

THE HON PETER J. RIORDAN K.C. - Curriculum Vitae

The Honourable Peter Riordan was appointed to the Supreme Court of Victoria in March 2015 and retired in December 2022. From 2018, he was the Principal Judge of the Commercial Court. He was the Judge in Charge of the Arbitration List and served as a Judge nominated by the Chief Justice to manage the Technology, Engineering and Construction List.

He was appointed silk in 2003 and served as President of the Australian Bar Association in 2009-10 and Chairman of the Victorian Bar Council in 2007-08.

His practice at the Bar until his appointment was principally in commercial litigation and he had extensive experience as a mediator and as an arbitrator (including International Arbitrations). A list of reported cases in which he appeared or presided is Attachment 1. His judgments relevant to the law of arbitrations are listed in Attachment 2.

He was the Supreme Court of Victoria's representative on the Australian Centre for International Commercial Arbitration Judicial Liaison Committee. He was the chair of the panel for a session on 'Developments in Energy/Resources/Major Projects Disputes' at ACICA's annual conference on 18 October 2021 in Sydney.

In 2023 he was appointed as an Adjunct Professor of Law at the ACU.

He has acted as a mediator in excess of 1,000 mediations throughout Victoria and interstate. Since his retirement from the bench, he has been listed by Doyles in the best mediators in Victoria. He has been involved in the training of mediators and has published articles and conducted seminars on mediation and commercial litigation issues as set out in Attachment 3:

- Date of Birth 19.12.1952
- Professional qualifications LLB Melbourne
Admitted to practice in 1976
Signed the Bar Roll in 1992
Accredited as Mediator on 29 Feb 1996
Letters Patent in 2003
- Areas of specialisation Commercial litigation
Building Disputes
Partnership Disputes
Insurance Law
Professional Negligence
Trade Practices
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ATTACHMENT 1

REPORTED CASES

HIGH COURT

1. *Sali v S P C Ltd* (1993) 67 ALJR 515
2. *Sali v S P C Ltd* (1993) 116 ALR 625; (1993) 67 ALJR 841
3. *Pyrenees Shire Council v Day* (1998) 192 CLR 330; (1998) 151 ALR 147; (1998) AustTortsR ¶81-456; (1998) 72 ALJR 152; (1998) 96 LGERA 330
4. *Houghton v Arms* (2006) 225 CLR 553; (2006) 231 ALR 534; (2006) 81 ALJR 466; (2007) ASAL 55-164; (2007) ATPR 42-143

APPEAL COURTS

5. *Office Concepts Pty Ltd v Telford Building Systems Pty Ltd* (1994) 8 ANZInsCas ¶61-219; (1994) 176 LSJS 120
6. *Doherty v Murphy* [1996] 2 VR 553.
7. *Ripon Shire Council v Day* (1996) AustTortsR ¶81-381; (1996) 89 LGERA 391; [1997] 1 VR 218
8. *David Syme & Co Ltd v Hore-Lacy* (2000) 1 VR 667; (2000) A Def R 53-055
9. *State Bank of New South Wales and Another v Brown (as liq of Parkston Ltd (in liq)) and Others* (2001) 19 ACLC 1415; (2001) 38 ACSR 715
10. *McGee O'Callaghan Gill Pty Ltd v Deacons Graham & James* [2001] ANZ ConvR 614
11. *Manren Ltd v Royal and Sun Alliance Insurance Australia Ltd* (2003) 12 ANZ Ins Cas 61-56
12. *Suncorp Metway Insurance Ltd v Landridge Pty Ltd* (2005) 13 ANZ Ins Cas 61-660; [2005] 12 VR 290
13. *Arms v Houghton* (2006) 151 FCR 46
14. *Husain v O & S Holdings (Vic) Pty Ltd* (2006) Aust Contract R 90-230
15. *NIML Ltd v MAN Financial Australia Ltd* (2006) 15 VR 156
16. *Donis v Donis* (2007) 19 VR 577; (2007) V ConvR 54-737
17. *Quinn v Law Institute of Victoria* (2007) VAR 1.
18. *Quinn v Law Institute of Victoria* (2007) VAR 13.
19. *Kestrel Holdings Pty Ltd v APF Properties Pty Ltd* (2009) 260 ALR 418
20. *Deputy Commissioner of Taxation v Law Institute of Victoria Ltd* (2010) 27 VR 51, 267 ALR 127, 78 ATR 809
21. *Watson v Ebsworth & Ebsworth* (2010) 31 VR 123; (2010) 278 ALR 487
22. *La Trobe Capital & Mortgage Corporation Ltd v Hay Property Consultants Pty Ltd* (2011) 190 FCR 299, (2011) 273 ALR 774
23. *Morris v Riverwild Management Pty Ltd* (2011) 284 ALR 413
24. *Joyce v Sunland Waterfront (BVI)* (2011) 195 FCR 213; (2011) 281 ALR 54
25. *Omnilab Media Pty Ltd & Anor v Digital Cinema Network Pty Ltd* (2011) 285 ALR 63; (2011) 86 ASCR 674
26. *Mickovski v Financial Ombudsman Service Ltd* (2012) 36 VR 456; (2012) 91 ACSR 106
27. *White v ASIC* (2013) 237 A Crim R 83
28. *Kyriackou v Law Institute* (2014) 45 VR 540

