

## **LIAM MAGOWAN**

### **A Select List of Cases**

#### High Court of Australia

- Boral Resources (Vic) Pty Ltd ACN 004 620 731 v RW & ME Smith Pty Ltd ACN 105 445 645 [2023] HCASL 197 (7 December 2023): acted for respondent in special leave application (leave refused, full court (7)).

#### Supreme Court of Victoria - Court of Appeal

- Timelio Pty Ltd v Petris [2024] VSCA 17: for respondent in successfully resisting application for leave to appeal.
- RW & ME Smith Pty Ltd v Boral Resources (Vic) Pty Ltd [2023] VSCA 296: acted for applicant is successfully resisting stay application pending appeal to High Court.
- RW & ME Smith Pty Ltd v Boral Resources (Vic) Pty Ltd [2023] VSCA 182: for applicant in successful appeal from County Court.
- Dolan v Dolan [2023] VSCA 136: for applicant in appeal from judgment regarding caveat removal.
- RW & ME Smith Pty Ltd v Boral Resources (Vic.) Pty. Ltd [2022] VSCA 216: for applicant in relation to security for costs application in appeal.
- Fernandez v EJ Industries Ltd [2020] VSCA 139: for applicant in an appeal from County Court of Victoria.
- Trailer Trash Franchise Systems Pty Ltd v GM Fascia & Gutter Pty Ltd [2017] VSCA 293: for respondent in appeal concerning security for costs.
- St Kilda Arts and Events Company (Vic) Pty Ltd & Ors v Apes with Wings Pty Ltd & Anor [2015] VSCA 199: for respondent in appeal from the County Court of Victoria.
- Cornerstone Hardware Brokers (Australia) Pty Ltd v Methven Australia Pty Ltd [2015] VSCA 128 (with S Horgan QC): for applicant in contract dispute.
- HIH Claims Support Limited v Insurance Australia Limited [2010] VSCA 255 (with Cliff Pannam QC): for applicant in proceeding involving contribution.

#### Supreme Court of Victoria

- Petris v Timelio Pty Ltd [2024] VSC 293: acted for the plaintiffs in relation to joinder application (jurisdiction of the Supreme Court under Fair Work Act 2009 and Judiciary Act).
- Salehi v Salehi [2023] VSC 535: acted for Plaintiff in complex property dispute (long trial).
- Hooper v Parwan Investments Pty Ltd & Anor (receivers appointed) [2023] VSC 227: successful appeal from an Associate Justice in relation to summary judgment.
- Re Blockchain Tech Pty Ltd [2022] VSC 564: application in relation to use of joint expert.
- Dolan v Dolan [2022] VSC 543: for plaintiff in caveat removal case.
- Yang & Anor v Yue & Ors [2022] VSC 489 (with P Collinson QC) and Yang & Anor v Yue & Ors [2021] VSC 102: for plaintiff in various applications (applicability of foreign law).
- Sacrifice Scooters v Goudie [2022] VSC 42: for plaintiff in defamation proceedings.
- I Minh Holdings Pty Ltd v Chuang [2021] VSC 760: application in relation to security for costs (third party costs).
- Samuel & Charlie Nominees Pty Ltd v Supreme Dental Grandview Pty Ltd [2021] VSC 589: costs dispute.
- White v Woodward [2020] VSC 59: for non-party in application for costs post-trial.
- Down Town Visuals v Panorama Investments (No 3) [2018] VSC 691; Panorama Investments Pty Ltd v Mellos (No 2) [2017] VSC 639; Down Town Visuals v Panorama Investments [2018] VSC 427; Panorama Investments v Mellos & Ors [2017] VSC 608 and others: for lender in relation to six complex debt recovery and related proceedings.
- Chapman v Chief Officer of Victoria State Emergency Service [2017] VSC 547: for plaintiffs in complex administrative law proceedings.
- Frilay v Walsh [2016] VSC 368: for defendant in dispute concerning the Guardianship and Administration Act 1986.
- Asset Flooring v North [2016] VSC 31: for respondent in appeal from Magistrates' Court of Victoria.

