

Nichola (Nic) Derrington

Barrister

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PRINCIPAL AREAS OF PRACTICE

- Commercial law, with a focus on commercial contracts and equity, and particular experience in the resources sector and matters involving complex financial transactions.
- Competition and consumer law, and related regulatory areas.
- Corporations, insolvency, and bankruptcy law.
- Tax.
- Transport, particularly admiralty and maritime law.

ADMISSION, PRIOR EXPERIENCE & QUALIFICATIONS

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| • Call to the Bar (Queensland) | 2015 |
| Practicing from 16 Quay Central Chambers since 2015. | |
| • Admission, Supreme Court of Queensland and High Court of Australia | 2014 |
| • Solicitor, Herbert Smith Freehills (Brisbane) | 2015 |
| • Associate to the Honourable Justice Dowsett, Federal Court of Australia | 2014 |
| • Master of Laws (Hons I) - University of Cambridge (Trinity Hall) | 2017 |
| Commercial Designation (The Law of Restitution; Law & Economics; International Commercial Litigation; History of English Civil and Criminal Law). Bateman Scholar (Trinity Hall). | |
| • Bachelor of Laws (Hons I) - University of Queensland | 2013 |
| • Bachelor of Economics - University of Queensland | 2013 |

RECOMMENDATIONS

Doyle's Guide

- **Leading Commercial Litigation & Dispute Resolution Junior Counsel (Queensland)**
Pre-eminent: 2024; Leading: 2022, 2023; Recommended: 2021.
- **Leading Insolvency & Restructuring Junior Counsel (Queensland)**
Pre-eminent: 2024; Leading: 2022, 2023; Recommended: 2021.
- **Leading Transport Junior Counsel (Australia)**
Leading: 2024; Recommended: 2021, 2022, 2023.

SELECTED MATTERS

Unled & as Leading Counsel

Administrative Law

<i>Toodayan v Anti-Discrimination Commission Queensland</i> [2017] QSC 301; [2018] QCA 349	Judicial review of a decision to refuse to accept a discrimination complaint. Appeal from part of the first instance decision.	For the Applicants/Appellants instructed by Greystones. Against J Horton QC on appeal.
<i>Ganbros Pty Ltd v Commissioner for Liquor and Gaming</i> (BS6515/24 – unreported 25 November 2024)	Judicial review of decision to grant a detached bottle shop licence.	For the Applicants instructed by HopgoodGanim.

Commercial Law

<i>ABT Story Pty Ltd v Cronin</i> (BS8700/24 – unreported 18 October 2024)	Application for a stay of a pending proceeding concerning disputed obligations under a loan agreement on grounds of forum non conveniens.	For the Plaintiff and Defendant by Counterclaim instructed by Cronin Miller Litigation. Against D Keane KC with T Duhig and E Goodwin KC with A Schiffer.
<i>Bargain World CQ (Rockhampton) Pty Ltd v AHC Limited</i> [2023] QSC 201	Proceeding to determine the proper construction of a lease of commercial premises.	For the Respondent instructed by HopgoodGanim.
<i>Commonwealth Bank of Australia v Super Property Group Pty Ltd</i> [2024] QDC 124; Pending appeals 11915/24 and 11916/24	Proceeding to recover against guarantors. Briefed on summary judgment application at first instance and in respect of the appeal listed for hearing in March 2025.	For the Plaintiff instructed by Gadens. Against D de Jersey KC with S Long and C George with K Gothard in pending appeal.
<i>Corporation of the Roman Catholic Diocese of Toowoomba v Thorne</i> (BS6457/24 – unreported 23 May 2024)	Proceeding to recover alleged stolen funds commencing with obtaining ex parte Mareva/freezing orders. Matter ongoing.	For the Applicant instructed by Colin Biggers & Paisley.
<i>Full Potential Pty Ltd v VetzPetz Australia Pty Ltd</i> [2024] QSC 158	Proceeding to determine the proper construction of a contract and whether validly terminated.	For the Defendant instructed by Baker & McKenzie. Against D de Jersey KC.
<i>Galinovic v Australian and New Zealand Banking Group Limited</i> (RS762/24 – unreported 27 September 2024)	Application to set aside a claim and statement of claim on a summary basis. Also instructed on appeal.	For the Defendants instructed by Gadens.
<i>Gallery Developments Pty Ltd v GM Private Capital Pty Ltd</i> (BS8481/21)	Claim and cross-claim in respect of monies lent pursuant to contested oral/written agreements. Settled on day two of a two-week-trial in February 2024.	For the Defendants instructed by Gadens. Against G Thompson KC with A Psaltis and C Jennings KC with A Schlicht.
<i>Hookey v Manthey</i> [2018] QSC 207; [2018] QSC 252; (2020) 4 QR 371; [2020] QSC 156	Claim concerning a failed joint venture to develop engine technology. Retained in respect of urgent Mareva relief and generally in the proceeding.	For the Defendants instructed by TVP Law and Holman Webb Lawyers. Against M Martin QC in 2018 matters.

