

PATRICK HOLMES

Principal areas of practice

Class actions, commercial, contracts, corporations law, equity and trusts, financial services and securities law, insurance, professional negligence, property, trade practices and consumer law.

Admissions and qualifications

Entitled to practise as a barrister in all Australian jurisdictions

Admitted as a barrister (New South Wales Bar)	2011
Admitted as a legal practitioner , Supreme Court of NSW and High Court of Australia	2000
Bachelor of Laws; Bachelor of Arts (major: history) , University of New South Wales	1998

Previous experience

Solicitor at Allens Arthur Robinson (now Allens), Sydney, in the positions of:	2000 – 2011
• Senior Associate, Commercial Litigation & Dispute Resolution Group	2004 – 2011
• Lawyer, Commercial Litigation & Dispute Resolution Group	2001 – 2004
• Lawyer, Corporate & Commercial Group	2000 – 2001

Recent and selected matters as a barrister (counsel)

Matter	Briefed by; acting for; briefed with (if applicable)	Subject matter / issues
Class actions		
Live Cattle Exports Class Action: <i>Brett Cattle Company Ltd v Senator the Hon Joe Ludwig in his Capacity as the Former Minister for Agriculture, Fisheries and Forestry & Anor</i> (Federal Court, ongoing)	Briefed by Minter Ellison For applicant With C Withers SC	Class action re Commonwealth's decision in 2017 to ban live cattle exports to Indonesia; misfeasance in public office (briefed in quantification of damages phase after primary liability hearing)
Allianz add-on insurance class action: <i>Fuller v Allianz Australia Insurance Ltd & Anor</i> (Vic Supreme Court, ongoing)	Briefed by King & Wood Mallesons For defendants With C Caleo KC, T Warner	Class action re add-on insurance; alleged unconscionable conduct and misleading or deceptive conduct; <i>Corporations Act Pt 7.7A</i> (best interest obligations); restitution

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Blue Sky class action: R&B Investments Pty Ltd atf R&B Pension Fund v Blue Sky Alternative Investments Ltd (admins apptd) (recrs and mgrs apptd) (in liq) & Ors (Fed Ct, discount'd against clients)	Briefed by Gilbert+Tobin For 3 rd , 4 th , 10 th respondents With I Jackman SC	Shareholder class action; misleading and deceptive conduct; breaches of continuous disclosure obligations; negligence
Westpac CCI class action: Kemp v Westpac Banking Corporation & Ors (Federal Court, settled)	Briefed by Allens For Westpac With D Thomas SC	Class action re consumer credit insurance; unconscionable conduct; misleading or deceptive conduct; <i>Corporations Act</i> Pt 7.7A (best interest obligations); restitution
Swann Insurance class action: Asirifi-Otchere v Swann Insurance (Aust) Pty Ltd & Anor (No 2) [2020] FCA 1355; 148 ACSR 14; (No 3) [2020] FCA 1885 (Federal Court, settled shortly before trial)	Briefed by King & Wood Mallesons For Swann Insurance and IAL With J Kirk SC, F Roughley	Class action re add-on insurance; alleged unconscionable conduct and misleading or deceptive conduct; restitution
NAB CCI class action: Clark v National Australia Bank Ltd & Anor (No 2) [2020] FCA 652 (Federal Court, settled)	Briefed by King & Wood Mallesons For NAB With D Thomas SC	Class action re consumer credit insurance; alleged unconscionable conduct and misleading or deceptive conduct
Navra class action: Dillon v RBS Group (Australia) Pty Ltd (No 2) [2018] FCA 395 (Navra class action) (Federal Court, settled shortly before trial)	Briefed by King & Wood Mallesons For respondents With P Brereton SC, D Thomas	Class action re issue of instalment warrants; alleged breaches of statutory warranties, negligence, misleading or deceptive conduct; unconscionable conduct
Corporations, financial services, market misconduct (see also 'class actions' and 'commercial and equity')		
Arrium Liquidators' proceeding: In the Matter of ACN 004 410 833 Limited (formerly Arrium Limited) (in liq) (NSW Supreme Court; settled during trial)	Briefed by Arnold Bloch Leibler For plaintiffs With P Crutchfield QC, M Borsky QC et al	Alleged insolvent trading (<i>Corporations Act</i> ss 588G, 588M)
ASIC v Westpac Banking Corporation (Federal Court, agreed penalty ordered: [2022] FCA 359)	Briefed by Allens For Westpac With D Thomas SC	Misleading or deceptive conduct, contraventions of <i>ASIC Act</i> ss 12DB and 12DM and <i>Corporations Act</i> ss 912A(1)(a) and (c); civil penalties
ASIC v Westpac Banking Corporation [2019] FCA 2147	Briefed by ASIC For ASIC With E Collins SC	Financial services; Pt 7.7A of <i>Corporations Act 2001</i> (best interest obligations); civil penalties
ASIC v AMP Life Limited and AMP Capital Investors Limited	Briefed by ASIC For ASIC	Infringement notices concerning reasonably believed contraventions of <i>Derivative Transactions (Reporting) Rules 2013</i>

