioner of the Australian Federal Police v Tjongosutiono [2018] NSWSC 48 (N Adams J): Acting (led by I Temby AO QC) for the applicant on an application for revocation of *ex parte* restraining orders brought by the Australian Federal Police (instructed by Avantro Lawyers).

Commissioner of the Australian Federal Police v Gwe & Hoang [2018] NSWSC 992 (Rothman J) Acting (led by I Temby AO QC) for the applicant on an application for revocation of *ex parte* restraining orders brought by the Australian Federal Police (instructed by Avantro Lawyers).

Commissioner of the Australian Federal Police v Mazzco Investments Pty Limited [2020]. Acting (unled) for the applicant on an application for revocation of *ex parte* restraining orders brought by the Australian Federal Police (instructed by Fortis Law Group).

Numerous appearances before the Administrative Appeals Tribunal for compulsory examinations under the *Proceeds of Crime Act 2002* (Cth).

Building and construction

Non-Trading Pty Limited ats Red Eye Constructions Pty Limited (District Court of NSW) (judgment reserved and ongoing as to substantive defects claim) [2021] (Olsson DCJ): Acting (unled) for a large property developer in connection with a dispute arising from payment claims under the Building and Construction Industry Security for Payments Act 1999 (NSW) including important questions of estoppel (instructed by Salim Rutherford Lawyers).

FR Projects TWP Pty Limited & Ors ats East Bay Property Pty Limited t/as Kitmiridis Architects (District Court of NSW) (settled): Acting (unled) for a property developer in claims brought for substantial damages, including a professional negligence claim against a former advisor (instructed by Salim Rutherford Lawyers).

Defamation

Vakiloroaya v Licina [2021] (District Court of NSW) (ongoing): Acting (unled) for the respondent in defamation proceedings in the university sector (instructed by Tom Howard Legal).

CHSS ats Costello [2020] (District Court of NSW) (settled): Acting (unled) for defendant in defamation proceedings in the disability support sector (instructed by Kennedys Law Group).

Nationwide News Pty Ltd v Vass [2018] NSWCA 259 (McColl, Basten and Leeming JJA): Acting (led by Gray SC) for the successful respondent on an important appeal concerning the proper construction of an offer of compromise and offers of amends in the context of the settlement of a dispute (instructed by O'Brien Solicitors).

French v Fraser (No 3) [2015] NSWSC 1807 (McCallum J): Acting (led by Gray SC and M Richardson) for the plaintiff, a senior executive of the Commonwealth Bank of Australia, in defamation proceedings concerning a series of highly defamatory publications made by a blogger. Substantial damages awarded (instructed by Clayton Utz).

Land and Environment

Falconet v Department of Customer Service (NSW) [2021] (ongoing): Acting (unled) for homeowners in connection with a claim for compensation arising from mine subsidence damage under the *Coal Mine Subsidence Compensation Act 2017* (NSW) (instructed by RMB Lawyers).

Visser v Department of Customer Service (NSW) [2021] (ongoing): Acting (unled) for homeowners in connection with a claim for compensation arising from mine subsidence damage under the *Coal Mine Subsidence Compensation Act 2017* (NSW) (instructed by RMB Lawyers).

Wallace v Department of Customer Service (NSW) [2021] (settled): Acting (unled) for homeowners in connection with a claim for compensation arising from mine subsidence damage under the *Coal Mine Subsidence Compensation Act 2017* (NSW) (instructed by RMB Lawyers).

Stoker v Department of Customer Service (NSW) [2020] (settled): Acting (unled) for homeowners in connection with a claim for compensation arising from mine subsidence damage under the *Coal Mine Subsidence Compensation Act 2017* (NSW) (instructed by RMB Lawyers).

Alzakout v Department of Customer Service (NSW) [2020] (ongoing): Acting (unled) for homeowners in connection with a claim for compensation arising from mine subsidence damage under the *Coal Mine Subsidence Compensation Act 2017* (NSW) (instructed by RMB Lawyers).

Crime

Regularly briefed to appear in sentencing proceedings, including sentence appeals in the Local and District Courts of NSW (severity and all grounds appeals), including most recently:

R v Mott [2022] NSWDC 204: Acting (unled) in sentencing before Grant DCJ – knowingly take part in supply of prohibited drug (commercial quantity) (instructed by MA Rogers, solicitor).

Dated: June 2022