SUPREME & FEDERAL COURTS

29. *Gugliotti v Commercial Union Assurance Co of Australia* (1992) 7 ANZInsCas ¶61-104; (1992) 15 MVR 463
30. *Bell v Burton* (1993) 12 ACSR 325; (1993) 12 ACLC 1037
31. *Chiodo v Murphy & Doherty* (1995) VConvR ¶54-531; [1996] ANZConvR 160

32. *Bunning Building Supplies Pty Ltd v Sgro* (1995) VConvR ¶54-535
33. *Templestowe Developments Pty Ltd v City of Boroondara* (1995) 92 LGERA 221; [1997] 1 VR 504
34. *ANZ Bank v Dunosa Pty Ltd & Vissaritis* [1995] ANZConvR 86
35. *Askew, The Estate of; & Seventh Granite Pty Ltd v Delaton Pty Ltd & Askew* (1996) 130 FLR 207
36. *Simplot Australia Pty Ltd t/as Edgell-Birds Eye v Comm Nettlefold (Constituting the Human Rights & Equal Opportunity Comm)* (1996) 139 ALR 371; (1996) 69 FCR 9.
37. *Hore-Lacy v David Syme & Co Ltd* (1998) A Def R 53-010
38. *Guss v Magistrates Court of Victoria* [1998] 2 VR 11
39. *Australian Associated Motor Insurers Ltd v To* (1999) 151 FLR 384; 10 ANZ InsCas ¶61-444
40. *Re Russell (in his capacity as liquidator) Parkston Ltd (in liquidation)* (2000) 35 ACSR 367 (NSW)
41. *Application of Parkston Ltd (in liquidation)* (2000) 35 ACSR 144 (NSW).
42. *Cadoks Pty Ltd v Wallace Westley & Vigar Pty Ltd* (2000) 2 VR 569
43. *Seifert v Two Point Pty Ltd* [2002] ANZ ConvR 245
44. *Toomey v Scolaro's Concrete Constructions Pty Ltd (in liq) (No 5)* (2002) 12 ANZ Ins Cas 61-519
45. *Australian Competition & Consumer Commission v Murray* (2002) 121 FCR 428; (2002) ATPR 41-899
46. *LT King Pty Ltd t/as Yarra Valley Financial Services v Daniel Besser & White Cleland Pty Ltd* (2002) 172 FLR 140
47. *Deputy Commissioner of Taxation v Rathner* (2004) 211 ALR 316; (2004) 50 ACSR 533; (2004) 22 ACLC 1363; (2004) 57 ATR 185
48. *Zeke Services Pty Ltd v Traffic Technologies Ltd* [2005] 2 Qd R 563
49. *Australian Competition and Consumer Commission v Leahy Petroleum Pty Ltd (No 2) and Others* (2005) 215 ALR 281
50. *Law Institute of Victoria Ltd v Deputy Commissioner of Taxation* (2009) 224 FLR 37; 75 ATR 234
51. *Avzur Hotels Pty Ltd v Ivanhoe Entertainment Pty Ltd* (2009) 257 ALR 498.
52. *Southwell v Jane (No 2)* (2011) 52 Fam LR 360
53. *Hodgson v Amcor Ltd; Amcor v Barnes* (2012) 264 FLR 1
54. *Carey v Freehills* (2013) 303 ALR 445; (2013) 96 ACSR 109
55. *ASIC v Australian Property Custodian Holdings Ltd (in liq)(recs and mgrs apptd) (No.2)* (2013) 213 FCR 289; (2013) 94 ASCR 492
56. *ASIC v Managed Investments Pty Ltd (No 5)* (2013) 236 A Crim R 384
57. *ASIC v Managed Investments Pty Ltd (No 7)* [2015] 2 Qd R 32
58. *ASIC v Managed Investments Ltd (No 9)* (2016) 308 FLR 216; 112 ACSR 138.

