

CURRICULUM VITAE

David Geoffrey Healey

Contact details

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Admissions

Admitted as a legal practitioner in November 1994, commenced practice as a solicitor in January 1995

Commenced practice at the bar in May 2009

Areas of practice

My areas of practice include: securities class actions, equity, trusts, company law, insolvency, contract, commercial law, banking and finance, administrative law, constitutional law, regulatory and trade practices and competition law.

Some of the matters in which I have been briefed include:

- Advising and appearing for Consolidated Pastoral Company Pty Ltd in *In the matter of Sun Cable Pty Ltd (Administrators Appointed); McGrath and Sun Cable Pty Ltd (Administrators Appointed) v Consolidated Pastoral Company Pty Ltd* [2023] NSWSC 1037 relating to a stay of proceedings to implement an alternative dispute resolution clause and whether consent had been unreasonably withheld or delayed in relation to the assignment and novation of option deeds. Briefed by McCullough Robertson, led by Nick Kidd SC.

- Advising and appearing for ASIC in *ASIC v Westpac Banking Corporation* (2022) 159 ACSR 381; 407 ALR 1; [2022] FCA 515 relating to financial services contraventions. Briefed by ASIC, led by Lincoln Crowley QC.
- Advising and appearing for ASIC in *ASIC v Doyle, Re Nuix Limited* (FCA 2020, 2021) in relation to allegations of insider trading and travel restraints. Briefed by Australian Government Solicitor, unled.
- Advising and appearing for Teledyne FLIR, LLC in *Cirrus Real Time Processing Systems Pty Ltd v Hawker Pacific Pty Ltd* (FCA 2021) in relation to discovery of documents controlled under US *International Traffic in Arms Regulations* and the *Arms Export Control Act*. Briefed by Hopgood Ganim, unled.
- Advising and appearing for the plaintiffs in the Dick Smith class actions (two concurrent class actions heard together) In *Findlay v DSHE Limited & Deloitte Touche Tohmatsu* and *Mastoris v DSHE Limited & Deloitte Touche Tohmatsu* (FCA). Briefed by Corrs Chambers Westgarth and Johnson Winter & Slattery, led by Peter Brereton SC and Chris Withers SC (Corporations, class actions).
- Advising and appearing in relation to directors' access to documents, breach of shareholder agreement, and related matters in *Elevate Brandpartners Limited (UK) v Hammond* (FCA) and *Hammond v Quayeyewear Pty Ltd* (FCA): see *Hammond v Quayeyewear Pty Ltd* (2019) 141 ACSR 434, [2019] FCA 2207, *Elevate Brandpartners Ltd (UK) v Hammond* [2019] FCA 1103, *Elevate Brandpartners Ltd (UK) v Hammond (No 2)* [2019] FCA 1598, *Elevate Brandpartners Ltd (UK) v Hammond (No 3)* [2019] FCA 1788, *Elevate Brandpartners Ltd (UK) v Hammond (No 4)* [2020] FCA 421. Briefed by Gagens Lawyers, led by Robert Newlinds SC.
- Advising and appearing for the trustee liquidator (KPMG) in a complex corporations and trust insolvency setting on the collapse of a large securities broker in *In the matter of BBY Limited (receivers & Managers Apptd) (in liq)* [2021] NSWSC 1514, *In the matter of BBY Limited (receivers & Managers Apptd) (in liq)* [2021] NSWSC 1299, *In the matter of BBY Limited (Receivers & Managers Apptd) (in liq) (No 2)* (2018) 363 ALR 492, [2018] NSWSC 346 and

in (No 3) [2018] NSWSC 1718. Briefed by Ashurst Australia, unled (Corporations, equity, trusts, contract).

