

Edmund Robinson

BARRISTER AT LAW

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Examples of matters in which Edmund Robinson has appeared since being called to the Bar in May 2017

Appellate

1. *Coeur de Lion Investments Pty Ltd v Lewis* (2020) 4 QR 455; [2020] QCA 111 per Philippides JA, Bond J and Bowskill J (led by Chris Ward SC; contra Gavin Handran and Nathan Boyd)
And below: [2019] QDC 90 per Smith DCJA

Whether private prosecutions may be brought for offences under the *Corporations Act 2001* (Cth)

2. *CFMMEU v One Key Workforce Pty Ltd* [2020] FCAFC 27 per McKerracher, Farrell and Markovic JJ (Full Federal Court, Sydney) (led by Brian O'Donnell KC; contra Bret Walker SC and Claire Howell)
And at first instance: [2019] FCA 153 per Flick J (unled; contra Claire Howell)

Successfully contended at first instance and on appeal that \$1 million held on trust should be paid to One Key Workforce

3. *Thornbury v The Queen* [2020] HCASL 10 (with Anthony Kimmins and Martin Longhurst)

Application for special leave in respect of criminal sentencing (on the papers)

4. *China First Pty Ltd & Anor v Mount Isa Mines & Ors* [2019] 3 Qd R 173; [2018] QCA 350 per Fraser, Gotterson and McMurdo JJA (unled; contra Roger Traves KC and Stewart Webster)
And at first instance: [2018] QSC 163; [2018] 31 QLR per Brown J (unled; contra Roger Traves KC and Stewart Webster)

Whether a judgment should be set aside because an equitable chargee was a necessary party to the proceeding who had not been joined

5. *Mineralogy Pty Ltd v BGP Geoexplorer Pte Ltd* [2019] 2 Qd R 336; [2018] QCA 256 per Gotterson and McMurdo JJA and Henry J (unled; contra Tom Pincus)

And at first instance: [2018] QSC 42; [2018] 11 QLR per Jackson J (led by Dominic O’Sullivan KC; contra Tom Pincus)

And High Court special leave application: [2019] HCASL 43

When a US\$18 million debt ceased at law to be “payable” such that interest ceased accruing

6. *Mineralogy Pty Ltd v BGP Geoexplorer Pte Ltd* [2017] QCA 275 per Fraser JA (led by Thomas Bradley QC as his Honour then was; contra Tom Pincus)

Application for stay of enforcement of judgment pending appeal

First instance decisions or matters (other than those listed above)

7. *Santos Limited v Fluor Australia Pty Ltd & Anor* (Supreme Court of Queensland proceeding no. 12939/16)

Acting since 2021 for the Fluor defendants in defending Santos Limited’s \$1.5 billion (approx.) claim in respect of engineering and construction work in an upstream LNG facility, including:

- (a) appearing in trial conducted between November 2021 and August 2022 before a Panel of referees (in team led by Simon Couper KC, Liam Kelly KC and Dominic O’Sullivan KC); and
- (b) acted in a two-week hearing in 2023 of an application to set aside the reference on bases including apprehended bias by the referees and a denial of procedural fairness (led by Simon Couper KC); and
- (c) currently acting in opposing an application by Santos for the Court to adopt the referees’ report.

8. *Multiplex Constructions Qld Pty Ltd v Destination Brisbane Consortium Integrated Resort Operations Pty Ltd* – Supreme Court of Queensland proceeding no. 9023/23 (2023 -)

Litigation regarding the Queens Wharf development in Brisbane. Acting for the defendant in defending Multiplex’s \$500m (approx.) claim

9. *Hutson & Ors v New Hope Corporation Limited & Ors* [2023] NSWSC (led by Liam Kelly KC; led earlier in the proceeding by Adam Pomerence KC)

8 week trial before Hammerschlag CJ in Eq – settled after 2 weeks

Acted for the former CEO and the former CFO of the New Hope Group in defending a \$300 million (approx.) claims for alleged breaches of the general law duty of care and diligence, the duties imposed by sections 180-182 of the *Corporations Act*, and fiduciary duties, and claims for alleged insolvent trading of two subsidiaries of New Hope

10. *JLOC Super Pty Ltd v Nev Paterson & Son Pty Ltd & Anor* [2023] QSC 270 (appearing for the first defendant; Simon Couper KC and Fiona Lubett appearing for the plaintiff; David de Jersey KC appearing for the second defendant)