- McGuinness v ACM Group Ltd [2015] VSC 216: for appellant in appeal from Magistrates' Court of Victoria.
- Play Australia Pty Ltd v Papadimitriou [2014] VSC 608: for plaintiff in relation to debt / misleading and deceptive claim.
- Bernstone v Almack-Kelly [2014] VSC 358: for appellant in appeal from the Magistrates' Court of Victoria.
- McGarry v 14 Hiscock Street Pty Ltd & Ors [2012] VSC 573: for plaintiff in dispute as to nature of their equitable interest and dispute between caveators as to priority of that interest.
- Humphries v Southern Cross Ski Club [2012] VSC 232 (with Stephen O'Bryan QC): for plaintiff in relation to his removal from Ski Club.
- Powell v Athanasopoulos [2010] VSC 558 (with Stephen O'Bryan QC): for defendant councillor in proceeding brought by the Minister responsible under the Local Government Act to oust the sitting councillor.
- Galanopoulos v Moustafa & Ors [2010] VSC 380: for plaintiff in oppression proceedings.
- HIH Claims Support v Insurance Australia v Insurance Australia [2009] VSC 434 (with John Dixon SC (as he then was)): for plaintiff in proceedings involving contribution.

#### Coroners Court:

- Quartermain: Finding into death with inquest of Quartermain, Maxwell Charles (COR 2017 000872) [2022] VicCorC 28216 (11 November 2022): acted as counsel assisting in relation to the deaths resulting from a commercial plane crash (the Essendon Airport / DFO plane crash).

#### Building Appeals Board of Victoria

- Owners Corporation PS 419696X & Ors v Municipal Building Surveyor for the City of Melbourne [2023] VBAB 7: for Owners Corporation in appeal from decision of MBS regarding height and class of building.

#### County Court

- RW & ME Smith Pty Ltd v Boral Resources (Vic) Pty Ltd (No 2) [2024] VCC 144: acted for plaintiff on quantification of loss and damage on remission from Court of Appeal.
- RW & ME Smith Pty Ltd v Boral Resources (Vic) Pty Ltd [2022] VCC 729: for plaintiff at trial concerning termination of contract (successfully appealed, special leave refused by High Court).
- Ozemac Pty Ltd v Jacaknic [2022] VCC 290: for plaintiff in dispute concerning licence of premises.
- Barnes v 10 Fawkner Road Pty Ltd [2019] VCC 1769: for defendants in trial concerning property dispute.
- GM Fascia & Gutter PL v Trailer Trash Franchise Systems PL & Anor [2019] VCC 248: for plaintiff in a franchise dispute.
- Nguyen v Shah [2018] VCC 1340: for plaintiff in trial concerning indemnity.
- Auluau International (PVT) Ltd & Anor v GS Logistics Pty Ltd [2017] VCC 1204: for plaintiff in trial concerning sale of goods, conversion and unconscionable conduct.
- Cornerstone Hardware Brokers (Aust) Pty Ltd v Methven Australia Pty Ltd [2014] VCC 945: for plaintiff in trial of contract dispute.
- Apes With Wings Pty Ltd & Anor v St Kilda Arts and Events Company (Vic) Pty Ltd & Ors [2014] VCC 2023: for plaintiff in trial of property and leasing dispute.
- J Renee Nominees Pty Ltd v Mastrogianis & Anor [2013] VCC 1381: for purchaser in relation to trial concerning sale of property.
- Singleton v Marina Apartments [2012] VCC 1341: for purchaser in dispute concerning property (summary judgment obtained).
- Kingisland Meatworks and Cellars Pty Ltd v Piero Mastromanno and Bonjust Pty Ltd [2012] VCC 25: for defendant in trial of commercial dispute.
- Coles Group Property Developments Ltd v Hill [2011] VCC 683: for owner/plaintiff in leasing dispute.
- Mastromanno v Mastromanno [2011] VCC 327: for plaintiff in dispute regarding a trustee's entitlement to legal costs.
- Slater & Gordon Limited v Kliger Partners Lawyers & Ors [2010] VCC 0487: for plaintiff in dispute regarding entitlement to legal fees.
- Capital Finance Australia v Norton White Services (Vic) Pty Ltd [2009] VCC 0830: for defendants in trial of dispute in relation to leased equipment.

- Martin v Ian Fraser representing the Estate of Sally Anne Fraser [2009] VCC 683: for defendants in relation to trial concerning the applicability of the Civil Aviation (Carriers' Liability Act) 1959 to an aviation accident.

