

# NIC DERRINGTON

## Barrister

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## PRACTICE

Admission, Supreme Court of Queensland 2014

Call to the Bar - Level 16 Quay Central 2015

My practice is primarily in the following areas of law:

- Commercial law, with a particular focus on:
  - commercial contracts and equity (with particular experiences in the resources sector);
  - corporations and insolvency law (including recovery work);
  - consumer law, trade practices and competition; and
  - matters involving complex financial transactions.
- Intellectual property.
- Industrial relations and employment law.
- Transport, particularly admiralty and maritime law.

A list of selected cases and experience is set out below.

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## PRIOR & OTHER LEGAL EXPERIENCE

### Federal Court Reports & Federal Law Reports

2014 – 2021

- Senior Reporter, Author of headnotes for both series of reports, primarily for commercial and industrial relations matters.

### Queensland Reports

2017 – Current

- Reporter

### Herbert Smith Freehills

2015

- Solicitor in the Employment, Pensions and Incentives team.

### Federal Court of Australia

2014

- Associate to the Honourable Justice JA Dowsett A.M.

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## RECOMMENDATIONS

### Doyle's Guide to the Australian Legal Profession - Leading Transport Junior Counsel (Australia)

- Recommended: 2021, 2022.

### Doyle's Guide to the Australian Legal Profession - Leading Commercial Litigation & Dispute Resolution Junior Counsel (Queensland)

- Leading: 2022.
- Recommended: 2021.

### Doyle's Guide to the Australian Legal Profession - Leading Insolvency & Restructuring Junior Counsel (Queensland)

- Leading: 2022.
  - Recommended: 2021.
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## EDUCATION & QUALIFICATION

### Master of Laws - Trinity Hall, University of Cambridge 2017

- First Class Honours; Graduating Position: 10 of 166.
- Bateman Scholar (Trinity Hall).
- Degree completed with a Commercial Designation (The Law of Restitution; Law & Economics; International Commercial Litigation; History of English Civil and Criminal Law).

### Bachelor of Laws - University of Queensland 2013

- First Class Honours; Graduating Position: 3 of 317.
- The Virgil Power Prize; The Kay Young Memorial Prize; The Gadens Prize for the Law of Remedies; The Allan Robb Memorial Prize.

### Bachelor of Economics - University of Queensland 2013

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## SELECTED APPEARANCES & CASES

### High Court of Australia

- **Accessorial Liability; Industrial Relations & Employment Law:** *Fair Work Ombudsman v Hu* [2020] HCATrans 11 (Led by PD Tucker for the Second and Third Respondents).
- **Commercial Contracts – Energy & Resources; Trade Practices – Statutory Unconscionable Conduct:** *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* [2022] HCATrans 110 (Led by JD McKenna QC for the QCoal Parties).
- **Trusts; Insolvency:** *QNI Metals Pty Ltd v Queensland Nickel Pty Ltd (in liq); Mineralogy Pty Ltd v Queensland Nickel Pty Ltd (in liq)* [2022] HCATrans 33 (led by A Pomerence QC for the First Respondent in each matter).

### Queensland Court of Appeal

- **Administrative Law – Discrimination:** *Toodayan v Anti-Discrimination Commission Queensland* [2018] QCA 349 (Unled against J Horton QC for the Appellant).
- **Administrative Law; Statutory Interpretation:** *Health Ombudsman v Doctor William Braun* [2022] QCA 117 (Led by KA McMillan QC for the Appellant).
- **Commercial Contracts – Energy & Resources; Trade Practices – Statutory Unconscionable Conduct:** *Adani Abbot Point Terminal Pty Limited v Lake Vermont Resources Pty Ltd & Ors* (2021) 399 ALR 302; [2022] QCA 16 (Led by JD McKenna QC for the Second to Fourth Respondents).

- **Estoppel – Res Judicata; Wills & Estates – Family Provision:** *Hollingsworth v Johnston* [2018] QCA 351 (Led by CC Heyworth-Smith QC for the Respondent).
- **Trusts; Commercial Contracts – Loan Agreements:** *Queensland Nickel Pty Ltd (in liq) v QNI Metals Pty Ltd & Ors* [2021] QCA 138; [2022] QCA 136 (Led by A Pomerence QC for the Appellant).

