

CURRICULUM VITAE

TRISTAN SMITH

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Areas of practice

Advocacy and advice in the areas of:

- Commercial
- Corporations
- Insolvency
- Building and construction
- Class actions
- Energy and resources
- Arbitration
- Equity and trusts
- Administrative
- Property
- Insurance

Education

University of Melbourne

Master of Laws, First Class Honours, 2018

Griffith University

Bachelor of Laws, First Class Honours, 2013

Bachelor of Business, 2010

University Medal in Law

Professional experience

Barrister

May 2025 – present

Herbert Smith Freehills

Senior Associate, 2014-2025

Brisbane | Sydney | London

Selected matters as counsel

Energy and resources

- *BUMA v Queensland Power Company Pty Ltd* [2025] QSC 338: appearing for the owners of a power station in a two week trial concerning rights and entitlements under a mining agreement (led by P O'Shea KC and D Turner)

Class actions

- *SLB Investments Queensland Pty Ltd (in liq) v Queensland Motorways Management Pty Ltd* [2026] QSC 81: appearing for Queensland Motorways in an application for security for costs (led by E Goodwin KC)

Commercial

- appearing in an application for an urgent injunction to restrain a respondent from dealing in the proceeds of a commercial building sale (led by D P O'Brien KC)
- appearing in Supreme Court proceedings involving claims of misrepresentation, misleading conduct and rescission of a commercial contract (led by FitzGerald KC)
- appearing for a company in an application to enforce confidentiality provisions in an executive employment contract (led by D P O'Brien KC)
- acting for a health care company in a claim concerning breaches of directors' duties, restraints of trade and breaches of confidentiality obligations (led by D Bampton)
- acting in an application for the appointment of a receiver to company property under section 12 of the *Civil Proceedings Act*

Corporations and insolvency

- appearing in an application for preliminary disclosure and access to company books and records under s 198F of the *Corporations Act* (led by D P O'Brien KC)
- appearing for liquidators in Federal Court proceedings seeking relief in respect of voidable transactions under Part 5.7B of the *Corporations Act*
- appearing for a liquidator in Federal Court proceedings to obtain asset preservation orders pursuant to section 1323 of the *Corporations Act*
- advising on, and appearing in, proceedings brought by a shareholder alleging oppression under section 232 of the *Corporations Act*
- appearing in applications for winding up and setting aside statutory demands

Building and construction

- *GMG Pty Ltd v Iris-PW No. 1 2017 Pty Ltd* [2025] QSC 297: appearing for a property developer in a trial concerning the scope of a superintendent's powers under a construction contract (led by M Johnston KC)
- acting for contractors, subcontractors and principals in disputes under security of payment legislation, including adjudication applications and adjudication responses

Real property / equity and trusts

- appearing in an application for the judicial sale of a property under the *Property Law Act* in reliance upon an equitable mortgage
- acting for a plaintiff in a claim concerning an equitable interest in property concerning a purchase money resulting trust and common intention constructive trust
- acting for a defendant in a leasing dispute under the *Retail Shop Leases Act 1994*
- acting for a plaintiff in proceedings commenced under the *Land Title Act 1994* seeking corrections to the Land Title Register
- acting for a body corporate in QCAT proceedings concerning the validity and construction of a caretaking agreement

Selected matters as a solicitor

Commercial disputes and class actions

- acting for Boral in a six week shareholder class action trial in the Federal Court: *Parkin v Boral Limited* [2024] FCA 1039
- acting for a consumer goods company in a dispute concerning the interpretation of earn out provisions in a Share Purchase Deed: *David Morgan Investments Pty Ltd v Maggie Beer Holdings Ltd* [2024] NSWSC 778
- acting for a mining company in a construction dispute in the Queensland Supreme Court concerning a defective water infrastructure project: *BM Alliance Coal Operations Pty Ltd v BGC Contracting Pty Ltd* [2015] 1 Qd R 228

Insurance coverage litigation

- acting for a mining company in a \$100m property damage and business interruption insurance claim under an industrial special risks policy
- acting for a policyholder 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 the Financial Conduct Authority in the COVID-19 business interruption insurance test cases in the UK Supreme Court: *FCA v Arch* [2021] UKSC 1
- acting for an aircraft leasing company in claims under aviation insurance policies in excess of US\$3 billion relating to the loss of aircraft in Ukraine and Russia
- acting for a bank in a US\$200m trade credit insurance claim arising from the collapse of a Singaporean oil trader, including arbitration under SIAC rules
- 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 to defend E&O/professional negligence claims
- advising on coverage issues under insurance policies, including contract works, industrial special risks, public/products liability, professional indemnity and D&O