

MARK STUNDEN

YEAR OF CALL: 1996

Mark Stunden is a senior Junior Barrister having been in private practice at the Queensland Bar since June 1996.

He has considerable experience in conducting major corporate and commercial litigation and mediations. He has been retained in most types of disputes involving corporate clients including regulatory inquiries and investigations for and against ASIC, and various stakeholders in the unsecured and secured insolvency market.

He has acted and continues to act for many industry leading clients in a number of industries including: Accounting and Financial Services; Agribusiness; Banking and Securities; Construction and Property Development; Corporate Advisory and Insolvency; Franchising; Insurance and Professional Indemnity; the not-for-profit sector and private and charitable trusts.

He has been retained by a National Accounting Practice and other large organisations to both enforce and challenge non-solicitation and non-competition covenants relating to senior employees and in adverse action claims.

He has advised on cy-pres schemes of administration and related directions for charitable trusts and acted and appeared on the appointment of statutory trustees and in numerous estate disputes.

MEDIATION PRACTICE

Mark is also a Nationally Accredited Mediator with extensive experience in commercial dispute resolution of substantial and complex commercial disputes.

He has been appointed by Industrial Associations and Employer/Employee organisations to mediate unlawful coercion and workplace rights disputes.

He has mediated banker and customer disputes involving farm debt pursuant to the Qld Farm Finance Strategy and recovery of possession disputes where allegations of breach of the Banking Code of Practice and National Credit Code are in issue.

He is regularly appointed and accepts appointment as mediator in the following areas:

- Disputes between private lenders and borrowers;
- Professional Negligence;
- Employment and Industrial disputes;
- Family Law disputes;
- Disputes between the ATO and debtors/taxpayers;
- Shareholder and director disputes;
- Construction and commercial disputes;
- Trust and estate disputes (including TFM proceedings).



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AREAS OF PRACTICE

Alternative dispute resolution | Banking and securities | Building and construction | Contract and commercial disputes (including franchising and partnership disputes) | Corporate Law (including Governance and Insolvency) | Employment (including dismissals, adverse action, discrimination, safety and workers compensation statutory appeals) | Equity and Trusts | Insurance | Judicial Review & Administrative | Professional Conduct/Negligence | Succession and Estates | Trade Practices | Family Law

SELECTED CASES

Rocky Organic Property Pty Ltd & Anor v. Camm & Anor QSC BS5149/17(April 2018)
Summary judgment: contractual terms, best endeavours to fulfil conditions precedent.

Sorbie as Trustee for The Sorbie Holding Trust v. Sorbie (A Bankrupt) QSC BS 961/18 (March 2018)
Trusts & trustees: directions to commence proceedings.

Mirvac Queensland Pty Ltd v. Chief Executive of the Dept. of Aboriginal and Torres Strait Islander Partnerships QSC BS12267/17 (February 2018)
Judicial review and administrative law: aboriginal cultural heritage management plan.

Lynch v. Advance tech Pty Ltd (In Liq) QSC BS8039/17 (August 2017)
Corporations: leave to proceed, product liability claims under Part 3-2 Division 1 (Consumer Guarantees Regime) and Part 3-5 (Safety Defect Provisions) of the ACL.

Whittaker v. Crowe Horwath (Aust) & Ors FCCA BRG 58/2017(June 2017)
Adverse action.

Crowe Horwath (Aust) Pty Ltd v. Whittaker District Court 493/17 (June 2017)
Employment: Restraint of trade.

R. George Investments Pty Ltd & Anor v. Andagali & Ors [2017] QSC 116
Corporations: summary judgment, whether prior indebtedness was extinguished by operation of a deed of company arrangement, perfection by registration of security interest.

Louden v. Loudon QSC BS 5955/17 (July 2017)
Appointment of statutory trustees for sale.

Queensland Nickel Pty Ltd v Warratah Coal Pty Ltd & China First Pty Ltd. (2016)
Corporations: voidable transactions.

Nalos Pty Ltd & Woolworths Limited v. Bird Group Pty Ltd; Watpac Construction Pty Ltd; Watpac Limited & Ors [2015] QSC 174
Building & Construction, Professional Negligence: leave to amend after limitation period.

Federal Court QUD 127/2013 Vantage Holdings Pty Ltd v. Huang (June 2015)
Corporations: insolvent trading.

Body Corporate for Rosegum Villas v. The Queensland Building and Construction Commission QCAT: GAR 319-11 (August 2014)

Administrative Review: subsidence and settlement claim under the Home Insurance Scheme.

Bailey as Trustee for the Dae Sa Charitable Trust v. Khoo QSC BS10553/13(December 2013)

Charitable Trusts: removal of trustee.

Lauder Pty Ltd v. Angor Investments Pty Ltd & Hutchison [2013] QSC 175, 16 July 2013. Recovery of possession of commercial premises: whether unilateral changes to lease documentation had been accepted by the landlord prior to banking the tenant's cheque for arrears of rent by landlord's agent.

Harwood v. Greig as liquidator of Octaviar Financial Services Pty Ltd ats Challenger Managed Investments Ltd & Colonial First State Investments Ltd (July 2013)

Corporations: proofs of debt.

Re Sarantinos, Gothard and Michael as administrators of the RPG Group of Companies BS11200/12 (18 December 2012)

Corporations: extinguishment of security interests and the passing of title of equipment.

