

# Anthony Strahan QC

## Aickin Chambers

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## Areas of Practice

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- Appellate
- Arbitration
- Banking and Finance
- Bankruptcy and Insolvency
- Class Actions and Representative Proceedings
- Commercial Law
- Common Law (major torts)
- Consumer Law
- Contractual Disputes
- Corporations and Securities
- Defamation and Media
- Disciplinary
- Equity and Trusts
- Insurance
- Public law, Administrative Law, Judicial Review
- Real Estate
- Royal Commissions

## Educational Qualifications

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B.A. (Melb); LL.B. (Hons) (Melb); LL.M. (Melb)

## **Professional Experience & Memberships**

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<b>October 2019</b>	Federal Court of Australia Commercial & Corporations National Practice Area User Group
<b>29 November 2018:</b>	Appointed Senior Counsel (Queen’s Counsel, 2 May 2019)
<b>October 2009 – October 2010</b>	Victorian Bar Council
<b>20 November 2003:</b>	Signed Victorian Bar Roll
<b>2001 - 2003:</b>	Solicitor Freshfields Bruckhaus Deringer, London, UK.
<b>1999- 2001:</b>	Minter Ellison, Melbourne, Victoria.
<b>4 October 1999:</b>	Admitted to practice as a Barrister and Solicitor of the Supreme Court of Victoria.

## **Cases**

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### **Overview:**

Experienced advocate with an extensive practice as leading counsel at trial level and on appeal. Practises in the State Supreme Courts and the Federal Court of Australia in administrative and public law, commercial law, corporations’ law, insolvency, insurance and in major torts cases.

Significant experience in media and defamation cases. Also experienced acting for and against regulators civil penalty proceedings.

Experience in class actions, representative proceedings, multi-jurisdictional litigation, freezing orders, fraud and asset tracing claims, disciplinary proceedings and stay applications.

### **Selection of Cases:**

#### ***Administrative Law***

*Jidah Clark & Ors v Minister for the Environment* [2019] FCA 2027 – Judicial review application under the *AD(JR) Act* relating to refusal by Commonwealth Minister for Environment to make a protection declaration under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

*Celsius Fire Services v Domain Aged Care* [2019] (reserved) – Judicial review proceeding in the Supreme Court of Victoria arising out of a prosecution by the under the *Occupational Health and Safety Act 2004* (Vic).

*Robb and Dale v Chief Commissioner of Police* [2005] VSC 310 – Judicial review proceeding in the Supreme Court of Victoria arising from the decision by Chief Commissioner of Police to dismiss officers.

### **Arbitration**

*Brazis v Rosati* [2014] VSC 385 – Application under s 8 of the *Commercial Arbitration Act 2011* (Vic) for a stay of oppression proceedings in the Supreme Court of Victoria in favour of arbitration proceedings. Involved consideration of whether an oppression application under the *Corporations Act 2001* (Cth) could be the subject of an arbitration agreement.

*AED Oil Ltd v Puffin FPSO Ltd* (2010) 27 VR 22 – Application for stay of court proceedings in the context of the *International Arbitration Act 1974* (Cth).

Significant international arbitration in relation to oil and gas interests [2011].

### **Banking and Finance**

*Fuji Xerox Australia Pty Ltd v Thoi* [2018] VSC 483 – Dispute in the Supreme Court of Victoria between a first and second ranking secured creditor. Involved principles relevant to priority, recovery available to secured creditor and interpretation of contract.

*Oswal v ANZ Banking Limited* [2016] (settled) – Large and complex lending dispute in the Supreme Court of Victoria involving enforcement of securities and allegations of undue influence.

*Xiao Hui Ying v Perpetual Trustees Victoria Ltd* [2015] VSCA 124; *Perpetual Trustees Victoria Ltd v Xiao* [2015] VSC 21 – Complex dispute in the Supreme Court of Victoria and the Court of Appeal relating to a lender enforcing a secured interest in circumstances involving fraud and the creation of a resulting trust.

