

JUSTIN CASTELAN

PROFILE

A. Personal Details

Qualifications: BA. LLB (Monash)
Clerk: Barristers Logistics, List T
Chambers: Melbourne Chambers
Level 10 Room 6,
235 Queen Street, Melbourne
VIC 3000
Phone: (03) 9640 3229
Fax: (03) 9640 3100
Mobile: 0402 890 699
Email: castelan@melbchambers.com.au
Admitted: 1 April 1996
Signed Bar Roll: 26 May 2000, Victorian Bar Roll No. 3359

B. Background

2000 - 2011 Member of the Victorian Bar.
1998 – 1999 Solicitor at Minter Ellison, Commercial Litigation and Media Law Departments.
1995 – 1998 Solicitor at Holding Redlich (admitted 1 April 1996), Media Law Department.
1989 – 1994 Monash University: Arts/ Law degree, and in 1992 was editor of *Lot's Wife*, student newspaper on campus.
1985 – 1988 Melbourne Boys' High School.

C. Publications and Seminars

Author of website and blog at www.DefamationWatch.com.au. *Defamation Cases from Australia and Around the World*.

Australian Media Law Reporter November 1995 Volume 3 No.1, casenote for *French v Hinch & Ors*.

Gazette of Law and Journalism: Casenote contributions in 1995: *Chakravarti v Advertiser Newspapers Ltd*; *Talia v DPP*; *David Syme & Co v Hill*.

Law Institute Journal: "Service of Proceedings Overseas" LIJ (2004) 78(4) at 54.

"*Victorian Courts: Where to Sue*": CPD seminars presented in 2007 to Bazzani Scully Brand and Harwood Andrews.

"*Proportionate Liability: To Join or Not to Join*": CPD Seminars presented in 2010 – 2011 to Lander & Rogers, Arnold Bloch Leibler, Holding Redlich and Harwood Andrews.

D. Selected Cases

Supreme Court of Victoria

1. *Derinean Pty Ltd v James & Son (Australia) Pty Ltd*, No. SCI 166652 of 2011: (forthcoming): Appeal from arbitral award, for the plaintiff.
2. *Jenman v McIntyre & 21st Century Academy Pty Ltd*, No. 325331 of 2010: (forthcoming): NSW Supreme Court: defamation, publication on internet including hyperlinks, for the defendants.
3. *Consolidated Waste (Vic) Pty Ltd v 80-82 Ordish Road Pty Ltd & Ors*, No. 5593 of 2009: (forthcoming): Breach of joint venture agreement, misleading or deceptive conduct, breach of fiduciary duties, for the plaintiff.
4. *Cossari-Smith Pty Ltd v P-Value Pty Ltd*, No. SCI 00982 of 2011: (resolved): Application for injunction, enforceability of charge, commercial property, for the second defendant.
5. *Yarra Valley Retail Centre Pty Ltd v Yakido Pty Ltd [2010] VSC 292*: Breach of option agreement, agency, for the defendant with N O'Bryan SC.
6. *YH Enterprise Pty Ltd & Ors v The Face Shop International Pty Ltd*, No. SCI 737 of 2010 (resolved): Breach of franchise agreements, breach of fiduciary duties, misleading or deceptive conduct, for the plaintiffs.

7. *Love v State of Victoria & VicRoads [2009] VSC 215*: Acquisition of land, negligence, for the first defendant with C. Caleo SC and L. Lo Piccolo.
8. *Hyro Ltd v Albertross Investment Properties Ltd, SCI 10339 of 2009* (proceeding dismissed): Application to set aside statutory demand, issues of foreign law, for the defendant.
9. *Farrell & Ors v Mulholland & Crea, No. 9511 of 2008* (proceeding dismissed): Political party, applicability of rules, application to strike out claim, for the second defendant.
10. *Burlock v Capital Finance Australia Ltd, No. 5574 of 2007* (Appeal dismissed): Breach of agreement, misleading or deceptive conduct, appeal from Magistrates Court decision, for the defendant.
11. *BTB Australia Pty Ltd v Marshall, No. 5244 of 2006* (resolved): Application seeking an order that the administratrix of a deceased estate be removed, for the plaintiff.
12. *Marshall v BTB Australia Pty Ltd [2004] VSCA 227* (appeal dismissed): Conversion, assessment of damages, appeal from judgment in the County Court, for the respondent.
13. *Berkeley International Concessionaires Pty Ltd v RIM Enterprises Pty Ltd & Anor, No. 9693 of 2004* (resolved): misleading or deceptive conduct, sale of business, for the plaintiff.
14. *Shklyarevsky v Vasiliou & Ors [2003] VSC 177* (Caveat removed): Removal of caveat, for the plaintiff.

