

Darren Blight QC

Practice at the Bar

Mr Blight QC appears predominantly in complex commercial disputes in courts in Australia (both trial and appellate matters) and in arbitrations.

He has practised solely as a barrister since January 2005 and took silk in 2014.

Mr Blight QC has been recognised in *Doyle's Guide* over the past few years as a leading senior counsel in the areas of commercial litigation, insolvency and intellectual property.

Prior to joining the Bar, Mr Blight QC practised at the firms of Ward & Partners (1995 – 2002) and Piper Alderman (2002 – 2004) in a variety of litigation.

Mr Blight QC has a wide-ranging commercial litigation practice with a focus on the areas of arbitration, building and construction, contract, corporations, equity, insolvency, insurance, intellectual property, local government and planning, professional negligence, professional indemnity, real property, trade practices and wills and estates.

In particular, Mr Blight QC has considerable expertise and experience in advising and appearing in long and complex, judge managed litigation (both locally and interstate). Since joining the Bar, he has appeared in approximately 45 such matters in the Supreme Court of South Australia.

Mr Blight QC has also advised the Legal Profession Conduct Commissioner in complex matters.

Professional activities and memberships

Mr Blight QC is a member of the SA Bar Association and has held various executive and committee posts over the years, in particular:

- From 2009 - 2014, he was the Bar Association's representative on the Judges' Joint Rules Advisory Committee (JRAC).
- From 2011 – 2013, he was the Treasurer of the Bar Association.
- For several years, he has been a member of the Bar Association's commercial and civil law committee and professional responsibility committee.
- Mr Blight QC contributes to the Bar Association's CPD program.
- Mr Blight QC has acted as a mentor as part of the Bar Association's Bar Readers' course.

Mr Blight QC is also a member of JusticeNet SA and, from time to time, provides pro bona legal assistance in complex matters.

Selected matters

Since joining the Bar, Mr Blight QC has advised and appeared in various matters, including:

- *Allianz Australia Insurance Ltd v. Clinch & Ors* (Northern Territory Supreme Court) (Southwood J - trial heard October to December 2019) – assignment of injured worker’s cause of action; negligence (incident at Charles Darwin University); issues of credit; *Watts v. Rake* and pre-existing conditions; assessment of damages; application of the *Personal Injuries (Liabilities and Damages) Act, 2003* (NT)
- *Hayward v. Mackie* (Northern Territory Supreme Court) (2019) – joint venture / partnership and contract (mineral tenements / caveats / exploration licences) (settled at mediation)
- *Adelaide Brighton Cement Ltd v. Hallett Concrete Pty Ltd & Ors* (Supreme Court – 2019 / 2020) – contract / interpretation of cement supply agreement (Doyle J)
- *Contract Mining Services Pty Ltd v. Adelaide Brighton Cement Ltd* – (Supreme Court – 2019 / 2020) – transport and handling agreement / variation of certain prices / application of conventional estoppel.
- *Western Desert Resources (in liquidation) and BP Australia* – insolvency / unfair preferences / personal properties securities (fuel) – Supreme Court (Blue J) (2018)
- *Solar Shop Australia (in liquidation)* – insolvency / buy-back proceedings / professional negligence claim against company’s solicitors - Federal Court (Besanko J) (2017 – 2018)
- *BI (contracting) and David Jones Limited* – asbestos exposure and reasonableness of settlement / *Dust Diseases Act* (SA) – Full Court appeal (Supreme Court) (2019) – judgment [2019] SASCFC 138 (8 November 2019)
- *Bendigo & Adelaide Bank / Great Southern Finance* managed investment schemes – validity and scope of powers of attorney – formalities of deeds - guarantee recoveries – Supreme Court proceedings (Stanley J) (2017 – 2019) – judgment [2019] SASC 123 (on appeal to Full Court).
- *Legal Profession Conduct Commissioner v. Fittock* [2017] SASCFC 169 (statutory interpretation – s. 80(1)(b) of the *Legal Practitioners Act* – “procedural or interlocutory matter” – appeal from Vanstone J)
- *Santos QNT Pty Ltd v. Tamboran Resources Ltd* [2017] FCA 670 (s.247A and s.247C *Corporations Act* – books and records / confidentiality and production) (Besanko J)
- International arbitration – seated in Sydney – *Freightliner Australia Pty Ltd v. CIMC Rolling Stock Australia Pty Ltd* (breach of contract – manufacture and supply of rolling stock)
- *Attorney-General v. Kowalski (No.6)* [2017] SASC 122 (leave to proceed – s.39 Supreme Court Act – vexatious litigants) (Blue J)