*Beerens v Bluescope Distribution Pty Ltd* (2012) 39 VR 1 – Dispute in the Court of Appeal of the Supreme Court of Victoria in relation to enforcement of a guarantee based on allegations of illegitimate pressure amounting to economic duress, unconscionable conduct, and contravention of an implied obligation of good faith.

*Zhou v Kousal* (2012) 35 VR 419 – Proceeding in the Supreme Court of Victoria relating to execution of judgment, sale of land, allegations of unconscionable conduct arising from unreserved sale pursuant to a writ of *feri facias*.

### **Class Actions**

*Erin Downie v Spiral Foods Pty Ltd & Ors* [2015] (Settled) – Multi-jurisdictional product liability class action in the Supreme Court of Victoria involving international parties.

*Liesfield v SPI Electricity Pty Ltd* [2015] (Settled) – Murindindi bushfire proceeding. Large and complex class action in the Supreme Court of Victoria.

## ***Corporations Law/Insolvency***

*Finance & Guarantee Company Pty Ltd v Auswild* [2019] VSC 664 – Lengthy and complex trial in the Supreme Court of Victoria involving allegations of dishonesty and breaches of directors’ duties.

*Re ACN 004 410 833 Ltd (formerly Arrium Ltd, Mentha v Epic Energy South Australia Pty Ltd*, [2017] FCA 1530; *Re ACN 004 410 833 Ltd (Formerly Arrium Ltd) Mentha v Epic Energy South Australia Pty Ltd (No 2)*, [2018] FCA 925; *Re ACN 004 410 833 Ltd (formerly Arrium Ltd), Rexel Electrical Supplies Pty Ltd v Mentha (Administrator)* (2018) 133 ACSR 236; *Re ACN 004 410 833 Ltd (formerly Arrium Ltd), Rexel Electrical Supplies Pty Ltd v Mentha (Administrator) (No 2)* [2019] FCAFC 37 – Complex dispute in the Federal Court of Australia and Full Court between financiers, deed administrators and creditors arising from the insolvency Arrium Limited. The dispute involved construction of Deeds of Company Arrangement and related deeds and the application of the statutory regime.

*Guildford International Group Pty Ltd v Aviation 3030 Pty Ltd* [2016] (settled) – Dispute in the Federal Court of Australia involving alleged breaches of duty in connection with a Managed Investment Scheme relating to land banking.

*Groeneveld Australia Pty Ltd v Wouter Nolten* [2014] – Complex and lengthy dispute in the Supreme Court of Victoria and Court of Appeal arising from breaches of duty by the Australian managing director of a multi-national business in the transport industry. Involved (among other things) issues of res judicata, breach of fiduciary duty, liability to account.

*S E Vineyard Finance Pty Ltd (Receivers and Managers Appointed) v Casey* [2011] VSC 403 – Dispute in the Supreme Court of Victoria arising out the collapse of a Managed Investment Scheme. Allegations of misleading and deceptive representations in a prospectus, unconscionable conduct, fiduciary relationships, equitable damages and constructive trusts.

## ***Defamation, Media and Reputation Management***

*Setka v Abbott and anor* (2014) 44 VR 352 – Significant defamation dispute between prominent individuals (acted for media defendant). Complex defamation dispute in the Supreme Court of Victoria and Court of Appeal in relation to defences taken by defendants including justification, contextual truth, and permissible variants of imputations

*Trkulja v Dobrijevic* [2013] VSC 261 – Defamation dispute in the Supreme Court of Victoria involving *Limitation of Actions Act 1958*, ss 5(1AAA) and 23B.

*Soultanov v The Age Ltd & Anor* (2009) 23 VR 182 – Defamation dispute in the Supreme Court of Victoria relating to whether words capable of defamatory meaning pleaded by plaintiff and the defence of honest opinion.