<i>Jin Resources (Aus) Pty Ltd v Nicols</i> [2022] QSC 158	Proceeding for declarations concerning whether a general security agreement in relation to the sale of mining tenements was enforceable.	For the Second Respondent instructed by HopgoodGanim.
<i>McIntyre v Suncorp-Metway Limited</i> [2022] QDC 280	Trial for the recovery of funds alleged to be owed by bank to customer.	For the Defendant instructed by Gadens.
<i>Merryport Pty Ltd v Lawson</i> [2023] FCA 838; [2023] FCA 874	Proceeding for the recovery of funds alleged to have been misappropriated by employee. Instructed to seek ex parte freezing orders and generally in the proceeding.	For the Applicants instructed by Eaglegate Lawyers.
<i>No 48 Investments Pty Ltd & Anor v Kupers Enterprises</i> (BS3720/21)	Claim by purchaser of motel business in Misleading or deceptive conduct	Leading T Ambrose for the Plaintiff instructed by Porter Davies.
<i>Newclip Technics Australia Pty Ltd v Stanford & Ors</i> (BS16079/22)	Claim against former director and employee of company in relation to alleged breaches of fiduciary duty and duties arising under the <i>Corporations Act 2001</i> . Settled in the month prior to a two-week trial.	For the First and Third Defendants instructed by Russells. Against E Goodwin KC with M Eade.

Competition, Consumer and Regulatory

<i>Australian Competition and Consumer Commission v Jump Loops Pty Ltd (in liq) (No 3)</i> [2021] FCA 528	Proceeding seeking civil penalties against director of corporation alleged to have engaged in misleading conduct in relation to franchisees.	For the Third Respondent instructed by HWL Ebsworth Lawyers. Against O Bigos QC & T Begbie QC.
<i>Australian Competition and Consumer Commission v J Hutchison Pty Ltd</i>	Retained to appear for examinee during s 155 examinations conducted by ACCC.	For the examinee instructed by Potts Lawyers.
<i>Australian Competition and Consumer Commission v [Name withheld]</i>	Retained pre-proceeding in respect of claim under the Australian Consumer Law. Matter ongoing.	For the Applicant instructed by DLA Piper.

Corporations, Insolvency and Bankruptcy

<i>In the matter of Allied Rural Pty Ltd (subject to deed of company arrangement)</i> (QUD318/2024)	Three-day public examination conducted in relation to a company subject to deed of company arrangement.	For the Applicant instructed by Shand Taylor.
<i>Kirk as trustee of the Property of Smith (a Bankrupt) v Smith</i> [2024] FCA 240; (No 2) [2024] FCA 773	Trial of a proceeding commenced by a trustee in bankruptcy alleging sham transactions and voidable transactions.	For the Respondents instructed by HopgoodGanim.
<i>Myers v Petrie Dental Property Pty Ltd</i> [2022] QSC 230	Application for leave to commence a derivative action and cross-application for winding up on the just and equitable grounds.	For the Respondents and Cross-Applicants instructed by McCullough Robertson Lawyers.
<i>Newstart Homes Australia Pty Ltd v Kodiak Concrete Pty Ltd</i>	Contested application for the winding up of a company that had	For the Respondent instructed by McInnes