Federal Court of Australia

1. *In the matter of Audiology Ultra Pty Ltd: Wong v Ivanidis, No. VID 891 of 2010* (resolved): application to wind up trustee company on just and equitable grounds, for the defendant.
2. *Golden Stallion Resources Pty Ltd v Edgestone Australia Pty Ltd, No. VID 79 of 2010* (statutory demand set aside): Application to set aside statutory demand, for the plaintiff.
3. *Delta Metallics Pty Ltd v Fightfit Pty Ltd & Cursio, No. VID 365 of 2010* (matter resolved): breach of trade mark, for the respondents.
4. *Plowman v AMP Capital Investors Ltd, V491 of 2004* (part heard then resolved in June 2007): Unconscionable conduct, undue influence, for the plaintiff with G.Golvan QC.

5. *Wu v Avin Operations Pty Ltd [2006] FCA 36; [2006] FCA 792* (default judgment obtained): application for judgment, for the plaintiff.
6. *Lamb (Liquidator of Performance Travel Pty Ltd) v Brice & Ors, No. VID 3229 of 2003* (judgment obtained): Application for indemnity by auditor, claim by liquidator under Corporations Act, for the third defendant.
7. *Synergy Australia Pty Ltd v Cho & Ors, No. V320 of 2004* (resolved): misleading or deceptive conduct, for the applicants.

County Court of Victoria

1. *McIntyre v Zadel, No. CI-11-01155* (forthcoming): defamation, for the plaintiff.
2. *Robinson (who sues as the legal representative of Maria Korp) v The Herald & Weekly Times Ltd & Ors, No. CI-05-02524* (resolved March 2007): Breach of confidence, defamation, appeared for the plaintiff.
3. *Evans v Nainie & Ors, CI-03-08424* (resolved February 2007): Defamation, qualified privilege: for the third defendant.
4. *McCleerey & Anor v CitiPower Pty & Anor, No. CI-08-01921*: (part heard in May 2010, resolved after 4 days trial): Fire, negligence, apportionable claim, for the first defendant. Opposed to Senior Counsel for the plaintiff. After cross-examination of the Plaintiff's expert witness, matter was resolved whereby Plaintiff consented to orders that the case be dismissed with no order as to costs.
5. *Decoraddo v Knowles [2010] VCC 511*: (10-day trial) Breach of loan agreement, handwriting expert, for the defendant.
6. *Australian Posters Pty Ltd v Geography Teachers Association of Victoria Incorporated, No. CI-08-00329* (Judgment obtained in April 2008): Breach of agreement, appeared for the plaintiff.
7. *Porsche Centre Melbourne Pty Ltd v 3 Point Motors Pty Ltd & Anor, No. CI-04-01114*: (resolved May 2006): Negligence, agency, for the first defendant.
8. *Beriman Consulting Pty Ltd v Elders Insurance Ltd, No. CI-03-00548* (resolved February 2005): Breach of agreement, appeared for the defendant.
9. *Lake Wyangan Bulk Haulage Pty Ltd v Holkener & St Kilda Rent A Car Pty Ltd, CI-03-00219* (4-day trial, judgment delivered 19 August 2005): Negligence, insurance, for the plaintiff.
10. *BTB Australia Pty Ltd v Marshall (3-day trial, County Court of Victoria), No. 9705861* (judgment delivered November 2002): Conversion, damages, for the

plaintiff. Damages awarded. Defendant then appealed to the Full Court of the Supreme Court.

11. *VWA v NYK Stolt Shipholding Inc [2003] VCC 12; [2002] VCC 17*; Application for Indemnity, negligence, application to set aside service of proceedings overseas, for the plaintiff.

Other appearances

1. Commercial Arbitrations:

- *PT Mayora Indah Tbk v Ecoval Dairy Trade Pty Ltd*, arbitration conducted pursuant to MPC Arbitration Regulations in The Netherlands (resolved), appeared for the applicant;
- *Access Gaming Pty Ltd v Tatts.com Pty Ltd*: breach of agreement, for the applicant.
- *Fishing Pty Ltd v Melbourne IT Ltd*: dispute regarding registration of domain name, appeared for the applicant.

2. Appeared before the Australian Broadcasting Authority on an application by 3AC Australian Melbourne Chinese Radio Incorporated for a community broadcasting licence.

3. Conducted examinations of directors of companies on behalf of ASIC pursuant to section 19 of the *Australian Securities Investment Commission Act 1981* (Cth).

4. Many appearances in trials in VCAT and the Magistrates Court, including having appeared in trials conducted over numerous days for:

- *Capital Finance Ltd*: breaches of agreements, agency;
- *Commsec Ltd*: breach of options agreement, misleading or deceptive conduct;
- *Michaels Camera Video-Digital*: fitness for purpose of goods;
- *Kostecki Engine Centre Pty Ltd*: fitness for purpose of goods;
- *Donald Cant Watts Corke Pty Ltd*: breach of agreement, negligence;