*Herald and Weekly Times Pty Ltd v A* (2005) 160 A Crim R 299; [2005] VSCA 189 Dispute in the Supreme Court of Victoria arising out of suppression orders.

*Li v Herald & Weekly Times Pty Ltd* (2005) 13 VR 211 – Defamation dispute in the Supreme Court of Victoria relating to a defence of justification.

*Re an Application by the Chief Commissioner of Police (Vic)* (2005) 214 ALR 422; (2005) 79 ALJR 881 – Dispute in the High Court of Australia arising out of suppression orders made to protect confidentiality of certain police investigative techniques. Raised principles of open courts and justice.

### ***Disciplinary***

*Kennedy v Medical Practitioners Board of Victoria* (2008) 21 VR 292 – Proceeding in the Supreme Court of Victoria involving the jurisdiction of the Medical Practitioners Board to inquire into alleged unprofessional conduct of practitioner.

### ***General Commercial***

*Investec Bank (Aust) Ltd v Gadens Lawyers (a firm)* [2014] VSCA 40 – Dispute in the Supreme Court of Victoria Court of Appeal in relation to bailment.

*TPI Enterprises Ltd v Poppy Growers Tasmania Inc* [2014] VSC 518 – Dispute in the Supreme Court of Victoria in relation to alleged misleading and deceptive conduct and whether representations made in a political context capable of being in trade or commerce for the purposes of section 18 of the Australian Consumer Law.

*Coastal Seafarms Holdings Pty Ltd and Anor v Port of Portland Pty Ltd* [2010] VSC 167 – Dispute in the Supreme Court of Victoria relation to effect of proportionate liability provisions.

*Biota Scientific Management Pty Ltd & Anor v Glaxo Group Ltd & Ors* [2008] (Settled) – Significant and complex dispute in the Supreme Court of Victoria involving breaches of contract arising in an international context.

### ***Insurance***

*Bolitho v Banksia Securities Ltd and ors* [2017] (Settled) – Acting for underwriters in the Supreme Court of Victoria in connection with a coverage dispute arising out of a class action brought on behalf of creditors of Banksia Securities Limited.

*Jaques v AIG Australia Ltd* [2014] VSC 269 – Dispute in the Supreme Court of Victoria involving construction of the terms of an insurance policy.

*VWA v Concept Hire Ltd* (2009) 24 VR 695 – Dispute in the Supreme Court of Victoria involving construction of the terms of a statutory insurance policy and related legislation.

### ***Regulatory proceedings***

*ASIC v Wooldridge* [2019] FCAFC 172; *Lewski v Australian Securities & Investments Commission (ASIC)* (2016) 246 FCR 200; (2016) 337 ALR 1; (2016) 114 ACSR 405; *ASIC v Australian Property Custodian Holdings Limited (Receivers and Managers appointed) (in liquidation) (Controllers appointed)* [2014] FCA 1308; *ASIC v Australian Property Custodian Holdings Ltd (Receivers and Managers appointed) (in liq) (Controllers appointed) (No 3)* [2013] FCA 1342 – Complex proceedings brought by ASIC in the Federal Court of

Australia and Full Court seeking civil penalties against directors arising from the collapse of a Managed Investment Scheme operating the Prime Trust aged care real estate trust.

*ASIC v GEM Management Group Pty Ltd* [2017] (Settled) – Application by ASIC in the Federal Court of Australia to wind up an alleged non-compliant Managed Investment Scheme.

*ASIC v Ingleby* [2013] VSCA 49 – Proceeding by ASIC in the Supreme Court of Victoria arising out of the AWB Royal Commission seeking civil penalties against a director of AWB. In the Court of Appeal, the dispute related to the penalty agreed between ASIC and the director, and whether the trial judge had erred in refusing to accept that agreed penalty.

### ***Royal Commissions***

Acted for a major service provider in relation to the Royal Commission into Aged Care Quality and Safety (2019).

### **Referees**

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Available on request

January 2020