

CURRICULUM VITAE

Alexander Flecknoe-Brown

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Professional experience

- 2011 - **Barrister, Sydney**
Practising in commercial and public law including:
- insurance defence and recovery proceedings;
 - insolvency; fraud, financial misconduct and related negligence claims;
 - competition and consumer law;
 - employment/industrial regulation;
 - discrimination and human rights; and
 - administrative and constitutional law;
 - native title;
 - appeals in the High Court, Federal Court and New South Wales Court of Appeal.
- A summary of some significant matters is overleaf.
- 2008 - 2011 **Solicitor, Mallesons Stephen Jaques (now King & Wood Mallesons), Sydney**
Advised corporate clients on regulatory and commercial law issues including in the context of complex transactions, particularly in the telecommunications, broadcasting and energy sectors. Also seconded to Telstra Corporation as in-house counsel managing regulatory and litigious matters.
- 2006 - 2008 **Counsel, Office of General Counsel, Australian Government Solicitor, Canberra**
Advised government clients on issues in public law and regulatory matters in numerous areas.
- 2005 - 2006 **Associate to the Hon. Justice William Gummow, AC**
High Court of Australia, Canberra
- 2004 - 2005 **Associate to the Hon. Chief Justice Michael Black, AC**
Research Associate
Federal Court of Australia, Melbourne

Qualifications

- 2004 Bachelor of Laws with First Class Honours
Bachelor of Arts
Australian National University
- 2007 Graduate Diploma of Legal Practice with Merit
Australian National University

Admitted as a lawyer of the Supreme Court of the Australian Capital Territory (2007) and as a barrister and solicitor of the High Court of Australia (2011)

Selected significant judgments

Commercial, property, insolvency, finance and competition

APD Technology Pty Ltd v Maximo Developments Pty Ltd [\[2021\] FCA 678](#); *(No 2)* [\[2021\] FCA 858](#); [\[2022\] FCAFC 141](#) – appeared for the fourth respondent (a solicitor) in a proceeding involving complex allegations of breach of duties and sham in the context of a commercial real estate transaction, including on appeal. Led by Stuart Donaldson SC.

Kitoko v University of Technology Sydney [\[2021\] FCA 360](#) – appeared for the first and second respondents in a successful summary dismissal application in complex proceedings raising issues of issue estoppel, *Anshun* estoppel and abuse of process in the context of a multiplicity of prior proceedings. Unled.

Northern Land Council v Quall [\[2020\] HCA 33](#) – appeared for a respondent in an appeal concerning a question of statutory construction (delegation) under the *Native Title Act 1993* (Cth). Led by Bret Walker SC.

Australian Competition and Consumer Commission v Service Seeking Pty Ltd [\[2020\] FCA 1040](#) – appeared in proceedings brought by the ACCC seeking penalties and other orders arising from alleged breaches of various provisions of the *Australian Consumer Law* (Cth). Unled.

CEU v University of Technology Sydney [\[2020\] NSWCA 343](#); [\[2020\] NSWCATAD 238](#); [\[2020\] NSWCATAD 22](#); [\[2020\] NSWCATAP 37](#); [\[2020\] NSWCATAP 18](#); [\[2019\] NSWCATAD 176](#); [\[2019\] NSWCATAD 212](#); [\[2019\] NSWCATAD 11](#); [\[2018\] NSWCATAD 185](#); [\[2018\] NSWCATAD 53](#); [\[2018\] NSWCATAD 13](#); [\[2018\] NSWCATAD 7](#); [\[2017\] NSWCATAD 323](#); [\[2017\] NSWCATAD 198](#); [\[2017\] NSWCATAD 79](#) – appeared unled for the respondent in numerous proceedings culminating in proceedings in the Court of Appeal, in relation to multiple complex proceedings in the areas of privacy, freedom of information and discrimination.

One Key Workforce Pty Ltd v Construction, Forestry, Mining and Energy Union [\[2018\] FCAFC 77](#) – appeared in proceedings giving rise to insolvency issues through the invalidity of an approval by the Fair Work Commission of an enterprise agreement for casual labour hire. Led by Ian Neil SC.

Re Kakoschke-Moore [\[2018\] HCA 10](#) – appeared for Senator Skye Kakoschke-Moore on a reference from the Senate concerning eligibility under s 44(i) of the Constitution. Led by David Jackson QC and Andrew Tokley SC.

Re Canavan [\[2017\] HCA 45](#) – appeared for Senator the Hon Matthew Canavan on a reference from the Senate concerning eligibility under s 44(i) of the Constitution. Led by David Bennett QC, Andrew Tokley SC and Gim del Villar.

Telstra Corporation Ltd v Australian Competition and Consumer Commission & ors [\[2017\] FCA 316](#) (main judgment), [\[2017\] FCA 430](#) (costs); – appeared for the third respondent, TPG Telecom Ltd, in proceedings by Telstra with respect to *ex ante* competition regulation 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.

Fortress Credit Corporation (Australia) II Pty Limited & Anor v Fletcher and Barnet 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 Barnet (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.

Fletcher & Barnet as Liquidators of Octaviar Administration Pty Limited (in liq) v Anderson & anor (2014) 292 FLR 269; 103 ACSR 236; [\[2014\] NSWCA 450](#) – appeared for the liquidators of Octaviar Administration Pty Ltd at first instance and on appeal, concerning a claim against former directors for liability to indemnify the Commissioner of Taxation in respect of the Commissioner’s liability to an unfair preference claim on behalf of the insolvent company. Led by Bernard Coles QC and Philip Dowdy.

Wu v Li [\[2015\] FCAFC 109](#); [\[2019\] FCCA 1190](#) – briefed for the financier in a dispute relating to a property development joint venture (led by I Neil SC) and unled in a subsequent bankruptcy application.

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.

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). Subsequently briefed in an application for special leave to appeal with respect to an application for a permanent stay on the retrial (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.