



Andrew has appeared as sole counsel, or led, in a range of courts and tribunals. Notable cases include (client underlined):

- *Quality Roads Pty Ltd v Baw Baw Shire Council* (Ruling No 1) [2016] VSC 477. Summary judgment - statutory duty under s40 of the *Road Management Act 2004* (Vic) – economic harm.
- *Owners Corporation PS423504M v Probuild Constructions (Aust) Pty Ltd* (D535/2014 & BP548/2015). Proceedings in VCAT concerning a claim against a builder alleged to have performed rectification work defectively such that the original defects remain.
- *Parkes & Anor v Yarra Valley Water Corporation* (S CI 2014 04964). Proceedings in the Supreme Court of Victoria in which a developer alleges a water corporation failed to connect services as agreed, causing it loss.
- *Polatkesen v LGF1 Pty Ltd* (CCV No. CI-15-04847). Proceedings in the County Court of Victoria concerning the termination of a mortgage broker commission payment agreement, and trail commission payments, for alleged misdeeds.
- *Dudley & Anor v SMA No 14 Pty Ltd* (VSC No SCI 2015 06425). Proceedings in the Supreme Court of Victoria in which the Plaintiff is seeking the recovery of a deposit for a home that is alleged to have been built smaller than it was represented in the contract of sale.
- *Papillon Blue Enterprises & Ors v ACN 108 253 818 Pty Ltd* (BP471/2014). Proceedings in VCAT concerning a claim by the tenants of Harbourn town for alleged loss or damage resulting from the inoperative Melbourne Observation Wheel during 2009 and 2013.
- *Pumplink Pty Ltd v CMV Truck and Bus Pty Ltd & Anor* (CCV No. CI-13-03534). Proceedings in the County Court of Victoria for business loss or damage allegedly caused by a servicing company providing keys to a fraudster that enabled the fraudster to take possession of a truck owned by a business.
- *Bryant & Anor v Nostra Homes & Developments Pty Ltd* (No. D4/2014). Proceedings in VCAT concerning slab heave in Melton, in which it is alleged that the owner and builder have contributed to the heave.
- *TMA Solutions v Immersive Solutions Pty Ltd* (CCV No CI-16-03065). Proceedings in the County Court of Victoria concerning the recovery of a debt and a counterclaim for breach of contract, misleading or deceptive conduct and negligence arising out of a services agreement.
- *DPS Swinburne Pty Ltd v Lend Lease Building Contractors Pty Ltd* (S CI-2014-3645). An interlocutory dispute concerning the costs of compliance with a subpoena.

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- *Masterlite Installations Pty Ltd (in liq) v Jangho Curtain Wall Australia Pty Ltd* (BP1430/2015). Proceedings in VCAT concerning recovery of payment by a subcontractor and a counterclaim for damages.
- *City of Greater Geelong v Clariant (Australia) Pty Ltd* (CI-15-04490). Proceedings in the County Court of Victoria concerning recovery of compensation for chemical pollution.
- *Omicron Building & Earthmoving Pty Ltd v Kelali Pty Ltd* (CI-15-05796). Proceedings in the County Court of Victoria concerning the alleged repudiation of land rehabilitation agreement.
- *Brighton Wines (Aust) Pty Ltd v Xiaodong Guo & Anor* (S CI 2015 06120). Proceedings in the Supreme Court of Victoria concerning allegations of breach of fiduciary duty and directors' duties.
- *Maxstra Constructions Pty Ltd v Aust Group Holdings Pty Ltd* [2015] VCC 783 (TEC). A stay application in the County Court concerning a mixed use development. Considered the application of the *Domestic Building Contracts Act 1995* to mixed use developments.
- *Begonia Pty Ltd v H. Troon Holdings Pty Ltd*, No. S CI 2014 000679 (TEC). Proceedings in the Supreme Court of Victoria brought by an owner of a shopping centre alleging defective construction of roads and pavement.
- *Teo v Vasuthan* [2014] VCC 2042 (property law). Proceedings in the County Court for the return of a deposit in circumstances where there was a dispute about whether Family Court orders permitted a Registrar to sign a transfer on behalf of an owner of the subject property.
- *Althorn Australia Pty Ltd v Grumpy Investments Pty Ltd*, No. S CI 2014 03577 (equity, joint venture). Proceedings in the Supreme Court of Victoria in respect of a joint venture for the development of land in Collingwood, alleging a profit sharing arrangement.
- *Project Management (Aust) Pty Ltd & Anor v McNaughton*, No. S CI 2014 1972 (property, equity). Proceedings in the Supreme Court of Victoria, in respect of a \$25m contract of sale of property, for the return of a deposit. Mutual allegations of termination and a counterclaim for damages.
- *Davis v Robek Australia Pty Ltd and Anor* [2014] VSC 360 (property, trade practices). Proceedings in the Supreme Court of Victoria in which the plaintiff is suing for the return of a deposit on the purchase of properties. The Defendant sought judgment against itself and successfully resisted the usual consequences of a more favourable offer of compromise.