- Advising a large multinational law firm on concurrent wrongdoer claims in the *Webb v GetSwift Limited* class action (Corporations, class actions, trade practices).
- Advising and appearing for Citibank in the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*. Briefed by King & Wood Mallesons, led by Kelly Rees SC (Royal commissions, banking, administrative law).
- Advising and appearing for the plaintiffs in securities class actions proceedings in *Cason Investments Pty Ltd v Cao & Pitcher Partners (No 2)* [2018] FCA 527. Briefed by Squire Patton Boggs, led by Michael Lee SC (Corporations, class actions).
- Advising and appearing for the scheme administrator of the Arasor Settlement Distribution Scheme in various applications and during the interlocutory stages of the appeal to the Full Federal Court in *Caason Investments v International Litigation Partners No 3 Ltd* [2018] FCAFC 176 (Practice & procedure, class actions).
- Advising and appearing for ASIC in *ASIC v Macquarie Investment Management Limited* (2016) 115 ACSR 368, [2016] NSWSC 1184. Briefed by ASIC, led by Jeremy Clarke SC (Corporations, managed investments, civil penalty).
- Advising and appearing for the liquidators in relation to reinsurance contracts in *Amaca Pty Ltd v HIH Casualty and General Insurance Ltd (in liq and subject to schemes of arrangement)* [2015] NSWSC 923. Briefed by Ashurst Australia, unled (Corporations, reinsurance, insolvency).
- Advising and appearing for the financier in *Hudson v ARAP 1 (NSW) Pty Ltd* (2015) 90 NSWLR 477, [2015] NSWCA 126. Briefed by Kemp Strang, led by Mark Ashurst SC (Banking & Finance, real property).

- Appearing in a shareholders and financing dispute in *BB Retail Capital Pty Limited v Alexandria Landfill Pty Ltd* [2014] NSWSC 1363 and [2014] NSWSC 1499. Briefed by Hopgood Gamin, led by Bret Walker SC (Corporations, contract, banking & finance).
- Appearing in a shareholder dispute in a renewable energy project in *Graphite Energy Ltd v Lloyd Energy Systems Pty Ltd (subject to deed of company arrangement)* [2014] NSWSC 1326. Briefed by Bridges Lawyers, unled. (Corporations, contract, banking & finance, practice & procedure).
- Advising and appearing for the as Administrator in *Dean-Willcocks v Cortez Enterprises Pty Ltd & Others; Re Cancer Care Institute of Australia Pty Ltd (in administration)* (2013) 16 BPR 31,529, [2013] NSWSC 37. Briefed by Bridges Lawyers, unled. (Corporations, real property.)
- Advising and appearing for the defendant in *Awad v Twin Creeks Properties Pty Ltd* [2011] NSWSC 920, [2011] NSWSC 921, [2011] NSWSC 922, [2011] NSWSC 923 and on appeal in *Awad v Twin Creeks Properties Pty Ltd* [2012] NSWCA 200. Briefed by Surry Partners, led by John Robson SC (Trade practices).
- Appearing in lengthy and complex class action proceedings for PricewaterhouseCoopers in *Kirby v Centro Properties Limited; Vlachos v Centro Properties Limited; Stott v Centro Retail Limited* (FCA, settled after 10 week hearing). Briefed by King & Wood Mallesons, led by Richard McHugh SC and Cameron Moore SC (Corporations, trade practices).
- Advising and appearing for Deutsche Bank AG *In the matter of MF Global Australia Limited* (2012) 267 FLR 27, [2012] NSWSC 994 and [2012] NSWSC 1426. Briefed by King & Wood Mallesons, led by Francis Douglas QC (Corporations, equity, contract, insolvency.)
- Advising and appearing for Westpac, CBA, CBA Corporate Services, ANZ, NAB, Bank of America, Citibank and Mizuho Corporate Bank in a complex dispute between the receivers / banks and the liquidators upon the collapse of ABC Learning Centres in *ZYX Learning Centres Limited (formerly ABC*

Learning Centres Limited) (Receivers and Managers Appointed) (In liquidation) v CBA Corporate Services (NSW) Pty Limited & Others (FCA, settled). Briefed by Henry Davis York, led by John Sheahan SC (Corporations, insolvency, equity).