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<i>ASIC v The SMSF Club Pty Ltd & RM Capital Pty Ltd</i> (Federal Court, judgment reserved)	Briefed by ASIC For ASIC With R Higgins SC then E Peden SC	Financial services; Pt 7.7A of the <i>Corporations Act</i> (conflicted remuneration); civil penalties
<i>Schlaepfer & Ors v ASIC & Anor</i> [2019] NSWSC 1644; on appeal: [2021] NSWCA 129	Briefed by Ashurst For ASIC With J Hmelnitsky SC, M Lewis	Market manipulation on ASX and Chi-X (breaches of <i>Corporations Act</i> ss 1041A and 1041B); defamation; injurious falsehood
<i>ASIC v Whitebox Trading Pty Ltd & Anor (No 7)</i> [2019] FCA 849	Briefed by ASIC For ASIC With J Halley SC, I Ahmed	Alleged market manipulation while index arbitrage trading and breach of directors' duties (breaches of <i>Corporations Act 2001</i> ss 1041A, 1041B, 180); civil penalties
<i>Hastie Group Ltd (In Liq) & Ors v Bourne & Ors</i> [2017] NSWSC 709 (settled after successful application to strike out pleading and dismiss certain claims)	Briefed by Clyde & Co LLP For 10 th defendant Unled	Directors' duties; successful strike-out application and partial dismissal application
<i>Casaclang & Ors v WealthSure Pty Ltd</i> [2015] FCA 761; (2015) 238 FCR 55	Briefed by Clyde & Co LLP For WealthSure Pty Ltd With M White SC	Financial services; breaches of various provisions of Ch 7 of the <i>Corporations Act</i> ; breach of statutory duty; professional negligence
<i>Robinson v WealthSure Pty Ltd</i> (NSW Supreme Court, settled)	Briefed by Clyde & Co LLP For WealthSure Pty Ltd Unled	Financial services; alleged breaches of various Ch 7 <i>Corporations Act</i> provisions; licensee's liability for authorised representative's conduct; professional negligence; misleading or deceptive conduct; statutory warranty re fitness of services
<i>In the matter of Nexus Energy Limited (subject to DOCA)</i> [2014] NSWSC 1914; [2014] NSWSC 1910; [2014] NSWSC 1689	Briefed by Clayton Utz For Administrators of Nexus With E Collins SC, then J Simpkins SC, then K Andronos SC	Contested application by company's administrators under <i>Corporations Act</i> s 444GA for leave to transfer all company's shares to secured creditor under a DOCA
<i>The MCF Group Pty Ltd v GJB Legal Pty Ltd</i> [2019] NSWSC 333	Briefed by G Spedding For plaintiff Unled	Application to set aside statutory demand, offsetting claims
<i>Syn Dynamics Australia Pty Ltd v Mining Corporate Pty Ltd</i> (NSW Supreme Court, settled)	Briefed by Atkinson Legal For Mining Corporate Pty Ltd Unled	Defence of applications to set aside statutory demands