Glasscock v. The Trust Company (Australia) Pty Ltd [2012] QSC 0159 (13 February 2012)

Trustee's directions from Court: whether two of three executors, acting alone, ought to commence proceedings to set aside an inter vivos transfer of property by the deceased to another beneficiary where the transfer was contrary to the deceased's longstanding testamentary intention and where the deceased was elderly, physically enfeebled and suffering from long term dementia.

Rural Health Care Pty Ltd v. GP Quality Care Pty Ltd & Ors BS 11728/11(10 January 2012) Resisting appointment of a provisional liquidator and interlocutory asset preservation orders.

Fab Investments Co Ltd v. McCann & Killer as liquidators of Yellow Sun Mines (Operations) Pty Ltd (In Liq) & Ors BS4596/11 (September 2011)

Corporations: oppression, dilution of shareholding and breach of pro-rata pre-emptive rights under the company's constitution.

Ng v. Van de Velde [2011] FCAFC 35

Appellate, Corporations: transfer of trust property voidable by s.588FE and void by s.468 of the Corporations Act 2001.

Greig & Anor v. Octaviar Limited (Receivers and Managers Appointed) (In Liquidation) & Anor [2010] QSC 347

Liquidator's remuneration and costs.

Bradnam's Windows and Doors Pty Ltd v. Offermans [2011] QCA 106 (20 May 2011)

Appellate, Corporations: whether the defence disclosed a cause of action or valid defence to liquidator's claim for an unfair preference and the validity of a charge as against the liquidator.

ASIC v. Mettam QSC (3650 of 2010)

Corporations: interlocutory and final orders restraining an unlicensed securities business and the promotion and operation of an Advance Fee Scheme.

Allied Gold Limited v. LJ Consulting Pty Ltd QSC BS6448/2010 (2 July 2010)
Commercial Equity: injunctions, contract.

Hamilton Australia Pty Ltd v. Wood & Another BS 11164/10 (19 October 2010)
Corporations: commercial equity, injunctions.

Hydrofibre Pty Ltd v. Australian Prime Fibre Pty Ltd [2009] QSC 171
Contract: interlocutory injunctions.

Commonwealth DPP v. Edwards: (June 2008)
Corporations: criminal sentencing.

Pressview Pty Ltd v. Oyster Cove International Pty Ltd & Chong & Ors QSC BS694/08: (September 2008)
Corporations: derivative action, directors duties.

Roberts v. Schokman NSWCA 40744/06 heard on 24 September 2007
Leave to appeal: contract, liability for sub-division development costs and the proper construction of special conditions.

ASIC v. Georgiadis & Ors BS7611/07 (29 August 2007)
Corporations: travel restraint, injunctions.

RE: Pioneer Permanent Building Society Limited BS 8259/06: Scheme of Arrangement/merger with the Bank of Qld Ltd.

Craddock v. Sweeney [2005] QSC 037
Corporations: review of decision to disallow a proof of debt.

Surfers Paradise Investments Pty Ltd (in liq) v. Davoren Nominees Pty Ltd [2004] 1 Qd R 567.
Appellate, Corporations: secured creditor, election to surrender security.

MIM Holdings Limited [2003] QSC 1
Corporations: approval of a scheme of arrangement.

Barnes v. Ryan [2003] QCA 292
Appellate: contract of guarantee, joint venture.

PMB Australia Ltd v. MMI General Insurance Ltd & Ors [2002] QCA 361.
Appellate: contract of insurance, business interruption, doctrine of proximate cause.

GM Maloney & Anor as Liquidator of Fondside Australia Pty Ltd v. Dunmore Sand & Soil Pty Ltd [2001] QDC 327
Corporations: unfair preference claim.

ASIC v. Singapore Liaison Pty Ltd [1999] FCA 350
Corporations: interlocutory injunctions requiring disclosure of and freezing of assets.

CAREER

1996 Barrister, Queensland

1991 Solicitor, Queensland

MEMBER

Bar Association of Queensland

New South Wales Bar Association

ARITA Australian Restructuring Insolvency and Turnaround Association

QUT career mentoring scheme

Board member RSPCA Qld June 2010 - April 2011.

AWARDS & RECOGNITION

2018 Doyle's Listing of Leading Mediators – Queensland.

2016 Doyle's Listing of Recommended Queensland Commercial Litigation and Dispute Resolution Junior Counsel.

2015 Doyle's Listing of Recommended Queensland Commercial Litigation and Dispute Resolution Junior Counsel.

2007 Queensland Dux: Company Secretarial Practice and Meetings (Chartered Secretaries Australia) (Semester 1) (joint winner)

1996 James Archibald Douglas Advocacy Prize: Bar Practice Course (joint winner)

QUALIFICATIONS

2000 – Present Nationally Accredited Mediator

2008 Graduate Diploma – Applied Corporate Governance: Governance Institute of Australia (formerly Chartered Secretaries Australia) comprising study in: Corporate Administration; Corporate Governance; Corporate Financial Management and Company Secretarial Practice.

1998 Master of Laws: Queensland University of Technology

1989 Bachelor of Laws: Queensland University of Technology

INTERESTS

Masters Rowing – University of Queensland Boat Club

Rowing Coaching – Brisbane Grammar School

Cycling

**LIABILITY LIMITED BY A SCHEME APPROVED UNDER PROFESSIONAL STANDARDS LEGISLATION*