[2024] QSC 129; (No 2) [2024] QSC 144	failed to respond to a statutory demand.	Wilson. Against M Martin KC in respect of costs argument.
<i>QNI Metals Pty Ltd & Ors v Parbery & Ors</i> [2021] QSC 76	Instructed in relation to the liquidation of Queensland Nickel since 2018, including to appear unled in various hearings and interlocutory applications (in addition to led appearances referred to below).	For the General Purpose Liquidators and Queensland Nickel Pty Ltd (in liq) instructed by HWL Ebsworth Lawyers.
<i>Queensland Nickel Sales Pty Ltd v Queensland Nickel Pty Ltd (in liq)</i> [2022] FCA 112		
<i>Re Queensland Nickel Pty Ltd (in liq)</i> (Unreported decision on remuneration application 22 February 2024)		
<i>Queensland Building and Construction Commission v Mead</i> [2024] FCA 1355	Application for review of a sequestration order previously made by a registrar.	For the Creditor instructed by Gadens.
<i>Smith v Trustee of the Property of Richard John Smith</i> [2023] FCA 300	Proceeding to set aside a notice of objection to discharge from bankruptcy issued by a trustee.	For the Applicant instructed by HopgoodGanim.
<i>Kelly-Anne Trenfield and John Park as trustees for the estate of Ross William Temby v Justine Louise Temby</i> (QUD350/2020)	Voidable transaction claim, and subsequent public examinations conducted over three days in March 2022. Examinations concerned issues of tracing and further voidable transactions.	For the Applicants instructed by Cronin Miller.
<i>In the matter of Ross William Temby</i> (BRG520/2021)		

Transport

<i>An Arbitration</i>	Arbitration concerning a salvor's right to payment. Heard 2022.	For the Respondent instructed by Hall & Wilcox.
<i>FA & Sons Ltd v Maritimo Offshore Pty Ltd</i> (QUD1158/2015)	Proceeding for negligence in respect of the destruction of a vessel because of alleged electrical defects. Involved challenges to jurisdiction and constitution of proceeding. Subsequently settled.	For the Applicant instructed by Holding Redlich in respect of jurisdictional challenge to proceeding. Otherwise led by A Duffy QC.
<i>Oakey v Moreton Bay Boat Works Pty Ltd</i> (BS9823/20)	Proceeding in relation to the destruction of a vessel by fire following alleged negligent works. Briefed unled in 2021-2022 to prepare proceeding for trial. Subsequently settled.	For the Plaintiffs instructed by McCullough Robertson Lawyers.

Other Areas of Law

<i>Aircraft Structural Contractors Pty Ltd v Nauru Air Corporation</i> [2023] FCA 993	Copyright and joint venture dispute. Appeared in contested interlocutory applications for disclosure, security for costs, and separate questions. Subsequently settled.	For the Applicant instructed by HWL Ebsworth Lawyers. Against D Clothier KC with S Spottiswood.
<i>Johnston v Hollingsworth</i> (TS805/99)	Proceeding for damages for breach of duty against the executors of an estate. Briefed for the two-week trial. Settled in 2023 month prior to hearing.	For the Applicants instructed by de Groot.

<i>Names withheld</i> (Family Law Proceeding)	Anti-suit injunction brought in family law proceedings to restrain threatened proceedings in the Supreme Court of Queensland. Application determined July 2024.	For the Respondent instructed by HopgoodGanim.
<i>Toodayan & Toodayan v Metro South Hospital and Health Service & Ors</i> [2023] QIRC 36	Three-week trial of a claim for discrimination in the context of employment.	For the Applicants instructed by Greystones. Against C Murdoch KC with M Brooks.