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Commercial and equity (see also 'class actions' and 'corporations, financial services, market misconduct')		
<i>Antanium Resources Pte Ltd & Ors v Tokio Marine & Nichido Fire Insurance Co Ltd</i> (NSW Supreme Court, ongoing)	Briefed by Kennedys For 1 st defendant With E Collins SC	Trade credit insurance; assignment of contractual rights
<i>APFC No 1 Corporation & Ors v Insurance Australia Limited & Ors</i> (NSW Supreme Court, ongoing)	Briefed by Kennedys For 2 nd defendant With E Collins SC	Trade credit insurance; assignment of contractual rights
<i>Arab Bank (Switzerland) Ltd v Tokio Marine & Nichido Fire Insurance Co Ltd</i> (Federal Court, settled)	Briefed by Kennedys For respondent With C Withers SC	Trade credit insurance; assignment of contractual rights
<i>Mandarano v Elias</i> (NSW Supreme Court, ongoing)	Briefed by Gilbert+Tobin For defendants Unled	Equity, dissolution of partnership, appointment of receivers or trustees
<i>Apache Finance Pty Ltd & Ors v Santos WA Asset Holdings Pty Ltd (formerly Quadrant Energy Pty Ltd & Anor)</i> [2018] WASC 68; [No 2] [2019] WASC 101 (WA Supreme Court, ongoing)	Briefed by Clyde & Co LLP For plaintiffs With S Anderson QC	Alleged breaches of share purchase agreement re sale and purchase of a natural gas mining, processing and marketing company; constructive trusts; trial of separate issue
<i>DBCT Management Pty Ltd v McConnell Dowell Constructors (Australia) Pty Ltd & GeoSea Australia Pty Ltd JV & Ors</i> [2021] FCA 512; [2021] FCA 810 (Federal Court, settled)	Briefed by Clyde & Co LLP For second respondent Unled	Alleged negligence re securing of coal barge to cyclone mooring; legal professional privilege
<i>Australian Style Holdings Pty Ltd v Brookfield Multiplex Capital Management Ltd</i> (NSW Supreme Court, settled)	Briefed by King & Wood Mallesons For first defendant With J Williams	Alleged breaches of duty under <i>Corporations Act</i> s 601FC, fiduciary duties and equitable duties of trustee
<i>Asahi Holdings (Australia) Pty Ltd & Anor v Pacific Equity Partners Pty Ltd & Ors</i> (Federal Court, settled part heard)	Briefed by Allens For Unitas respondents With P Jopling QC, M O'Bryan QC, M Borsky	Alleged misleading and deceptive conduct; breaches of warranty; subrogation; included appearing on successful application to join applicants' warranty insurers
<i>Donau Pty Ltd v ASC AWD Shipbuilder Pty Ltd</i> (NSW Supreme Court)	Briefed by McCabes For plaintiff With R McHugh SC, D Thomas	Alleged breach of contract, unconscionable conduct, quantum meruit in relation to a subcontract for the construction of warships

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<i>Archer Capital 4A Pty Ltd atf Archer Capital Trust 4A & Ors v The Sage Group plc</i> (Federal Court)	Briefed by Allens For Archer Capital 4A Pty Ltd	Alleged breach of contract; briefed to advise and assist in relation to discovery dispute and preparation of certain witnesses
<i>The Product Makers (Australia) Pty Ltd v Holista Colltech Limited</i> (Federal Court, settled)	Briefed by HWL Ebsworth For respondent Unled	Alleged misleading or deceptive conduct through ASX announcements
<i>Top Stuff 4 Business Holdings Pty Ltd v Vodafone Pty Ltd</i> (Federal Court, settled)	Briefed by Allens For Vodafone Pty Ltd With N Kidd SC	Alleged breach of contract and misleading and deceptive conduct
<i>Oxygen Mobile Pty Ltd v Vodafone Pty Ltd; Besyl Pty Ltd v Vodafone Pty Ltd</i> (Federal Court, settled)	Briefed by Allens For Vodafone Pty Ltd With N Kidd SC	Alleged misleading or deceptive conduct
<i>Commonwealth of Australia (Department of Defence)</i> (referral to expert determination)	Briefed by DLA Piper For the Commonwealth With E Collins SC	Series of references for expert determination concerning disputes with the contractor relating to various major military procurement and maintenance contracts
<i>Public Transport Ticketing Corporation v Integrated Transit Solutions Ltd</i> (NSW Supreme Court and Court of Appeal)	Briefed by Allens For the plaintiff (PTTC) With P Durack SC and S Free	Alleged breach/repudiation of contract, estoppel, good faith, complex damages issues, public interest immunity
<i>Ford Motor Company of Australia Limited v Gojanovic</i> (NCAT, settled part heard)	Briefed by Ford directly Unled	Alleged breaches of consumer guarantees; appeal on questions of law
<i>Idameneo (No 123) Pty Ltd v Huang</i> (NSW Supreme Court, settled)	Briefed by King & Wood Mallesons For the plaintiff Unled	Alleged breach and/or repudiation of contract
<i>Idameneo (No 123) Pty Ltd v Bassi</i> (NSW Supreme Court, settled)	Briefed by King & Wood Mallesons For the plaintiff	Alleged breach and unlawful termination of contract
<i>Optus Networks Pty Ltd & Anor v Programmed Maintenance Services Ltd</i> (NSW District Court, settled)	Briefed by Corrs Chambers Westgarth For the defendant Unled	Alleged breach and/or repudiation of network services contract