- *Diakou Nominees Pty Ltd v. Gouger Street Pty Ltd and Kelly & Co (A Firm)* [2017] SASC 115 (costs on trial of preliminary issue)
- *Diakou Nominees Pty Ltd v. Gouger Street Pty Ltd and Kelly & Co (A Firm)* [2017] SASC 72 (trial of preliminary issue - statutory interpretation – *Retail & Commercial Leases Act, 1995*)
- *Oliver v. Myer Emporium Ltd and BI Contracting Pty Ltd* [2017] SADC 52 (contribution between tortfeasors – *Dust Diseases Act*)
- *Richardson v. Legal Profession Conduct Commissioner* [2017] SASC 30 (appeal from Legal Practitioners Disciplinary Tribunal – application for extension of time for charges under s.82(2a) of the *Legal Practitioners Act, 1981*)
- *Prescott Securities Ltd v. Gobbett (No.2)* [2017] FCA 81 (restrictive covenants / employment contract and split trials)
- *Prescott Securities Ltd v. Gobbett* [2017] FCA 74 (restrictive covenants / employment contract and pleadings)
- *AS Bannister & Ors trading as Minter Ellison v. Sirrom Enterprises Pty Ltd* [2016] SASCFC 153 (Full Court) (solicitors – duty of care)
- *Oliver v. Myer Emporium Ltd and BI Contracting Pty Ltd* [2016] SADC 148 (admissibility of evidence – s.8(3) *Dust Diseases Act*)
- *Legal Profession Conduct Commissioner v. Richardson* (2016) 125 SASR 152 (Full Court) (statutory interpretation – declaratory relief – retrospective operation of 1 July 2014 amendments to the *Legal Practitioners Conduct Act, 1981*)
- *Contura Mining Pty Ltd v. Mabelson* [2015] FCA 1362 (leave to appeal)
- *Mableson Re BJ Jarrad Pty Ltd* [2015] FCA 1177 (section 597(9) *Corporations Act* production of documents)
- *Pilton Holdings Pty Ltd v. Essential Beauty Franchising WA Pty Ltd* [2015] SASC 172 (Sulan J – stay of judgment pending High Court special leave application)
- *Pilton Holdings Pty Ltd v. Essential Beauty Franchising (WA) Pty Ltd* [2015] SASCFC 88 (Full Court) (proper interpretation of contract).
- *Essential Beauty Franchising (WA) Pty Ltd v. Pilton Holdings Pty Ltd* [2014] SASC 148 (Nicholson J) (stay of execution of judgment and security for costs on appeal)
- *Essential Beauty Franchising (WA) Pty Ltd v. Pilton Holdings Pty Ltd* (2014) 120 SASR 433 (Blue J) (costs – costs as a contractual debt pursuant to contract (indemnity) or alternatively, costs in the general discretion of the Court)

- *Nitschke & Ors v. Foraco Australia Pty Ltd & Anor* (2014) 120 SASR 162 (Stanley J) (share sale agreement; interpretation of contract; implied terms; application of the so-called “*prevention principle*”; pleadings; equity; fiduciary duty obligations)
- *Essential Beauty Franchising (WA) Pty Ltd & Anor v. Pilton Holdings Pty Ltd & Ors* [2014] SASC 84 (Blue J) (master franchise agreement; interpretation of contract; equity; trade practices; relief against forfeiture; assessment of damages)
- *Ozyjiwsky v. Ettridge* [2014] SASCF 11 (Full Court) (interpretation of contract)
- *Rocky Castle Finance Pty Ltd v. Taylor* (2014) 118 SASR 349 (Full Court) (interpretation of contract; promissory notes; bills of exchange)
- *Blong Ume Nominees Pty Ltd v. Semweb Nominees Pty Ltd* [2013] SASC 180 (Judge Dart) (court’s inherent jurisdiction to restrain solicitors from acting)
- *Ballantyne v. Boylan & Anor* [2013] SASC 177 (Anderson J) (application to strike out – costs as damages in subsequent action, *Anshun* estoppel and abuse of process by re-litigation)
- *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in liquidation) (No.5)* [2013] FCA 1214 (Besanko J) (final orders; proper interpretation of a Deed of Settlement; proper amount of Commissioner of Taxation’s proof of debt)
- *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in liquidation) (No.4)* (2013) 218 FCR 535 (Besanko J) (proper interpretation of a Deed of Settlement; proper amount of Commissioner of Taxation’s proof of debt)
- *Sheahan, in the matter of Atsikbasis Nominees Pty Ltd (in liquidation) (No.3)* [2013] FCA 982 (Besanko J) (practice and procedure and joinder of party)
- *Heard, in the Matter of Mondello Farms Pty Ltd (Administrators Appointed) (Receivers and Managers Appointed) v. Alleasing Pty Ltd* [2013] FCA 913 (Mansfield J) (application seeking leave to dispose of property – section 442C of the *Corporations Act*)
- *Riviera Holdings Pty Ltd v. Fingal Glen Pty Ltd (in liq) (No.3)* (2013) 120 SASR 515 (Nicholson J) (costs on lessee’s application for relief against forfeiture)
- *Riviera Holdings Pty Ltd v. Fingal Glen Pty Ltd (in liq) (No.2)* (2013) 120 SASR 496 (Nicholson J) (assignment of chose in action)
- *Riviera Holdings Pty Ltd v. Fingal Glen Pty Ltd (in liq)* [2013] SASC 77 (Nicholson J) (relief against forfeiture of leases)
- *Taylor v. Rocky Castle Finance Pty Ltd* (2013) 115 SASR 354 (Nicholson J) (interpretation of contract; promissory notes; bills of exchange)