As Junior Counsel

Administrative Law

<i>Health Ombudsman v Doctor William Braun</i> (2022) 11 QR 125	Appeal in relation to the ambit of the Health Ombudsman's investigatory power under the <i>Health Ombudsman Act 2013</i> (Qld).	Led by K McMillan QC for the Appellant instructed by Clayton Utz.
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Commercial Law

<i>An Arbitration</i>	Retained in an arbitration concerning financial modelling of a mining project and satisfaction of contractual conditions precedent. Listed for multi-week hearing.	Led by C Heyworth-Smith KC instructed by Minter Ellison.
<i>Armour Energy Limited v AEGP Australia Pty Ltd</i> [2016] QSC 153	Trial of a claim concerning whether conditions precedent in a contract for the transfer of mining tenements had been satisfied.	Led by S Couper QC and D Logan QC for the Plaintiff instructed by HopgoodGanim.
<i>Australia Pacific LNG (CSG) Pty Ltd v Bronco Energy Pty Limited</i> (BS1333/23)	Dispute between joint ventures in respect of LNG projects. Retained for applications to strike out and for leave to withdraw admissions in December 2024.	Led by J McKenna KC for the Santos Parties instructed by Ashurst.
<i>Bourke v Mach Australia Holdings Pty Ltd</i> (BS11884/18)	Proceeding brought by mining executive for breach of contract and statutory unconscionable conduct. Concerned with value of mining project and shares in Defendant. Settled in October 2023 one month prior to trial.	Led by D O'Brien KC for the Plaintiff instructed by HopgoodGanim.
<i>Equititrust Limited (Receivers and Managers appointed) (in Liquidation) v Tucker & Ors</i> [2020] QSC 269; [2021] QSC 188	Claim by company in liquidation against its former solicitor and director for breach of duty. Trial settled at the conclusion of the first week of a three-week trial in February 2022.	Led by S Couper QC for the Plaintiff instructed by Russells.
<i>Fairfield Services Pty Ltd (in liq) v Leggett</i> (2020) 5 QR 50	Voidable transaction and insolvent trading/shadow director claim. Trial resolved just prior to hearing.	Led by D Atkinson QC for the Plaintiff instructed by HopgoodGanim.
<i>Fudo Ninjas Pty Ltd v HSW Nominees Pty Ltd</i> [2021] QSC 351; [2021] QSC 353	Application to stay, on the basis of estoppel/abuse of process, a proceeding alleging breach of contract in a major property development.	Led by M Henry SC for the Defendant instructed by Arnold Bloch Leibler.

<i>Goomboorian Transport Pty Ltd & Ors v PJT Accountants & Business Advisory Pty Ltd</i> (BS3008/16)	Proceeding alleging negligence against former accountants of a transport business following sophisticated fraud by book-keeper. Settled following completion of evidence in 2019.	Led by C Heyworth-Smith QC for the Plaintiffs instructed by Griffith Hack.
<i>Karam Group Pty Ltd ATF The Karam (No. 10) Family Trust v HCA Queensland Pty Ltd</i> [2024] QSC 34	Judicial review of a building adjudicator's decision.	Led by A Stumer KC for the Applicant instructed by HopgoodGanim.
<i>Southport Memorial Club Inc v Returned and Services League of Australia (Queensland) Southport Sub-Branch Inc</i> [2023] HCASL 196	Application for special leave from the decision [2023] QCA 146 concerned with the scope of covenants in leases which run with the land.	Led by P Tucker for the Respondent instructed by HopgoodGanim.
<i>Star Entertainment Qld Limited v Wong</i> [2024] QSC 204	Trial of a claim for the recovery of a gambling debt raising issues under the <i>Cheques Act 1986</i> , contract, and in restitution.	Led by C Johnstone for the Defendant instructed by Russells.
<i>Thallon Mole Group Pty Ltd v Morton; Morton v Thallon Mole Group Pty Ltd</i> [2022] QDC 224; [2022] QDC 290; [2023] QCA 250	Construction dispute involving four-week trial and cross-applications for leave to appeal following trial.	Led by C Heyworth-Smith KC for Thallon Mole Group Pty Ltd instructed by Robinson Locke.

