

CURRICULUM VITAE

DUGALD McWILLIAMS

Barrister practising at the Victorian Bar

Address and Contact Details

Henry Winneke Chambers
Level 27
140 William Street
MELBOURNE VIC 3000

(03) 9225 8821 (direct)
(03) 9225 8181 (secretary)
(03) 9642 8065 (facsimile)
0438 50 60 50 (mobile)

email: dmcwilliams@vicbar.com.au

Clerk: John Dever (03) 9225 7999

Qualifications

Dip. Law (LPAB), LL.M (Melb)

Education

1987-1991 Scotch College, Melbourne, School Captain 1991

1993-1997 Legal Practitioners Admission Board - University of Sydney (Dip. Law)

2002-2004 University of Melbourne (LL.M)

Professional Associations and Admissions

- Admitted in New South Wales 19 December 1997
- Admitted in Victoria 5 April 2000
- Admitted in High Court of Australia 7 January 1998
- Signed Victorian Bar Roll 10 November 2005
- Member of the Common Law Bar Association and Commercial Bar Association

Professional Employment

1993-1996	Law Clerk, Creaghe Lisle Solicitors, Wagga Wagga, New South Wales practising predominantly in personal injury, insurance and commercial litigation.
1996-1998	Law Clerk and solicitor, Hickson Lakeman & Holcombe (now Hicksons Lawyers), Sydney, practising in insurance, banking and commercial litigation.
1998-1999	Solicitor, Financial Services Authority, London, practising in investigations and regulatory litigation.
1999	Solicitor, Treasury Solicitor, London, practising in medical negligence and insurance litigation.
2000	Solicitor, Wisewoulds Lawyers (now Wisewould Mahony Lawyers), Melbourne, practising in insurance and commercial litigation and recoveries under s138 of the <i>Accident Compensation Act 1985</i> (Vic).
2000-2005	Solicitor and Senior Associate at Herbert Geer & Rundle Solicitors (now Thomson Geer Lawyers) Melbourne, practising in commercial litigation.
2005 onwards	Victorian Bar

Experience at Victorian Bar

Class actions

- *Kamasae v Commonwealth of Australia & Ors* – Manus Island Class Action, Supreme Court of Victoria S CI 2014 06770. Counsel for Broadspectrum Ltd (formerly Transfield) defending proceedings brought by the detainees of the Manus Island Detention Centre.
- *Downie v Spiral Foods* [2015] VSC 190 – Bonsoy Class Action, Supreme Court of Victoria. Counsel for Marusan-Ai, the Japanese manufacturer of Bonsoy, dealing with conflict of laws issues (Japanese and Victorian law) and product liability.
- Acting as leading junior counsel for Powercor Australia Ltd in a number of Supreme Court proceedings, including class actions and appeals, arising from the Black Saturday Bushfires:
 - *Horsham Golf Club v Powercor* – Supreme Court SCI 2012 04584 – property damage and consequential loss claim for over \$20M;
 - *Powercor Australia Ltd v Thomas* [2012] VSCA 87;
 - *Place v Powercor* – Supreme Court SCI 2010 01099 – six week class action trial arising from Black Saturday Bushfire at Pomorneit, Victoria at [2013] VSC 6;
 - *Perry v Powercor* – Supreme Court SCI 2009 03330 – class action arising from Black Saturday Bushfire at Hamilton;
 - *Thomas v Powercor* – Supreme Court SCI 2009 09166 – five week class action trial arising from Black Saturday Bushfire at Horsham – [2011] VSC 586, [2011] VSC 614, [2012] VSC 207;

- Consequential arguments arising from the Court approved settlement agreements arising from the Horsham and Hamilton Bushfires – Daly AsJ, 31 May 2013;
- *Birti V SPI Austnet & Ors* – Supreme Court jury trial arising from Black Saturday Bushfire at Beechworth, acting for SPI Austnet.

Other trial experience

- *Australian Gourmet Pastes Pty Ltd v IAG New Zealand Ltd* – Victorian Court of Appeal S APCI 2016 0063. Counsel for the appellant in an appeal from decision of the County Court staying proceedings pursuant to the *Trans-Tasman Proceedings Act 2010* (Cth)
- *Buisson v CJD Equipment Pty Ltd* – Supreme Court of Victoria. Counsel for plaintiff who suffered serious orthopaedic injuries in transport accident in Tasmania.
- *Parr v Knight Frank* – County Court of Victoria. Defending public liability claim against commercial real estate agent for injury suffered in an industrial accident.
- *Whelan v Lend Lease & Ors* and *VWA v 46 Lansell Road Pty Ltd* – Supreme Court of Victoria. Defending public liability claim brought by paraplegic plaintiff against 8 defendants and corresponding s138 recovery claim.
- *Victorian Workcover Authority v Woolworths Ltd* [2016] VSC 799 – acting for Woolworths. Successful defence of a s138 recovery action. Verdict for the defendant.
- *Biason v Transport Bar* – County Court of Victoria. Defending public liability claim arising from ejecting of a patron from licensed premises before a County Court jury. Successfully defended claim based on battery and aiding and abetting battery.
- *Motha v Mountain H2O Pty Ltd & Anor* – 2015 – NSW District Court – appearing as leading counsel at trial before Toner DCJ and preliminary hearing before Robison DCJ, acting for the Victorian WorkCover Authority on behalf of the employer – industrial accident proceeding claiming damages for physical and psychological injuries, involving conflict of laws issues between all parties.
- *Stewart v Victoria* [2015] VSC 373 – successful application against an insurer and its solicitors for breaching the *Civil Procedure Act 2010* (Vic).
- *Housden v Boral Australian Gypsum Ltd* [2015] VSCA 162 – acting on appeal and at first instance for Boral, successfully defeating the case at first instance and on appeal. Industrial accident common law damages trial.
- *Wesfarmers Ltd v Linfox Australia Pty Ltd* [2015] VSC 63 – acting for Wesfarmers in its successful recovery action against Linfox pursuant to s 138 of the *Accident Compensation Act*.
- *Inquest into the death of Patiya May Schriber* – 2015 – acting for the City of Greater Bendigo in an inquest into the death of a young girl hit and killed by a falling tree in a municipal park.
- *Inquest into the death of Kelly Richards* – 2014/2015 – acting for Gippsland Pathology Services in an inquest into the death of a patient bleeding to death from an iatrogenic injury.