Strike out application (principles relevant to a pure economic loss claim brought by a subsequent owner of trust property where the subsequent owner was a new trustee of a trust)

11. *Challis v Ford Motor Company of Australia Pty Ltd* [2023] QDC 193 per Porter KC DCJ (unled; contra Cate Heyworth-Smith KC and Samuel Lane for the APIA plaintiffs and Ken Horsley for the Youi plaintiffs; Holly Blattman KC acting for the vehicle dealer)

Acted for Ford in a successful application to permanently stay two proceedings on the grounds that they constituted an abuse of process as a result of one of the plaintiffs' insurers disposing of relevant physical evidence

And [2023] QDC 215 (costs)

Also [2021] QDC 177 – earlier successful application to compel the plaintiffs' insurer to file and serve affidavits explaining its disposal of physical evidence

12. *Re Northern Energy Corp Ltd* [2023] NSWSC 126 per Richmond J (led by Adam Pomerence KC)

Costs of an application for leave to amend a pleading shortly before trial

13. *ASIC v Daly & Ors* – Acted for ASIC between 2021 and 2023 in a civil penalty proceeding against four officers (or alleged officers) of the responsible entity of a managed investment scheme for various contraventions of ss 601AD and 601FD of the *Corporations Act*

- (a) *ASIC v Daly (Liability Hearing)* [2023] FCA 290 per Cheeseman J (with Lee Clark, both led by Melanie Hindman QC as her Honour then was); and
 - (b) *ASIC v Daly (Penalty Hearing)* [2023] FCA per Cheeseman J (with Lee Clark, both led by Matthew Brady KC) (decision pending).
14. Acting for plaintiffs in Supreme Court of Queensland proceeding regarding alleged professional negligence by solicitors (approx. \$21 million claim) and alleged breaches of duty by company directors (2023 -)
15. *Madan v Mineralogy Pty Ltd* – Claim by geologist to an entitlement to 1% of the annual “net profits” of the highly valuable Balmoral Project in Western Australia pursuant to an alleged oral and/or written contract formed in the mid-1980s (led by Peter Dunning KC) (2021 – 2023)
- (a) *Madan v Mineralogy Pty Ltd* [2022] WASC 33 – successful strike-out application (implied contractual terms; money had and received; equitable fraud; pre-incorporation contracts);
 - (b) *Madan v Mineralogy Pty Ltd [No 2]* [2022] WASC 470 – case management issues (discovery and confidentiality protocols); and
 - (c) *Madan v Mineralogy Pty Ltd [No 3]* [2023] WASC 227 – successful application for separate liability and quantum trials.
16. *The Presbyterian Church of Queensland Incorporated by Letters Patent v Attorney-General for State of Queensland* – Acted for the receivers and managers of The Presbyterian Church of Queensland Incorporated in successful applications for directions
- (a) [2021] QSC (ex tempore, Freeburn J) (with Stewart Webster, both led by Adam Pomerence KC); and
 - (b) [2022] QSC 38 per Brown J (unled; Amelia Wheatley KC and Ben McEniery appearing for the Attorney-General; Paul McQuade KC appearing for the Presbyterian Church).
17. Acted unled in a Supreme Court of Western Australia proceeding for a plaintiff seeking to recover approximately AU\$1 million in exchange rate fluctuation damages resulting from a late payment of a sum owed in US dollars (2021 – 2022)
18. *In the Matter of E-Computing Pty Ltd and Tech-E Pty Ltd* (no. 4329/20) and *E-Computing Pty Ltd v Meyer* (no. 6005/20) (2019 – 2022) (unled)

Acted in two related Supreme Court proceedings – a members’ derivative proceeding seeking recovery of approximately \$1.7 million in funds allegedly misappropriated from the

companies, and an oppression proceeding seeking *inter alia* an order requiring one set of 50% shareholders to sell their shares to the other set of shareholders. Included acting in an application for leave to commence derivative proceedings, an application for relief from pleading and disclosure obligations based on the privilege against self-incrimination, and strike-out applications.