Competition, Consumer and Regulatory

<i>An Arbitration</i>	Arbitration occurring in 2019 concerning pricing arrangements for access to infrastructure. Briefed in respect of interlocutory issues.	Led by P Wood and S Lawrance instructed by Arnold Bloch Leibler.
<i>An Arbitration</i>	Arbitration occurring in 2023 concerning pricing arrangements for access to infrastructure.	Led by S Lawrance SC instructed by Arnold Bloch Leibler.
<i>Australian Securities and Investment Commission v [Name withheld]</i>	Retained pre-proceeding in respect of proposed proceedings arising in relation to credit legislation. Matter ongoing.	Led by M Brady KC instructed by Gagens.
<i>DBCT Management Pty Ltd v Treasurer and Minister for Infrastructure and Planning (Qld)</i> [2021] QSC 335	Application for judicial review of decision of the Treasurer of Queensland to declare the Dalrymple Bay Coal Terminal as a regulated asset.	Led by R Higgins SC and R Yezerski for the Applicant instructed by DLA Piper.
<i>Fair Work Ombudsman v Hu</i> [2020] HCATrans 11	Application for special leave in respect of disputed accessorial liability claims for civil penalties.	Led by PD Tucker for the Second and Third Respondents instructed by HopgoodGanim.
<i>Lake Vermont Resources Pty Ltd v Adani Abbot Point Terminal Pty Limited & Ors; QCoal Pty Limited & Ors v Adani Abbot Point Terminal Pty Limited & Anor</i> [2022] HCATrans 110	Trial, appeal and application for special leave to appeal in respect of a claim for business-to-business statutory unconscionable conduct arising out of contractual relationships at the Abbot Point Coal Terminal. Judgment at first	Led by J McKenna QC for the QCoal Parties instructed by Arnold Bloch Leibler.
<i>Adani Abbot Point Terminal Pty Limited v Lake Vermont</i>		

Resources Pty Ltd [2020] QSC 260; (2021) 399 ALR 302; [2022] QCA 16

instance (reversed) totalled over \$130 million.

Corporations, Insolvency and Bankruptcy

Allied Rural Pty Ltd v Stimpson [2023] QCA 77

Appeal against court determined remuneration of administrator. Proceeding concerned issues of election by conduct and solvency.

Led by M Martin KC for the Appellant instructed by Shand Taylor.

Blue Dog Group Pty Ltd v Australian Securities and Investments Commission (BS2951/24)

Class action commenced by shareholder of Bluesky alleging conspiracy, insider trading, and misleading or deceptive conduct. Strike out application determined by consent at hearing in September 2024. Matter ongoing.

Led by A Pomerence KC for the Eighth Defendant instructed by Colin Biggers & Paisley.

LM Investment Management Limited (in liquidation) in its Capacity as Responsible Entity for the LM First Mortgage Income Fund (Receivers and Managers Appointed) v EY (also known as Ernst & Young) (BS2166/15)

Re LM Investments Management Ltd (in liq) [2022] QSC 132; [2022] QSC 133

Instructed for the receiver of the responsible entity of a managed investment fund in a claim against its auditors. Briefed to settle evidence for trial and appear at a six-month trial.

Proceeding settled year prior to trial.

Led by S Doyle QC for the Receiver instructed by Gadens.

Parbery & Ors v QNI Metals Pty Ltd & Ors (No 11) [2018] QSC 249; (No 14) [2019] QSC 207; (No 15) [2020] QSC 143; [2023] QSC 246

Consolidated trial of circa-\$500m claims brought by company in liquidation and its two sets of liquidators. Retained from 2018 in relation to the liquidation, various interlocutory applications in relation to the proceeding, and the trial.

For the General Purpose Liquidators and Queensland Nickel Pty Ltd (in liq) instructed by HWL Ebsworth Lawyers. Led variously by P McQuade QC, S Doyle QC, G Gibson QC, T Sullivan QC, J Moore QC; and A Pomerence KC.