JUDGE

59. *Application for a Preventative Detention Order in respect of Causevic* (2015) 251 A Crim R 481.
60. *Garrett v Cahill* (2015) 302 FLR 242.
61. *Metropolitan Fire and Emergency Services Board v Yarra City Council* (2015) 214 LGERA 1.
62. *R & M v Independent Broad-based Anti-Corruption Commission* (2015) 253 A Crim R 35.
63. *Federation Estates Pty Ltd v Southern Water* (2016) 219 LGERA 101.
64. *Ball v Chargelegue* (2016) 259 A Crim R 51.
65. *Just Group Ltd v Peck* (2016) 344 ALR 162; (2016) 264 IR 425 (Beach, Ferguson JJA and Riordan AJA).
66. *Lei v Lei (Ruling No 1)* (2016) 50 VR 409.
67. *De Bruyn v Victorian Institute Forensic Mental Health* (2016) 48 VR 647.
68. *Owners Corp PS 501391 v Balcombe* (2016) 51 VR 299.
69. *DPP v Burns* (2017) 81 MVR 399.
70. *Commissioner of AFP v Wen* (2017) 322 FLR 32.
71. *Simcevski v Dixon (No 2)* (2017) 53 VR 357.

72. *Janney v Stellar Works Pty Ltd* (2017) 53 VR 677.
73. *Keech v County Court* (2017) 55 VR 32.
74. *Brazel v Magistrates Court of Victoria* (2018) 53 VR 440.
75. *Ian Street Developer Pty Ltd v Arrow International Pty Ltd* (2018) 54 VR 721.
76. *ACN 092 675 164 Pty Ltd (In Liq) and Anor v Suckling and Anor* (2018) 56 VR 448.
77. *Brighton Australia Pty Ltd v Multiplex Constructions Pty Ltd* (2018) 56 VR 557.
78. *Setka v Carroll* (2019) 58 VR 657.
79. *Finance & Guarantee Company Pty Ltd v Auswild* (2019) 59 VR 288.
80. *Queenfield Pty Ltd v Gordon Finance Pty Ltd* (2019) 60 VR 118.
81. *Troiano v Voci* (2019) 61 VR 512.
82. *Lei v Lei* (2020) 63 VR 102.
83. *Timbercorp Finance Pty Ltd (in liq) v De Vries* (2021) 152 ACSR 1.
84. *JAB Nominees Pty Ltd v Auswild* (2021) 152 ACSR 618.
85. *Winslow v Head, Transport for Victoria* (2021) 64 VR 200.
86. *Break Fast investments Pty Ltd v Sclavenitis* (2022) 67 VR 132.
87. *GLP Batesford Holdings Pty Ltd v 68 Bridge Road Lane Pty Ltd* (2022) 68 VR 171.
88. *Lawrence v Melbourne Football Club* (2022) 373 FLR 103, (2022) 71 VR 202.

ATTACHMENT 2

His judgments relevant to the law of arbitrations include the following:

RW Health Partnership Pty Ltd v Lendlease Building Contractors Pty Ltd [2019] VSC 353

ELECTION – Whether by its correspondence the first defendant had elected to arbitrate the relevant dispute – Whether to choose arbitration rather than expert determination was to elect between inconsistent substantive rights.

WAIVER – Principles of waiver considered – Whether by its correspondence the first defendant has unequivocally abandoned its right to expert determination.

Jacobs Group (Australia) v Commonwealth of Australia [2020] VSC 127

ARBITRATION – Application for leave to appeal under s 34A of the *Commercial Arbitration Act 2011* (Vic) – Whether agreement not to modify rights of appeal under prior Act constituted agreement to appeal under s 34A – No agreement to appeal.

Winslow Constructors v Head, Transport For Victoria [2020] VSC 790

ARBITRATION – Waiver – Elements of waiver under s 4 of the Act considered – Whether conduct constituting waiver must precede the challenged award – Whether party waived objection to alleged inadequacy of reasons in award by failing to object until after further awards relating to costs and other matters.

Great Union Pty Ltd v Sportsgirl Pty Ltd [2021] VSC 277

ARBITRATION – Whether clause in lease required disputes about entitlement to rental abatement to be referred to arbitration.

PRACTICE AND PROCEDURE – Whether Court should stay non-arbitral claims pending determination by arbitrator of the arbitral claim.

Winslow Constructors v Head, Transport for Victoria (Costs) [2021] VSC 74

ARBITRATION – Whether indemnity costs should be the default order in unsuccessful challenges to arbitral awards – Consideration of the appropriate test to be applied for unmeritorious challenges to arbitral awards – Whether a different approach should be adopted by reason of the objects of the *Commercial Arbitration Act 2011* (Vic) or the *International Arbitration Act 1974* (Cth).

John Holland Pty Ltd v The Commonwealth [2021] VSC 77

ARBITRATION – Leave to issue a subpoena – Principles – Whether notice of application must be given to other parties or the addressee of the subpoena – Court's role in assisting and supporting arbitral processes – Leave granted on the papers ex parte – Section 27A of the *Commercial Arbitration Act 2011* (Vic).