## Supreme Court of Queensland

### Commercial List

- **Commercial Contracts – Energy & Resources; Trade Practices – Statutory Unconscionable Conduct:** *Adani Abbot Point Terminal Pty Limited v Lake Vermont Resources Pty Ltd & Ors* [2020] QSC 260 (Led by JD McKenna QC for the Second to Fourth Respondents/Counterclaimants).
- **Commercial Contracts – Energy & Resources – Leases:** *Renewable Power Australia Limited v WH Heck & Sons Pty Ltd* (BS9482/19 – Concluded) (Led by D Pritchard SC for the Plaintiff).
- **Commercial Contracts – Leases; Professional Negligence:** *Dysart Motor Inn Pty Ltd v Calfer Pty Ltd* (BS12020/15 – Concluded) (Unled for the Defendant).
- **Commercial Contracts; Equity; Trade Practices:** *Aklia Holdings Pty Ltd v The Carter Group Pty Ltd* [2017] QSC 75 (Led by CC Heyworth-Smith QC for the Plaintiff).
- **Corporations – Oppression; Intellectual Property – Patents:** *Manthey Redmond (Aust) Pty Ltd (in liq) v Manthey* (BS7703/15 – Concluded) (Led by C Johnstone for the Respondents).
- **Fiduciaries; Legal Professionals:** *Equititrust Limited (Receivers and Managers appointed) (in Liquidation) v Tucker & Ors* [2020] QSC 269; [2021] QSC 188 (Led by S Couper QC for the Plaintiff – Settled).
- **Insolvency – Voidable Transactions (Winding up of Queensland Nickel Pty Ltd); Trusts:**
  - *Parbery & Ors v QNI Metals Pty Ltd & Ors (No 11)* [2018] QSC 249 (Led by P McQuade QC with M Hickey for the Plaintiffs); *(No 14)* [2019] QSC 207 (Led by S Doyle QC with M Doyle for the Second and Third Plaintiffs); *(No 15)* [2020] QSC 143 (Led by G Gibson QC, S Doyle QC, T Sullivan QC and JP Moore QC for the Second and Third Plaintiffs).
  - *QNI Metals Pty Ltd & Ors v Parbery & Ors* [2021] QSC 76 (Unled for the Second and Third Plaintiffs).
- **Insolvency – Shadow Directors – Voidable Transactions – Insolvent Trading; Costs:** *Fairfield Services Pty Ltd (in liq) v Leggett* (2020) 5 QR 50 (Led by D Atkinson QC for the Plaintiff).
- **Professional Negligence – Accountancy:** *Goomboorian Transport Pty Ltd & Ors v PJT Accountants & Business Advisory Pty Ltd* (BS3008/16 – Concluded) (Led by CC Heyworth-Smith QC for the Plaintiffs).
- **Professional Negligence – Accountancy:** *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) (a firm); Re LM Investments Management Ltd (in liq)* [2022] QSC 132; [2022] QSC 133 (Led by S Doyle QC for the Receiver).

### General Jurisdiction

- **Administrative Law – Discrimination:** *Toodayan v Anti-Discrimination Commission Queensland* [2017] QSC 301 (Unled for the Applicant).
- **Administrative Law – Judicial Review; Competition Law – Access to Markets:** *DBCT Management Pty Ltd v Treasurer and Minister for Infrastructure and Planning (Qld)* [2021] QSC 335 (Led by RCA Higgins SC and R Yezerski for the Applicant).
- **Building Industry – Regulatory Contraventions:** *Queensland Building and Construction Commission v Plumbing Detectives Pty Ltd & Ors* (BS13740/18 – Concluded) (Led by A Crowe QC for the Plaintiff).
- **Commercial Contracts; Native Title:** *Armour Energy Limited v AEGP Australia Pty Ltd* [2016] QSC 153 (Led by S Couper QC and D Logan QC for the Plaintiff).
- **Commercial Contracts; Restitution:** *Danianarnie Pty Ltd v George Weston Foods Limited* (3/19 – Ongoing) (Unled for the Plaintiff).
- **Commercial Contracts; Government Contracts:** *QNI Resources Pty Ltd v The State of Queensland & Ors* (BS55933/20 – Concluded) (Led by JD McKenna QC for the Fourth Respondent).
- **Commercial Contracts; Energy & Resources:** *Bourke v Mach Australia Holdings Pty Ltd* (BS11884/18 – Ongoing) (Led by D O'Brien QC/PD Tucker for the Plaintiff).
- **Commercial Contracts; Anton Pillar Orders:** *Austcover Pty Ltd v Windsor & Anor* (BS3201/21 – Ongoing) (Led by D Atkinson QC for the Respondents).
- **Commercial Contracts:** *Jin Resources (Aus Pty Ltd) & Ors v Nicols & Anor* [2022] QSC 158 (Unled for the Second Respondent).

