

CURRICULUM VITAE

TRISTAN SMITH

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Call 2025

Admission 2014

Areas of practice Advocacy and advice in the areas of:

- Commercial
- Insurance
- Equity and trusts
- Class actions
- Building and construction
- Regulatory
- Administrative
- Property

Professional history Barrister, May 2025 – present

Senior Associate, 2014-2025
Herbert Smith Freehills
Brisbane, Sydney, London

Education Master of Laws
University of Melbourne, 2018

Bachelor of Laws (First Class Honours) / Bachelor of Business
University Medal in Law
Griffith University, 2013

Selected matters as counsel

Commercial

- acting for a mining company in a multi-million dollar dispute concerning rights and entitlements under a mining agreement (led by P O'Shea KC and D Turner)
- appearing in a two day Supreme Court trial concerning the scope of a superintendent's powers under a construction contract (led by M Johnston KC)
- appearing in an application for an interlocutory injunction seeking to restrain the proceeds of a commercial building sale (led by D P O'Brien KC)
- acting for directors and a special purpose company to defend proceedings in the Federal Court alleging breaches of directors' and fiduciary duties (unled)
- appearing in an application to set aside a statutory demand, including proceedings before the Supreme Court and Court of Appeal (unled)
- appearing in a contested application for costs in the Magistrates Court concerning a debt dispute between a firm of accountants and a former client (unled)

Property

- acting in Supreme Court proceedings commenced under the *Land Title Act 1994* (Qld) seeking relief in respect of a mistaken property transfer (unled)
- acting in Supreme Court proceedings concerning a family property dispute and issues concerning constructive and resulting trusts (unled)
- acting for a body corporate in QCAT proceedings concerning the validity and construction of a caretaking agreement (unled)

Insurance

- acting for an insured in proceedings involving the Australian Financial Complaints Authority concerning rights under a superannuation insurance product (unled)

Selected matters as a solicitor

Class actions

- acting for Boral Limited in a shareholder class action in the Federal Court: *Parkin v Boral Limited* [2024] FCA 1039

Commercial

- acting for consumer goods company in NSW Supreme Court proceedings concerning the interpretation of an earn out provision in a Share Purchase Deed: *David Morgan Investments Pty Ltd v Maggie Beer Holdings Ltd* [2024] NSWSC 778

Building and Construction

- acting for a mining company in a multi-million dollar construction dispute in the Queensland Supreme Court concerning a defective infrastructure project: *BM Alliance Coal Operations Pty Ltd v BGC Contracting Pty Ltd* [2015] 1 Qd R 228
- advising a D&C JV on multi-billion dollar delay, disruption and defect claims arising from a major rail infrastructure project in NSW

Insurance

- acting for an insured in a hull liability insurance claim following the loss of an Australian Navy vessel: *DMS Maritime Pty Ltd v RSA* [2018] QSC 303
- acting for a mining company in a \$100m property damage and business interruption insurance claim under an industrial special risks policy following a major flood
- acting for a bank in a US\$200m trade credit insurance claim arising from the collapse of a Singaporean oil trader and preparing for arbitration under SIAC rules
- acting for AerCap Ireland in claims under aviation insurance policies in excess of US\$3 billion relating to the loss of aircraft and engines in Ukraine and Russia
- acting for the Financial Conduct Authority in the COVID-19 business interruption insurance test cases: *FCA v Arch* [2021] UKSC 1
- acting for an engineering contractor in a claim under a construction all risks policy and advising on issues concerning a LEG 3 defects exclusion
- acting for insurance brokers in E&O/professional negligence claims
- advising on coverage issues under all classes of insurance, including D&O, professional indemnity, industrial special risks and public/products liability