Park, In the matter of Queensland Nickel Pty Ltd [2022] FCA 667; (No 2) [2022] FCA 667; (No 3) [2022] FCA 1301; [2024] FCA 912; (Statutory Interest) [2024] FCA 1300

Queensland Nickel Sales Pty Ltd v Queensland Nickel Pty Ltd (in liq) (No 2) [2022] FCA 225; (No 3) [2022] FCA 564

Proceeding for judicial advice and directions in relation to the conduct of the liquidation of Queensland Nickel Pty Ltd. Included a trial concerning alleged breaches of duty by the liquidators in pursuing claims and obtaining and using litigation funding.

Led by A Pomerence QC/KC for the General Purpose Liquidators and Queensland Nickel Pty Ltd (in liq) instructed by HWL Ebsworth Lawyers.

Queensland Nickel Pty Ltd (in liq) v QNI Metals Pty Ltd [2021] QCA 138; [2022] QCA 136

QNI Metals Pty Ltd v Queensland Nickel Pty Ltd (in liq), Mineralogy Pty Ltd v Queensland Nickel Pty Ltd (in liq) [2022] HCATrans 33

Appeal and subsequent application for special leave to appeal in respect of a claim for \$102 million pursued by the liquidators of Queensland Nickel Pty Ltd arising out of trial reported as [2020] QSC 143.

Led by A Pomerence QC for the Appellant in the Court of Appeal and Respondent in the High Court instructed by HWL Ebsworth Lawyers.

Queensland Nickel Sales Pty Ltd v Park in his capacity as liquidator of Queensland Nickel

Appeal from a decision of the Federal Court dismissing

Led by M Stewart KC for the First and Second Respondents instructed

<i>Pty Ltd (in liq)</i> (2023) 299 FCR 169	allegations of misconduct by liquidators.	by HWL Ebsworth Lawyers.
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Tax

<i>Merchant v Commissioner of Taxation</i> [2024] FCA 498; [2024] AATA 1102; Appeal: NSD746/2024	Proceeding concerning the application of Part IVA, dividend stripping, TOFA, and disqualification of a director of a superannuation fund. Briefed at trial and in the Full Court (judgment reserved).	Led by M Brennan KC for the Respondent at trial and on appeal instructed by Gadens.
<i>Robson as trustee for the Bankrupt Estate of Lanning v Commissioner of Taxation</i> [2024] FCA 720	Test case on the scope of a trustee in bankruptcy's obligations in respect of capital gains tax payable on assets realised administering a bankrupt estate.	Led by A Wheatley KC for the Appellant instructed by McInnes Wilson.
<i>Special Situations Investing Group III, Inc v Commissioner of State Revenue</i> (BS7917/19)	Proceeding concerning group restructuring exemptions to the imposition of duty and additional foreign acquirer duty. Judgment reserved September 2024.	Led by A Wheatley KC for the Respondent instructed by Crown Law.

Transport

<i>Graincorp Operations Limited v Executive Director, (Heavy Vehicles and Prosecutions), Department of Transport and Main Roads</i> [2023] QCAT 253	Proceeding to review decision of the Heavy Vehicle Regulator in respect of alleged safety contraventions.	Led by T Sullivan KC for the Applicant instructed by Holding Redlich.
<i>Ross Tregidga and Anor v Pasma Holdings Pty Ltd</i> [2021] FCA 721; [2021] FCA 1439	Trial of a claim for negligence in respect of repairs to a vessel.	Led by G Nell SC for the Applicant instructed by HWL Ebsworth Lawyers.

Other Areas of Law

<i>Chapcon Building Services Pty Ltd v Spectrum Homes Qld Pty Ltd</i> (QUD104/2023)	Proceeding for copyright infringement in respect of building plans. Leave to amend and summary judgment applications determined in November 2023. Proceeding ongoing.	Led by D Logan KC for the Applicant instructed by Arrow White.
<i>Hollingsworth v Johnston</i> [2018] QCA 351	Appeal from a decision to allow an amendment to an originating application following related proceeding. Concerned issues of res judicata and <i>Anshun</i> estoppel.	Led by C Heyworth-Smith QC for the Respondent instructed by de Groot.

OTHER EXPERIENCE

• Federal Court Reports & Federal Law Reports: Senior Reporter	2014 – 2021
• Queensland Reports: Reporter	2017 – 2021