- *Northern Territory v. John Holland Pty Ltd* - Alice Springs hospital litigation – Northern Territory Supreme Court (professional negligence – acting for firm of architects, sixth 3rd party) (Kelly J)
- *Fingal Glen Pty Ltd v. Riviera Holdings Pty Ltd* [2012] SASC 156 (statutory demand)
- *Rasch Nominees Pty Ltd & Anor v. Bartholomaeus & Ors (No.2)* [2012] SASC 168 (Kourakis CJ) (costs; nominal damages; declaratory relief)
- *Rasch Nominees Pty Ltd & Anor v. Bartholomaeus & Ors* (2012) 114 SASR 448 (Kourakis CJ) (contract for sale of land, interpretation, conditions, repudiation and non-performance of land contract; professional negligence of firm of solicitors; admissibility of expert evidence)
- *Blue Sky Private Equity Ltd v. Crawford Giles Pty Ltd & Ors* (2012) 279 LSJS 247 (Gray J) (trustee of unit trust seeking directions)
- *Piper Alderman (A Firm) v. Australian Medic-Care Company Ltd & Anor (No.2)* [2012] SASC 21 (Stanley J) (costs)
- *Piper Alderman (A Firm) v. Australian Medic-Care Company Ltd & Anor* (2011) 278 LSJS 137 (Stanley J) (formation of contract)
- *Hemer Pty Ltd v. Benni & Ors (No.2)* (2011) 111 SASR 309 (Full Court) (power of Registrar-General to re-instate a de-registered lease under the *Real Property Act, 1886* (SA))
- *Hemer Pty Ltd v. Benni & Ors* (2011) 275 LSJS 1 (Full Court) (interpretation of lease; notice to remedy breach; relief against forfeiture)
- *Graziano v. Graziano* (2010) 273 LSJS 553 (Full Court) (formation of contract)
- *Graziano v. Graziano* (2010) 272 LSJS 572 (set aside allocatur)
- *BD & ME Rooney v. ABB Grain Ltd* [2010] FCA 1392 (Besanko J) (contract; implied term to do all things necessary to perform the contract (*Mackay v. Dick*); repudiation and termination)
- *Harris v. Burrell & Family Pty Ltd* (2010) 271 LSJS 326 (Full Court) (interpretation of contract - guarantee)
- *PT Krakatau Steel v. Felix Resources & Ors* [2010] SASC 170 (White J) (interpretation of contract; implied terms; misleading and deceptive conduct; estoppel)
- *Burrell & Family Pty Ltd v. Harris* (2010) 270 JSJS 248 (White J) (interpretation of contract - guarantee)
- *Hemer Pty Ltd v. Benni & Ors* (2011) 275 LSJS 1 (Vanstone J) (interpretation of lease; notice to remedy breach; relief against forfeiture)
- *Adelaide Bank Ltd v. Lucke & Ors* [2010] SASC 59 (Gray J) (caveats; injunctive relief)

- *McLean v. D.I.D Piling Pty Ltd* [2010] SASC 33 (companies and shareholders; inspection of books and records under s.247A of the *Corporations Act*)
- *Ballantyne v. Ballantyne* (2010) 272 LSJS 104 (White J) (interpretation of trust deed; whether Deed Poll valid and effective; vesting of trust assets)
- *Procter v. Kalivis & Ors* (2009) 263 ALR 461 (cross-examination on affidavit of discovery)
- *National Australia Bank Ltd v. Norman and the Executors and Trustees of the deceased Estate of Allan McFarlane* (2009) 180 FCR 243 (Full Federal Court) (bankruptcy; winding up of unregistered managed investment scheme (Ponzi scheme))