- *Johnson v Box Hill Institute of TAFE* [2014] VSC 626 – acting for employer in a bullying and harassment claim.
- *Saddington v Kotzman* [2013] VSC 196 – judicial review of a Medical Panel decision.
- *Halligan v Curtin* [2013] VSC 124 – ruling on civil trial by jury or Judge alone.
- *Kane Constructions Pty Ltd v City of Port Phillip* – Court of Appeal S APCI 2012 0135 and 0136 – *Lumley General Insurance Ltd v City of Port Phillip* – Court of Appeal S APCI 2012 0137 and 0138 – appeal from judgment of County Court in relation to insurance indemnity issues on behalf of Kane Constructions and Lumley General Insurance.
- *Maxwell v GTI International Pty Ltd* [2011] VSCA 448 – commercial motor vehicle policy – exclusion clause.
- *Somerville Retail Services Pty Ltd v Victorian WorkCover Authority* (2011) 32 VR 446 – calculation of worker’s compensation premiums pursuant to Statutory Premiums Order.
- *Wolfe v Volvo Australia Pty Ltd & Anor* [2011] VSC – Beach J, product liability, jury trial.
- *Inquest into the death of Nathan Fazal Francis* - 2010 – inquest into the death of a Scotch College student from ingesting peanut products.
- *Threlfall v TBS Services Pty Ltd & Ors* [2010] VCC – three week jury trial in multi-defendant proceedings and s 138 recovery before O’Neill CCJ and subsequent insurance indemnity argument on behalf of Lumley Insurance.
- *Aqwell Pty Ltd v BJC Drilling Services Pty Ltd* [2009] QCA 281 – successful appeal in the Queensland Court of Appeal reversing the summary dismissal of the plaintiff’s action below.
- *Tinworth v WV Management Pty Ltd* [2009] VSC 570 – negligence action – contraction of Q Fever and contribution proceedings between defendants.
- *Kaias Racing Pty Ltd v Burke* [2009] VSC 586 – security for costs appeal.
- *Chung v Reachwell (Vic) Pty Ltd* – Supreme Court 7286/2008 – oppression action and application for appointment of provisional liquidator.
- *Crown Joinery Pty Ltd v Lyleho Pty Ltd* [2007] VSC 214 – application to wind company up on basis of actual insolvency before Maxwell P.
- *Loughran v Perpetual Trustees WA Ltd* [2007] VSC 50 – access to trust documents on behalf of beneficiaries.
- *Victorian WorkCover Authority v Midfield Meats International Pty Ltd* [2007] VSC 327 – multi-defendant s 138 recovery proceeding.
- *In the matter of ION Ltd (subject to deed of company arrangement)* – Federal Court VID 997 of 2006 – acting for the Administrator of ION Ltd in the Federal Court in the Public Examinations of Directors and Officers of the Company.

- *Brett v Kloss* [2006] VCC – acted for defendant obstetrician in first “wrongful birth” case to run to verdict in Victoria – Cohen CCJ.
- *Pearson – Gills v Chiropractors’ Registration Board of Victoria* [2006] VCAT 436 – acting for the Registration Board on appeal from its decision to suspend the applicant from practice.
- Appearance in numerous County and Supreme Court common law jury trials in industrial accident, product liability, occupier’s liability, asbestos and medical malpractice cases for both plaintiff and defendant and serious injury applications in the County Court for both plaintiff and defendant.

Publications

Co-author of chapter on Negligence, *The Laws of Australia*, Thomson Law Book Co, 2nd edition, 2007.

“The Floating Charge and its place within Article 9, PPSA Security Regimes and Australian Law” (2004) 22 C&SLJ 481.

"Not such a great bargain - Amendments to s46 of the *Trade Practices Act*" (2008) 82.04 LIJ 40.

Reporter – Victorian Reports 2007 – 2011.

Presented seminar papers to insurers and practitioners on multi-defendant common law trials, medical negligence, common law damages, inquests and s138 of the *Accident Compensation Act*.

Referees

David E Curtain QC – (03) 9225 7017

Jeremy Twigg QC – (03) 9225 6430