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<i>Morgan Stanley Private Equity Asia III Holdings (Cayman) Ltd v XYZ Learning Centres Ltd (Recrs & Mgrs apptd) (In Liq)</i> (NSW Supreme Court, settled part heard)	<i>Briefed by</i> Watson Mangioni <i>For</i> the defendant <i>With</i> A Payne SC and R Foreman	Alleged misleading or deceptive conduct; breach of contract
<i>Sukkar v Westpac Banking Corporation</i> (NSW District Court, settled at mediation)	<i>Briefed by</i> Kemp Strang <i>For</i> Westpac Banking Corp <i>Unled</i>	Alleged breach of contract; unconscionable conduct; negligence; electronic banking
<i>RJ and AP Turnbull v RJ and GW Turnbull</i> [2017] NSWSC 1316	<i>Briefed by</i> Cole & Butler <i>For</i> defendants <i>With</i> T Alexis SC	Alleged proprietary estoppel and constructive trust for easement or irrevocable licence
<i>RJ Turnbull v IR & RJ Turnbull</i> (NSW Supreme Court, discontinued)	<i>Briefed by</i> Cole & Butler <i>For</i> defendants <i>With</i> T Alexis SC	Alleged constructive trust over farm properties arising from representations; claims for equitable compensation
<i>McGrath v Digital4ge Pty Ltd & Ors; Visual Amplifiers Pty Ltd v Alchemy Venture Capital & Ors</i> (NSW Supreme Court, application granted)	<i>Briefed by</i> Murcia Pestell Hillard <i>For</i> third party applicant <i>Unled</i>	Contested application for access to court file
<i>O’Ryan & Anor v Golding & Anor</i> (NSW Supreme Court, settled after mediation)	<i>Briefed by</i> first and second defendants <i>Unled</i>	Alleged oppression in relation corporate proprietor of company title building, trespass, negligence
<i>Pogorzelska v Bechara</i> [2015] NSWSC 92 and 93	<i>Briefed by</i> Westpac Banking Corporation (second defendant) <i>Unled</i>	Defence of plaintiff’s application to prevent bank from paying under garnishee order made by District Court; costs
<i>Faltas v Faltas</i> (NSW Supreme Court, application granted)	<i>Briefed by</i> Grant Spedding <i>For</i> the plaintiff	Application for possession of residential premises
<i>La Jolla Cove Investors, Inc v GoConnect Ltd</i> [2014] NSWSC 988	<i>Briefed by</i> Allens <i>For</i> the plaintiff <i>Unled</i>	Application to register foreign (US District Court) judgment in NSW Supreme Court
<i>Hyde Park Management Ltd v Bonnefin</i> (NSW Supreme Court)	<i>Briefed by</i> King & Wood Mallesons <i>For</i> the plaintiff	Alleged breach and termination of commercial lease; guarantee and indemnity by lessees