ATTACHMENT 3

1. *"Clearing the Air on Conflict"* - (1986) 60 LIJ 780
2. *"Ethical Restraints on Interviewing Witnesses"* - (1990) 64 LIJ 910
3. *"Misleading Professionals"* - (1991) 65 LIJ 508
4. *"Avoiding Unfair Guarantees"* - The Litigation Lawyer; December 1991
5. *"Businessman's Guide to the Privacy Act"* - Australian Law News; September 1992
6. *"Disputes Over Guarantees"* - Law Institute of Victoria 5 November 1992.
7. *"Liability of Municipalities and Statutory Authorities after Pyrenees"* - Australian Insurance Law Association 31 March 1998.
8. *"Recent Developments in the High Court of Australia - The Duty to take Positive Action"* - Building Dispute Practitioners Society – 20 May 1998
9. *"Negligence as a cause of action in commercial litigation"* - Law Institute Commercial Litigation Section 17 June 1998
10. *"Pleading the Truth"* - Media & Arts Law Review 2000 Volume 5 p.281
11. *"Proportionate Liability in Practice"* - Law Institute of Victoria 17 May 2006
12. *"Pleading Proportionality"* - Victorian Bar 30 May 2006
13. *"Proportionate Liability: Its Impact on Litigation Practice"* - Television Education Network – October 2006
14. *"Trade Practices Intensive: Rights, Wrongs and Remedies"* – Leo Cussen Institute – 6 March 2007
15. *"Liability of Corporate Directors and Employees"* - Law Institute Commercial Litigation Specialist Study Group 23/3/07
16. *"Employee liability under s 9 Fair Trading Act"* - Australian Professional Indemnity Group 26/4/07
17. *"Damages, Contractual Losses, TPA Losses, Consequential Loss and Equitable Damages"* – DLA Piper Seminar 13 October 2011
18. *"Mediation – making it work"* - Melbourne Central Insolvency Discussion Group Seminar 10/4/12
19. *"Mediation from the Mediator's Perspective"* - The Intellectual Property Society of Australia and New Zealand Inc 15/4/2014
20. *"A Practitioners Guide to a Strategic Approach to Mediation"* - An Article in the September 2014 Edition of the Intellectual Property Forum magazine
21. *"Litigation funding – the future"* - High Stakes Law in Practice and in the Courts a Victorian Bar & Law Institute of Victoria Joint Conference 17 October 2014
22. *"Just, Efficient, Timely and Cost-Effective Resolution of Insurance Related Disputes"* – Australian Insurance Law Association 24 November 2015
23. Guest speaker at Law Institute of Victoria Accredited Specialisation Annual Conferral Ceremony 26 November 2015
24. *'The Legal Profession in the Goulburn Valley'* - Keynote Speech Goulburn Valley Lawyers & Accountants Dinner 27 November 2015
25. *'What does 2016 hold for the Common Law'* – Victorian Bar 17 February 2016
26. *'Recent Developments in the Resolution of Property Disputes and Statutory Interpretation'* Keynote Speech Law Institute of Victoria Property Law Annual Conference 25 August 2017
27. *'Case Management in extremis – Technology the Future of Case Management'* - Keynote Speech Hong Kong International Law Conference 22 September 2018
28. *'Managing Complex Commercial Disputes'* – Keynote Speech Victorian Civil and Administrative Tribunal – Planning and Environment List 8 August 2019
29. *'The future of our courts and online dispute resolution'* – Allens 31 October 2019
30. *'Management of Technology, Engineering and Construction disputes'* – Melbourne TEC Chambers 13 November 2019
31. *'Courts, Contracts & Covid-19'* – Commercial Bar Association 25 May 2020
32. *'Cooperation between courts and arbitration'* – ACICA Judicial Liaison Committee Dispute Resolution Virtual Forum – 20 November 2020
33. *'Expert Independence in Practice'* - Chartered Accountants ANZ Forensic Accounting e-Conference – 26 November 2020
34. *'Arbitration – An introduction to concepts and pathways'* – Victorian Bar 16 March 2021

35. *'Commercial Litigation after the Pandemic'* - Electronic Wills and Online Witnessing Committee Webinar – 26 March 2021
36. *'Developments in Energy, Resources & Major Projects Disputes'* – Session Chair 2021 International Arbitration Conference – 18 October 2021
37. Judicial Training with the Supreme and National Court Judges of Papua New Guinea – 19 to 23 June 2023
38. Chairman of 5 Year Review Panel of the Victorian Bar Readers Course – Reported March 2024
39. Australian Bar Association Appellate Advocacy Workshop Coach – Sydney 13 and 14 September 2024