- Advising and appearing for Telstra Corporation Limited in *Bryant v Telstra Corporation Limited* [2012] NSWCA 330. Direct brief, unled (Trade practices, leave to appeal).
- Advising and appearing for the Alinta Finance Australia Group: *In the matter of Alinta Finance Australia Ltd* [2011] NSWSC, Barrett J. This was a major corporate restructuring and refinancing implemented by way of a section 411 scheme. Briefed by Mallesons Stephen Jaques, led by Ian Jackman SC. (Corporations, banking & finance, contract, trust, judicial advice.)
- Appearing for Telstra Corporation Ltd in Full Federal Court appeal: *Optus Networks Pty Ltd v Telstra Corp Ltd* (2010) 265 ALR 281, [2010] FCAFC 21. Briefed by Mallesons Stephen Jaques, led by Robert Newlinds SC (Equity, contract, confidential information).
- Advising and appearing for Telstra Corporation Ltd in various interlocutory proceedings in *Optus Networks Pty Ltd v Telstra Corporation Ltd*. Briefed by Mallesons Stephen Jaques either unled or led by Ian Pike (Equity, contract, confidential information).
- Appearing for defendant in application to dissolve freezing order in *TZ Ltd v ZMS Investments Pty Ltd* [2010] NSWSC 196. Briefed by Somerset Ryckmans, led by Greg Sirtes SC (Corporations, equity).
- Advising and appearing for Telstra Corporation Ltd in Application for Special Leave to Appeal: *Telstra Corp Ltd v Optus Networks Pty Ltd* [2010] HCATrans 197. Briefed by Mallesons Stephen Jaques, led by Alan Archibald QC. (Equity, contract, confidential information).
- Appearing for the Minister in *SZYZN v Minister for Immigration and Citizenship* [2010] FMCA 323. Briefed by Clayton Utz, unled. (Administrative law.)

- Advising and appearing for the State of New South Wales in *ACCC v Baxter Healthcare Pty Ltd* [2010] FCA 929, on remitter. Briefed by NSW Crown Solicitor, led by Jeremy Kirk (Administrative law, competition law, costs).
- Appearing for the Minister in *SZNWB v Minister for Immigration and Citizenship* [2009] FMCA 1202. Briefed by Clayton Utz, unled. (Administrative law.)

Qualifications

Undergraduate: Bachelor of Economics (Accounting and Commercial Law majors), University of Sydney (1989)

Postgraduate: Diploma of Law, Solicitors Admission Board, NSW (1993)
Graduate Diploma of Legal Practice, College of Law (1994)

Memberships

Commercial Law Association

Australian Association of Constitutional Law

Frances Forbes Society for Australian Legal History

New South Wales Bar Association

Employment History

Mallesons Stephen Jaques, Sydney (1995 to 2001)

Dispute Resolution Group (1996-2001), Mergers & Acquisitions (1995)

- Worked for Julie Ward (now Ward P, NSWCA) from 1996-2001
- Worked for Ashley Black (now Black J, NSWSC) from 1996-2000
- Main areas of work: corporations, equity, contract, real property
- Appointed as a Senior Associate in 1999, Special Counsel in 2008

Clifford Chance, London (2001-2003)

Senior Solicitor in the Corporate Group.

Examples of some of the major deals of which I had primary carriage include:

- Lend Lease – purchase of a Luxembourg based property fund (\$A 1 billion);
- Lend Lease – management buyout of management vehicle for several international property funds;
- Britannic Insurance plc – trade sale and management buyout of a securitised mortgage origination business (GBP 3 billion);
- Private-Public Partnership refinancing and restructurings – numerous clients including Catalyst Healthcare plc;
- BPB plc buyout of European competitor; and
- RTL Media takeover for European media assets.

King & Wood Mallesons (then *Mallesons Stephen Jaques*), Sydney (2004-2009)

- Worked for Roger Forbes (National Head of Litigation Practice)
- Main areas of work: administrative law, constitutional law, corporations, contract, equity, telecommunications, trade practices, regulatory
- Managed a Melbourne partner's practice during 2007/8 while she was on maternity leave
- Managed a Sydney partner's practice while she was on a year's sabbatical

Some of the more significant matters for which I had primary carriage include:

- *Telstra Corporation v ACCC* (No 2) (2007) 240 ALR 135, [2007] FCA 493 and (2006) 68 IPR 571, ATPR 42-117, [2006] FCA 737 and (No 3) (2007) 99 ALD 268, [2007] FCA 1905 (Administrative law, competition law). Instructing Tom Bathurst QC, John Griffiths SC and Jeremy Kirk
- *Optus Networks Pty Ltd v Telstra Corporation Ltd* (FCA, settled, Competition law). Instructing Tom Bathurst QC and Tony Payne SC
- Constitutional Law -excise (undisclosed client) in a matter in which Peter Hanks QC, Jeremy Kirk and Patrick Keyzer appeared for the Applicant (who my client was assisting): *Queanbeyan City Council v ACTEW Corporation* (2011) 244 CLR 530, [2011] HCA 40
- Constitutional Law – 51(xxxi) acquisition of property: *Telstra Corporation Ltd v Commonwealth* (2008) 234 CLR 210, [2008] HCA 7. Instructing David

Jackson QC, Alan Archibald QC, Alan Robertson SC, Nye Perram SC,
Jeremy Kirk

- *Precious Metals Australia v Xstrata* [2005] NSWSC 141, [2005] NSWSC 147, [2005] NSWSC 220 (Contract, banking & finance). Instructing Justin Gleeson SC, Peter Brereton
- *James Hardie Special Commission of Inquiry* – acting for current and former partners of Mallesons Stephen Jaques at the inquiry and in subsequent ASIC investigations. Instructing Michael Pembroke SC, Jeremy Clarke
- *Brisconnections v Australian Style Management* (2009) 23 VR 253, [2009] VSC 128 acting for Deutsche Bank AG as underwriter (contract, banking & finance). Instructing Alan Archibald QC and Robert Strong (Melbourne proceedings), James Stevenson SC and Robert Glasson (Brisbane proceedings – *Macquarie Capital Advisers v Brisconnections*) [2009] QSC 82, [2011] 1 Qd R 1
- *Takeovers Panel proceedings* – acquisition of Consolidated Minerals by Palmary Resources
- Numerous section 411 schemes of arrangement: briefing Tom Bathurst QC, Ian Jackman SC and Malcolm Oakes SC including: *Re Australand Holdings* (Share and unit stapling); *Inverness Medical Technologies / Re Pan Bio Ltd* (Takeover); *Re Macquarie Bank Limited* (Restructure); *Re Macquarie Goodman* (Share and unit stapling); *Re NIB Health Funds* (Demutualisation) *Re Walker Corporation* (Takeover); *Re Westfield* (Share and unit stapling); *Xstrata Coal / Re Gloucester Coal* (Takeover)
- *Raniga v Nestlé Australia* (High Court of Fiji) Instructing Stephen Kos QC (NZ)

PricewaterhouseCoopers, then known as Coopers and Lybrand (1990-1994)

Senior Tax Consultant in the Taxation Advisory Group

- Worked for Tony Harrington (former Chief Executive, Australia)
- Worked for Neil Wilson (former Chief Operating Officer, Australia)
- Worked for Ian Farmer (former Managing Partner, Tax & Legal, Australia)

Professional contributions

- Member of the Pro Bono & Charities Committee, Mallesons Stephen Jaques
- Ask! Youth Legal Service Management Committee (2008)
- On-site Supervisor, Ask! Youth Legal Service (2006-2008)
- Downing Centre Duty Solicitor (2005-2006)
- Continuing Legal Education organiser for Dispute Resolution Group (2004-2008)
- College of Law – presenter on Negotiation Skills (2005-2008)
- Inaugural Winner – Chief Executive Partner’s Mentoring Award (2007)
- Winner (second year running) – Chief Executive Partner’s Mentoring Award

Publications

Author: Chapter 1.2, *Butterworths Australian Corporation Law, Principles & Practice* (looseleaf) (1999-2001)

Author: Chapter 5, *CLERP and the New Corporations Law* (1st and 2nd editions) with co-authors Ashley Black and Greg Golding

Contributor: *Butterworths Australian Legal Dictionary* (updated Corporations related definitions) (2000)

Author: *Australian Trade Practices Law Bulletin* – case note of *Telstra Corp v ACCC* (No 2) (2007)