

Selected recent matters

Foley v Gay [\[2016\] FCA 273](#) – appeared for the applicant in a representative proceeding under Pt IVA of the *Federal Court of Australia Act 1976* (Cth) for alleged breaches of continuous disclosure proceedings by Gunns Ltd (in liq). Led by John Sheahan QC.

Telstra Corporation Ltd v Australian Competition and Consumer Commission & ors (FCA No NSD 1338 of 2015) – appeared for the third respondent, TPG Telecom Ltd, in a judicial review application by Telstra with respect to access determinations by the Commission under Pt XIC of the *Competition and Consumer Act 2010* (Cth). Led by Bret Walker SC.

In the matter of Octaviar Administration Pty Ltd [\[2016\] NSWSC 16](#); [\[2015\] NSWSC 1621](#) – appeared for the liquidators of Octaviar Administration Pty Ltd on applications for approval and directions concerning a litigation funding agreement and other aspects of a complex liquidation. Led by Bret Walker SC and David Studdy SC.

McCloy v New South Wales [\[2015\] HCA 34](#) (HCA No S211 of 2014) – appeared for the plaintiff in original jurisdiction of the High Court, challenging the constitutional validity of provisions of the *Election Funding, Expenditure and Disclosures Act 1981* (NSW) on the ground that they infringed the implied freedom of political communication. Led by David Bennett QC.

Wu v Li [\[2015\] FCAFC 109](#) – appeared for the respondent and cross-appellant in an appeal relating to contractual indemnities, misleading and deceptive conduct and breach of contract. Led by Ian Neil SC.

Fortress Credit Corporation (Australia) II Pty Limited & Anor v Fletcher and Barnett as Liquidators of Octaviar Limited (Receivers and Managers Appointed) (In Liquidation) and Octaviar Administration Pty Limited (In Liquidation) and Ors (2015) 317 ALR 421; (2014) 308 ALR 166; [\[2015\] HCA 10](#); [\[2014\] NSWCA 148](#) – appeared for the liquidators of Octaviar Administration Pty Ltd in appeals on questions of statutory construction about the scope of powers to extend time to institute proceedings under s 588FF(3) of the *Corporations Act 2001* (Cth). Led by Bret Walker SC, Bernard Coles QC and Philip Dowdy.

JP Morgan Chase Bank, National Association & Anor v Fletcher and Barnett (2015) 317 ALR 301; (2014) 85 NSWLR 644; [\[2015\] HCA 8](#); [\[2014\] NSWCA 31](#); [\[2013\] NSWSC 62](#) – appeared for the general purpose liquidators of Octaviar Ltd at first instance and on appeal, concerning an order under s 588FF(3) of the *Corporations Act 2001* (Cth) extending time in which to commence unfair preference proceedings, where grounds relating to the application of s 79 of the *Judiciary Act 1903* (Cth) were raised. Led by Bernard Coles QC and Philip Dowdy.

Eastman v Director of Public Prosecutions (ACT) (2014) 9 ACTLR 163; 9 ACTLR 178; [\[2014\] ACTSCFC 2](#); [\[2014\] ACTSCFC 1](#) – appeared for Mr David Eastman in a challenge by the ACT DPP to the constitutional validity of provisions of Part 20 of the *Crimes Act 1900* (ACT) relating to proceedings following an inquiry into a conviction for murder (led by Shane Gill), and in proceedings quashing the conviction (led by Mark Griffin QC).

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Cain v New South Wales Land and Housing Corporation (2014) 86 NSWLR 1; [\[2014\] NSWCA 28](#) – appeared for the applicant in proceedings quashing a decision of a Judge of the District Court, in relation to a question of construction of provisions conferring discretionary powers on the former Consumer, Trader and Tenancy Tribunal. Led by Andrew Tokley SC.

Li v Chief of Army (2013) 250 CLR 328; [\[2013\] HCA 49 \(No S162 of 2013\)](#) – appeared for the appellant in an appeal raising questions about the proper construction and application of Chapter 2 of the *Criminal Code* (Cth) in relation to a court martial on charges brought under s 33(b) of the *Defence Force Discipline Act 1982* (Cth). Led by Alexander W Street SC.

Monis v The Queen; Droudis v The Queen (2013) 249 CLR 92; [\[2013\] HCA 4 \(No S179 of 2012\)](#) – appeared for the appellant Droudis in an appeal challenging the constitutional validity of section 471.12 of the *Criminal Code* (Cth) (which creates an offence of, inter alia, using a postal service in way that reasonable persons would regard as “offensive”) on the ground that it infringes the implied freedom of political communication under the Australian Constitution. Led by David Bennett QC in the appeal, and by Jeremy Kirk SC in the special leave hearing.

Ensham Resources Pty Ltd v Aioi Insurance Company Limited [\[2012\] FCAFC 191](#); [\[2012\] FCA 710](#) – appeared for the applicant on a motion for production of loss adjustor’s reports in a claim against an insurer under an industrial special risk insurance policy with respect to a flooded coal mine. Further generally briefed in trial preparation before settlement. Led by John Sheahan QC and Cynthia Cochrane.

SZOOR v Minister for Immigration and Citizenship (2012) 202 FCR 1; [\[2012\] FCAFC 58](#) – pro bono appearance on appeal relating to claim for refugee status. Unled before Rares J sitting alone; obtained referral to the Full Court of the Federal Court of Australia on account of questions of general principle arising as to the proper understanding of irrationality in jurisdictional fact-finding. Led before the Full Court by Andrew Tokley.

Other judicial review proceedings including *Naumovski v Mission Australia Housing Limited* [2016] NSWSC 698; *SZTGA v Minister* (FCCA No. SYG 2096 of 2013, instructed by Wotton & Kearney; settled before hearing); *SZQKS v Minister* ([2011] FMCA 168, instructed by Mallesons Stephen Jaques; *Razai v Minister* [2011] FMCA 777, instructed by Mallesons Stephen Jaques); and advice on a pro bono basis for the Public Interest Law Clearing House and other solicitors with respect to further prospective proceedings.