- **Estoppel; Abuse of Process:** *Fudo Ninjas Pty Ltd v HSW Nominees Pty Ltd* [2021] QSC 351; [2021] QSC 353 (Led by M Henry SC for the Defendant).
- **Joint Venture Agreements; Mareva/Freezing Orders:** *Hookey v Manthey* [2018] QSC 207; [2018] QSC 252 (Unled for the Defendants against M Martin QC); *Hookey v Manthey* (2020) 4 QR 371; *Hookey v Manthey* [2020] QSC 156.
- **Intellectual Property – Trade Marks; Commercial Contracts – Franchising Agreement:** *Hello Harry Franchising Pty Ltd v HH Maroochydyore Pty Ltd* (BS6603/18 – Concluded) (Unled for the Applicant).

## Federal Court of Australia

- **Consumer Protection; Private International Law – Anti-Suit Injunctions:** *Home Ice Cream Pty Ltd v McNabb Technologies LLC (No 2)* [2018] FCA 1093 (Unled for the Applicant).
- **Consumer Protection; Civil Penalties:** *Australian Competition and Consumer Commission v Jump Loops Pty Ltd (in liq) (No 3)* [2021] FCA 528 (Unled).
- **Corporations Law; Federal Judicial Power:** *Cole v Tillman* [2015] FCA 1512 (led by C Johnstone for the Respondent).
- **Insolvency – Voidable Transactions:** *Kelly-Anne Trenfield and John Park as trustees for the estate of Ross William Temby v Justine Louise Temby* (QUD350/2020 – Concluded) (Unled for the Applicant).
- **Insolvency (Winding up of Queensland Nickel Pty Ltd); Trusts:**
  - *Park, In the matter of Queensland Nickel Pty Ltd* [2022] FCA 667 (Led by A Pomerence QC for the Plaintiffs); *Park, In the matter of Queensland Nickel Pty Ltd (No 2)* [2022] FCA 667 (Led by A Pomerence QC for the Plaintiffs).
  - *Queensland Nickel Sales Pty Ltd v Queensland Nickel Pty Ltd (in liq)* [2022] FCA 112 (Unled for the First to Fifth Respondents); *Queensland Nickel Sales Pty Ltd v Queensland Nickel Pty Ltd (in liq) (No 2)* [2022] FCA 225 (led by A Pomerence QC); *Queensland Nickel Sales Pty Ltd v Queensland Nickel Pty Ltd (in liq) (No 3)* [2022] FCA 564 (led by A Pomerence QC).
- **Insurance – Mining:** *Mastermyne Group Limited v Brit Engineering & Ors* (QUD138/2020 – Concluded) (Led by J Sweeney for the Applicant).
- **Transport (Maritime); Insurance:** *FA & Sons Ltd v Maritimo Offshore Pty Ltd* (QUD1158/2015 – Concluded) (Led by A Duffy QC for the Applicant).
- **Transport (Maritime); Negligence:** *Ross Tregidga and Anor v Pasma Holdings Pty Ltd* [2021] FCA 721; [2021] FCA 1439 (Led by G Nell SC for the Applicant).

## Federal Circuit Court of Australia

- **Bankruptcy; Body Corporate Disputes:** *Body Corporate for Q1 v Bernal* [2018] FCCA 2897 (Unled for the Applicant).

## District Court of Queensland

- **Building and Construction:** *Thallon Mole Group Pty Ltd v Morton* (BD2695/19 – Reserved) (Led by CC Heyworth-Smith QC for the Plaintiff).
- **Contempt:** *Queensland Building and Construction Commission v van Uden* [2021] QDC 103; [2021] QDC 162 (Unled for the Plaintiff).

## Fair Work Commission

- **Unfair Dismissal:** *Ajax v Credit Union Australia Ltd* [2021] FWC 3165 (Unled for the Respondent).

## Queensland Civil and Administrative Tribunal

- **Administrative Law – Regulatory; Transport (National Heavy Vehicle Law):** *Graincorp Operations Limited* (GAR167-20 – ongoing) (Led by T Sullivan QC for the Applicant).
- **Corporations – Control; Building Industry – Corporate Control:** *Murphy v Queensland Building and Construction Commission* [2018] QCAT 333 (OCR99-16 to OCR107-16) (Led by R Schulte for the Respondent).