19. *Mangosteen Orchard Pty Ltd v Zieth* [2021] QDC 20 per Sheridan DCJ (unled)

Successful application for interlocutory mandatory injunction for delivery up of harvesting equipment

20. *Folau v Queensland Rugby League Limited* (Supreme Court of Queensland proceeding no. BS6367 of 2021)

Acted (led by Peter Dunning KC; contra Damien Atkinson OAM KC) in dispute between Israel Folau and Queensland Rugby League Limited regarding whether particular provisions of the QRL Rules were void as a restraint of trade (resolved before trial)

21. Acted unled in \$500,000 claim against firm of solicitors for professional negligence in the drafting of a loan deed (2021). Settled.

22. *McDonald & Ors v State of Queensland* – Supreme Court of Queensland proceeding no. 13378/20 (led by Peter Dunning KC) (2020 – 2021)

Challenge to the validity of notices issued under the *Work Health and Safety Act 2011* (Qld) (settled)

23. *Holdfast Palms Pty Ltd & Ors v Dight & Anor* (NSW Supreme Court proceeding no. 2020/00259758) and *Dight v Lambert* (NSW Supreme Court proceeding no. 2020/00202740) (2020 – 2021)

Acted unled for the plaintiffs in a proceeding seeking \$3 million in damages and orders enforcing a contractual obligation on the defendants to their half share of a Canary Island Date Palm plantation; and acting in a related proceeding seeking the winding up of the joint venture vehicle on just and equitable grounds

24. *Mineralogy Pty Ltd v The State of Western Australia* [2020] QSC 344; [2020] 49 QLR per Martin J (led by Dominic O’Sullivan KC; contra Shane Doyle KC, J Thompson SC and others)

Whether declaratory arbitral awards are enforceable and whether enforcement had been properly effected; principles applicable to setting aside of orders obtained *ex parte*

25. *Smeltz v Electoral Commission of Queensland* [2020] QSC per Brown J (ex tempore) (leading Paddy Williams)

Whether on the proper construction of provisions of the *Electoral Act 1992* (Qld) the cap on electoral expenditure is inclusive or exclusive of GST

26. *Parbery v QNI Metals Pty Ltd* [2020] QSC 143; [2020] 24 QLR per Mullins J (as her Honour then was) (unled; contra Shane Doyle KC, Graham Gibson KC and others)

Appeared for various defendants in a 27-day trial concerning the collapse of Queensland Nickel Pty Ltd (in liq)

Also appeared unled in interlocutory applications including:

- (a) *Parbery v QNI Metals Pty Ltd* [2018] QSC 83 (Bond J as his Honour then was) (application by plaintiffs for leave to be represented by two sets of solicitors);
 - (b) *Parbery v QNI Metals Pty Ltd* [2018] QSC 276 (Jackson J) (disclosure dispute); and
 - (c) *Parbery v QNI Metals Pty Ltd* [2019] QSC 207; [2019] 35 QLR (Mullins J as her Honour then was) (application for stay of proceedings).
27. *Lainor Investments Pty Ltd v SunBuster Solar Shades Pty Ltd* [2020] QDC 59 per Sheridan DCJ (unled; contra Brad Wright)

Trial; whether a commercial lease was validly terminated and, if so, whether the tenant should be granted relief against forfeiture

28. *Hamilton Tyre & Rubber Company Pty Ltd v BR International Logistics Pty Ltd* [2020] QDC before Porter KC DCJ (unled; contra William Wilcher)

Trial (settled after close of trial but before judgment); restitutionary claim for moneys paid under duress

29. *S A M Management (NQ) Pty Ltd v Director General of the Department of Education* [2020] QCAT (unled; contra Stephen Keim SC)

Successfully applied for a stay of the Director General's decision to cancel a service approval in respect of a childcare centre

30. *In the matter of G-Star Australia Pty Ltd* (Supreme Court proceeding no. 5415/20) before Flanagan J

Acted for the administrators of G-Star Australia Pty Ltd (the Australian arm of Dutch clothing brand "G-Star Raw") in a successful application to extend the time for convening the second meeting of creditors to allow the administrators sufficient time to sell stock, close physical stores, and vacate leased premises

31. *Quigg Holdings Pty Ltd & Anor v Puzzle Financial Advice Pty Ltd & Anor* – Supreme Court proceeding (led by Damien O'Brien KC) (2020)

Acted for the plaintiffs in a proceeding against a financial advisor for negligence, breach of contract, and breach of duties under the *Corporations Act* and *ASIC Act*