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<i>Montague Avoca Pty Ltd v WealthSure Pty Ltd & Anor</i> (NSW Supreme Court, settled)	<i>Briefed by Clyde & Co LLP For WealthSure Pty Ltd</i>	Alleged professional negligence; acted and appeared at interlocutory hearings
<i>Trilogy Funds Management Ltd as RE for Pacific First Mortgage Fund v KPMG</i>	<i>Briefed by Clifford Chance For KPMG</i>	Costs assessment appeal; advised and appeared at interlocutory hearings
<i>YHY Pty Ltd v Vodafone Hutchison Australia Pty Ltd</i> (NSW Supreme Court, settled)	<i>Briefed by Truman Hoyle For Vodafone Pty Ltd With R Foreman</i>	Alleged unlawful termination of contract; Franchising Code of Conduct
<i>Sumiseki Materials Co Ltd v Wambo Coal Pty Ltd</i> (NSW Supreme Court)	<i>Briefed by Allens For the plaintiff</i>	Shareholder's dispute with claims for breach of contract/company constitution, rectification, estoppel, shareholder oppression; briefed to advise and appeared unled at interlocutory hearings
<i>Global Herbs Pty Ltd & Ors v Vassallo</i> (settled after mediation)	<i>Briefed by Allens For the plaintiffs With J Lockhart SC</i>	Alleged misleading and deceptive conduct; breach of trust; unconscionable receipt; professional negligence
<i>Joseph v Segelov, Ernst & Young & Anor</i> (Family Court)	<i>Briefed by King & Wood Malesons For Ernst & Young</i>	Defence of application for financial orders sought by wife against firm of which husband is a partner; briefed on interlocutory hearings.
<i>Dyason & Anor v Egan & Ors</i> (Federal Court, Brisbane, settled after judgment reserved)	<i>Briefed by Colin Biggers & Paisley For 1st and 2nd defendants Unled</i>	Application for summary dismissal of certain claims and security for costs
<i>Cole v Quest Software Pty Ltd</i> [2013] FCCA 1160	<i>Briefed by Allens For Quest Software Pty Ltd Unled</i>	Application to set aside subpoena issued to defendant by plaintiff

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Commissions of inquiry		
Holmes Royal Commission (Robodebt): Royal Commission into the Robodebt Scheme (2023)	Briefed by: King & Wood Mallesons For: PwC and witness Unled	Royal Commission into the Federal Government's PAYG Manual Compliance Intervention program known as the 'Robodebt' scheme; appearing for witness
Bell Inquiry (Star): Review of The Star Pty Limited under ss 31 and 143 of the Casino Control Act 1992 (NSW) (2021-2022)	Briefed by: King & Wood Mallesons For: The Star With: K Richardson SC et al	5-yearly review of whether The Star remains suitable to hold a casino licence. Included 46 public hearing days.
Gotterson Inquiry (Star): External Review of The Star Entertainment Group Limited under s 30 of the Casino Control Act 1982 (Qld) (2022)	Briefed by: King & Wood Mallesons For: The Star With: G Beacham QC et al	External review of The Star Entertainment Group's Queensland operations. Included public hearings.
Commercial arbitrations		
Confidential arbitration under ACICA rules (ongoing)	Briefed by: Kennedys For: Respondent Unled	Alleged breach of contract including contractual duty of care

Selected matters as a solicitor (2001 – 2011)

Public Transport Ticketing Corporation (PTTC) v Integrated Transit Solutions Ltd, 2008-2011 (NSW Supreme Court; NSW Court of Appeal) – acted for PTTC in major commercial litigation against contractor re contract for construction of electronic ticketing system for public transport in NSW, including interlocutory disputes before Court of Appeal.

Hamod v State of NSW & UBS Australia Limited, 2001-2011 (Federal Court, NSW Supreme Court; NSW Court of Appeal; High Court) – acted for UBS in successful defence of intentional tort proceedings and defence of appeal spanning 10 years.

Sumiseki Materials Co Ltd v Wambo Coal Pty Ltd, 2010-2011 (NSW Supreme Court) – acted for plaintiff in proceedings re breach of contract/company constitution, rectification, estoppel, shareholder oppression.

Wells Fargo Bank Northwest NA atf Export-Import Bank of the United States v Victoria Aircraft Leasing Ltd and Republic of Nauru (Victoria Supreme Court) – acted for plaintiff in successful injunction and repossession proceedings relating to a commercial Boeing passenger jet.

Roach v Page (t/as Freehill Hollingdale & Page); Winnote Pty Ltd v Page, 2001-2007 (NSW Supreme Court; NSW Court of Appeal) – acted for major Australian law firm in successful defence of professional negligence action and appeal proceedings spanning 7 years.

Peterson v Tricom Equities Limited (NSW Supreme Court) – acted for plaintiff in action against his stockbroker and CHESS sponsor seeking orders for transfer of securities. Matter settled.

V8 Supercars Australia Pty Ltd – various commercial disputes.

Various regulatory investigations/proceedings – acted for examinees and respondents for requests for assistance and information in relation to examination notices issued by the Australian Securities and Investments Commission, and for a stockbroking firm in disciplinary proceedings conducted by Australian Securities Exchange.