(Special leave to appeal refused by the High Court - *Norman v. National Australia Bank Ltd* [2010] HCA Trans 134)
- *Hardel Pty Ltd v. Burrell & Family Pty Ltd* (2009) 103 SASR 408 (Full Court) (application to set aside a statutory demand; whether final or interlocutory)
- *Moir v. Vodafone Pty Ltd* [2009] SASC 234 (Anderson J) (security for costs)
- *Scholle Industries Pty Ltd v. AEP Limited & Anor* (2009) 263 LSJS 45 (White J) (application to amend defences to plead subrogation of rights by insurer and seek discovery of insurance documents)
- *Procter v. Kalivis & Ors* [2009] FCA 795 (discovery before particulars)
- *W & R Pty Ltd v. Birdseye* (2008) 102 SASR 477 (Full Court) (sale of land contracts; notice to remedy breach; breach and termination; specific performance; estoppel by convention)

(Special leave to appeal refused by the High Court - *W & R Pty Ltd v. Birdseye* [2009] HCA Trans 80)
- *Graziano v. Graziano* [2008] SASC 142 (appeal; whether leave required; extension of time to appeal; appeal from trial judge rulings; nature of appeal)
- *Isotomic Pty Ltd v. Adelaide International Raceway Pty Ltd* [2007] SASC 111 (formation and interpretation of sale of land contract; assignment of contract)
- *Australian Competition and Consumer Commission v. Knight* (2007) ATPR 42-165 (Mansfield J) (cardiothoracic surgeons; whether conduct likely to have the effect of substantially lessening competition in the market; whether agreed penalty appropriate)
- *H Stanke & Sons Pty Ltd v. O'Meara* (2007) 98 SASR 450 (Full Court) (pleadings; equity; declarations; unclean hands; laches and acquiescence)
- *Cirillo v. Consolidated Press Property Ltd (formerly known as Citicorp Australia Ltd)* [2007] FCA 139 (Finn J) (summary dismissal of an action)
- *Cirillo v. Consolidated Press Property Ltd (formerly known as Citicorp Australia Ltd)* [2007] FCA 179 (costs; summary dismissal)

- *ACN 116 149 092 Pty Ltd v. Coopers Brewery Ltd* [2006] FCA 1119 (costs and leave to discontinue)
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* (2006) 156 FCR 1 (Full Federal Court) (interpretation of Articles of Association; ambiguity and resort to surrounding circumstances to interpret contract)
- *H Stanke & Sons Pty Ltd v. O'Meara* (2006) 95 SASR 425 (injunction to restrain for breach of confidence; documents provided to solicitor for second defendant)
- *McNamara v. Morrow Investments Pty Ltd* [2006] SASC 16 (default judgments)
- *Shanamere Pty Ltd v. Litigation Support Services Pty Ltd* [2006] SASC 120 (Sulan J) (costs and unsuccessful injunction to restrain an EGM)
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* (2005) 223 ALR 560 (interpretation of company's Articles of Association; ambiguity and resort to surrounding circumstances; whether share buy-back triggered pre-emptive rights regime in the Articles; meaning of the words, "any transfer of shares")
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* (2005) 55 ACSR 610 (summary dismissal; share buy-back and pre-emptive rights; proper construction of Articles of Association)
- *Coopers Brewery Ltd v. Lion Nathan Australia Pty Ltd* (2005) 93 SASR 179 (Full Court) (interpretation of Articles of Association; "change of control")

(Special leave to appeal refused by the High Court - *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* [2006] HCA Trans 266)
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* (2005) 93 SASR 155 (interpretation of Articles of Association – "change of control")
- *Salena Estate Wines Pty Ltd v. De Vito* (2005) 92 SASR 360 (Full Court) (terms of an oral agreement)
- *Re Estate of Rondahl; Henderson v. Executor Trustee Australia Ltd* (2005) 93 SASR 179 (Full Court) (administration *pendente lite*; dispute as to which of three wills is true will - whether administrator entitled to vote the shares at meeting of shareholders of Coopers Brewery; administrator not entitled to vote the shares)
- *Executor Trustee Australia Ltd v. Henderson* [2005] SASC 446 (Perry J) (administration *pendente lite*; dispute as to which of three wills is true will; whether administrator entitled to vote the shares at meeting of shareholders of Coopers Brewery)
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd (No.2)* [2005] FCA 1666 (application to discharge an injunction in light of modified explanatory memorandum for EGM)
- *Lion Nathan Australia Pty Ltd v. Coopers Brewery Ltd* (2005) 55 ACSR 583 (urgent injunction to restrain EGM; whether full & fair disclosure in explanatory memorandum)

- *Stavropoulos v. Morrow Investments Pty Ltd* [2005] SASC 444 (nature of a counter-claim and excess of jurisdiction)