32. Acted for the Board of Racing Queensland in QCAT proceedings successfully resisting a challenge to its decision not to renew the Cairns Greyhound Racing Club's licence (2020)

33. *Byerwen Coal Pty Ltd v Colinta Holdings Pty Ltd (No 3)* [2019] QLC 20 per Stilgoe OAM (unled)

Costs

34. *BA v Director-General, Department of Justice and Attorney General* [2019] QCAT (pro bono) (unled; contra R Te'Kani)

Successful review of departmental decision

35. *Waratah Coal Pty Ltd v Port of Townsville Limited & Ors* – Supreme Court of Queensland proceeding no. 8563/18

Acted unled in 2018 in claim by chargee of leases and licences to relief against forfeiture of the leases and licences

36. *Century Mining Ltd v Gulf Aboriginal Development Company Limited and Bank of China Limited* [2018] QSC (led by Thomas Bradley QC as his Honour then was)

Successful applications for interlocutory and final injunctions to stop payment by the Bank of China Limited pursuant to a call on a bank guarantee

37. *Training Management Pty Ltd v The State of Queensland* (Supreme Court of Queensland proceeding no. 1357181/18)

Acted for the State (through the Department of Employment, Small Business and Training) in defending a proceeding challenging its decision to suspend funding to a provider of vocational education and training and suspend its ability to enrol new students. Appeared in interlocutory injunction application against Matthew Brady KC before Bond J. Proceeding settled

38. *Melbourne IT (Arq Group) v Maverick HR Pty Ltd* [2018] QDC 229 per Richards DCJ (unled)

Summary judgment and strike-out application

39. *Gailey Projects Pty Ltd v McCartney & Anor* [2017] QSC before Daubney J (led by Damien O'Brien KC; contra Ron Ashton KC)

Trial (settled after commencement); whether consultancy contract had been formed by words and conduct; alternative quantum meruit claim for services provided

40. Acted in 2017 as junior counsel in three long-running Supreme Court proceedings between Anglo American Australia Limited (and related companies) and the Callide C power station concerning a long-term coal supply agreement. Ultimately settled.

41. Various applications to set aside statutory demands

42. Various applications by liquidators for approval under s 477(2B) of the *Corporations Act* for approval entry into long term agreements

43. Various applications for leave to commence derivative proceedings
44. Various applications for leave to be relieved of pleading and disclosure obligations by virtue of the privilege against self-incrimination or imposition of a penalty

Examples of cases in which Edmund acted as a solicitor

1. UNCITRAL arbitration between a foreign state and a major international mining company heard by the Honourable Murray Gleeson AC QC
2. *Re Onesteel Manufacturing Pty Ltd* – proceeding in the New South Wales Supreme Court concerning whether approximately \$23 million in leased equipment vested in the lessee (a member of the Arrium group) pursuant to section 267 of the *Personal Property Securities Act 2009* (Cth)
3. *Callide Power Management Pty Ltd & Ors v Callide Coalfields (Sales) Pty Ltd & Ors* (Supreme Court proceeding no. 12122/13) – dispute involving the invocation of a hardship clause to significantly alter the terms of a long-term coal supply agreement
4. *Callide Power Management Pty Ltd & Ors v Callide Coalfields (Sales) Pty Ltd & Ors* (Supreme Court proceeding no. 11905/13) - \$100 million claim for non-supply of coal and restitutionary counterclaim
5. *Callide Power Management Pty Ltd & Ors v Callide Coalfields (Sales) Pty Ltd & Ors* (Supreme Court proceeding no. 12381/15) – Claim for specific performance of long-term coal supply agreement
6. *Seeker Aircraft America Inc v Ergon Energy Corporation Limited & Anor* – Acted for Ergon Energy Corporation in defending a claim by an American aircraft manufacturer for alleged infringement of copyright in an aircraft design
7. *In the matter of Australian Property Custodian Holdings Limited* – Acted for the receivers of APCHL against the company’s liquidators in proceedings in the Supreme Court of Victoria concerning security interests in certain choses in action
8. Expert determination before the Honourable Ian Callinan AC KC
9. Various banking and insolvency proceedings including in respect of loan facilities, guarantees, mortgages and insolvent transactions

10. Acted for two years for the administrators (and subsequently liquidators) of Cubbie Group Limited including in respect of the sale of Cubbie Station to a Chinese consortium in 2013