#### Magistrates' Court of Victoria

- Dover v NAFP (Financial Planning) Pty Ltd & Anor [2022] VMC 3: for defendants in "test case" concerning collapsed provider of financial services.

#### VCAT

- Owners Corporation PS 419696X v Goh (Owners Corporations) [2022] VCAT 899; Owners Corporation PS 41969X v Goh (No 3) (Owners Corporations) [2020] VCAT 1397 (10 December 2020); Owners Corporation PS 419696X v Goh (No. 2) (Owners Corporations) [2019] VCAT 1609: for applicant in complex OC dispute.
- DJP Scoria Pty Ltd v Mount Road Nominees Pty Ltd (No 2) (Building and Property) [2020] VCAT 552: for respondent in application to set aside injunction.
- O'Callaghan v Greater Shepparton CC [2020] VCAT 1345: for applicant in planning dispute.
- GDM Technologies Pty Ltd v Questco Pty Ltd (Building and Property) [2018] VCAT 544: for applicant in injunction application to restrain settlement of contract in relation to property.
- 109 Fitzroy Street Pty Ltd v Frelane Pty Ltd (Building and Property) [2017] VCAT 140 and 109 Fitzroy Street Pty Ltd v Frelane Pty Ltd (Building and Property) [2017] VCAT 1987: for tenant/applicant in trial of retail leases dispute and costs dispute.
- Florina Furniture Pty Ltd v Itrix Corporation Pty Ltd (Civil Claims) [2015] VCAT 543: for tenant/respondent in leases dispute.
- Hallmark Group (Aust) Pty Ltd v Owners Corporation PS300042M (Owners Corporations) [2014] VCAT 1268: for owner/applicant in OC dispute.
- St Kilda Arts & Events Company (Vic) Pty Ltd v Apes with Wings Pty Ltd (Building and Property) [2014] VCAT 1055: for owner/respondent in relation to property and retail leases dispute.
- Kounelis v Ross Horton Homes Pty Ltd (Domestic Building) [2014] VCAT 319: for builder/respondent in domestic building dispute.
- Tien v Pho & Anor (Real Property) [2013] VCAT 265: for owner/respondent in trial concerning Part IV of the Property Law Act.

- *Michell v Winch (Real Property)* [2012] VCAT 1524: for respondent in trial.
- *South East Timber Supplies Pty Ltd v Finrent Pty Ltd & Anor (Civil Claims)* [2010] VCAT 1051: for applicant against a financier in relation to a “bundled service” agreement.
- *Eugene Snopkowski v Lorraine Jones* [2008] VCAT 1943: for applicant in relation to a civil dispute with his former solicitor brought under Part 4.3 of the Legal Profession Act 2004, the first such case of its kind.

#### Court of Appeal, Supreme Court of New South Wales

- *Darkinjung Local Aboriginal Land Council v Darkinjung Pty Ltd (In Liq) & Anor* [2010] NSWCA 351 (with Rob Shepherd): for cross-claimant in relation to entitlement to legal fees.

#### Supreme Court of New South Wales

- *Darkinjung Local Aboriginal Land Council v Darkinjung Pty Ltd & Ors* [2010] NSWSC 132 (with Rob Shepherd): for cross-claimant in relation to entitlement to legal fees.

#### Federal Court of Australia

- *Waterproofing Technologies Pty Ltd v Perri* [2022] FCA 714: acted for respondent in joinder application.
- *Pleash (Liquidator), in the matter of SFG Relocations Pty Ltd v Fourie* [2022] FCA 552: acted for respondent in dispute concerning production of “books”.
- *Nevro Medical Pty Ltd v McKelvie (No 2)* [2020] FCA 1876: for employee respondent in dispute with former employer.
- *Domain Paper (Australia) Pty Ltd v Galloway* [2014] FCA 936 (with Tim North QC): acted for Applicant in dispute concerning legal professional privilege.
- *Transfield ER Futures Limited v The Ship ‘Giovanna Iuliano* [2012] FCA 548 (with Sam Horgan QC): for ship owner in relation to release from arrest of ship (order for release obtained).
- *Rio Tinto Alcan Inc and Ors v EF Maritime Navigations SA (with Sam Horgan QC)*: acted for Rio Tinto in relation to a claim under the Hague-Visby Rules concerning a shipment of alumina to Canada.

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