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- *Franklin & Anor v One Telecom Pty Ltd & Ors*, No. S CI 2014 02799 (insolvency). Proceedings in the Supreme Court of Victoria concerning a complex telecommunications group in which different to administrators and receivers are appointed the various group companies, and receivers are seeking to inspect intermingled documents.
- *Castle v Zhang*, No CI-12-05688 (equity and trade practices). Proceedings in the County Court of Victoria for the recovery of a loan, defended on the basis of unconscionable dealing and unlicensed lending under s180 of the *National Credit Code*.
- *Metro Solar Pty Ltd v Solar 360 Pty Ltd*, No. S CI 2014 01772 (TEC and corporations). Proceedings in the Supreme Court of Victoria to set aside a statutory demand, and proceedings claiming loss or damage for installation of alleged defective solar panels.
- *Kounelis v Ross Horton Homes & Anor* [2014] VCAT 319 (TEC). Proceedings in VCAT concerning allegations of defective works, and a primary defence of accord and satisfaction.
- *Twigg v Byron Bay Hotel Properties Pty Ltd*, No. S CI 2014 01183 (corporations). An application in the Supreme Court of Victoria for a provisional liquidator, injunction and winding up (just and equitable grounds) by a director and member, alleging deadlock.
- *Birch v Robek Australia Pty Ltd & Anor*, [2014] VCC 68 (property, trade practices). Proceedings in the County Court of Victoria for the return of a deposit. Considered different methods of measurement and *Flight v Booth*.
- *Rohrt & Anor v Coldflow Mechanical Pty Ltd*, No. CI-13-03641 (insolvency). A preference claim in the County Court of Victoria against a company, alleging a preference in a running account. Defence based on no reasonable grounds to suspect insolvency.
- *Minas & Anor v Permanent Custodians Ltd*, No. CI-13-04232 (TEC). A proceeding in the County Court of Victoria concerning alleged defects, resulting from works performed by an owner-builder, in a property sold by a mortgagee in possession to a purchaser.
- *Premier Capital (China) Ltd v Grochowski & Ors*, No. SCI: 2010 02891 (corporations, trade practices). Proceeding in the Supreme Court of Victoria concerning the construction and effect of a put and call option agreement for the sale of property in a managed investment scheme, and effect of representations made leading into the entry into the agreement.
- *Povh v Flinkier Motors (Service) Pty Ltd & Ors*, No. SCI 2013 4986 (property & equity). Proceeding in the Supreme Court of Victoria in which the plaintiff seeks a restraint on the registration of a mortgage, alleging a prior beneficial interest under a trust.

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- *Mackie Pty Ltd v Republic of Turkey*, No. CI-13-01367 (TEC). Proceeding in the County Court of Victoria concerning the restraint on calling a security, and contested allegations of defects, variations, extensions of time and liquidated damages in respect of a consulate resident.
- *Jangho Curtain Wall Australia Pty Ltd & Anor v Arrow Worldwide Pty Ltd*, No. SCI 2013 4364 (TEC). Proceedings, including an injunction, concerning the storage of a subcontractor's goods by a warehousing business for supply to multiple construction projects in the Melbourne CBD.
- *Brookfield Multiplex Constructions Pty Ltd v Arrow Worldwide Pty Ltd & Anor*, No. SCI 2013 3718 (TEC). An injunction proceeding in the Supreme Court of Victoria over the supply of the facade to two building sites (Quays project and 720 Bourke St – Medibank project) in the Melbourne CBD.
- *CSO Interiors Pty Ltd (in liq) v Fenridge* [2013] VCAT 1175 (TEC). A security for costs application in VCAT concerning a proceeding between an owner and a builder in respect of an alleged repudiation of a contract for the construction of a 20 lot development in Preston.
- *Ashdon Valley Pty Ltd v Hicks & Anor*, No. SCI 2012 5857 & No SCI 2013 1665 (property and contract). Interlocutory proceedings in the Supreme Court of Victoria for an appeal concerning water rights under a contract, including opposing a security for costs application, applying to set aside a creditor's statutory demand and applying for a stay of an order.
- *Coinworks Pty Ltd v Noble Numismatics Pty Ltd*, No. SCI 2013 1552 (trade practices). A proceeding in the Supreme Court of Victoria, led by Colin Golvan Q.C., concerning the purchase of a rare coin at an auction in circumstances where the coin was stolen and there was no title to pass.
- *Narhex Life Sciences International Pty Ltd & Anor v Nash*, No. SCI 2012 5386 (corporations). A proceeding in the Supreme Court of Victoria, led by David Denton Q.C., in which a group of companies were seeking to restrain a nominated chairman and managing director of a joint venture company from engaging in misleading or deceptive conduct in China.
- *Vivest Pty Ltd & Anor v PPL Investments Pty Ltd & Anor*, No. SCI 2012 7197 (property). A proceeding in the Supreme Court of Victoria concerning the use of an easement by a commercial dominant tenement, in circumstances where that use was said to be excessive and not in accordance with the purpose of the grant.
- *Martinov v Extension Builders Australia Pty Ltd* [2013] VCAT 409 (TEC). A trial in VCAT concerning defects, limitation issues and measure of damages.

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- *Ren v Shi* [2012] VSC 271 (property & equity). A trial in the Supreme Court of Victoria concerning caveat removal and compensation.
- *Forrester v Repatriation Commission* [2012] AATA 846 (administrative law). A trial in the AAT in respect of veteran's entitlements under the *Veterans Entitlement Act 1986* (Cth).
- *Re Willmott Forests Limited (No 2)* [2012] VSC 125 (insolvency). Appearing in the Supreme Court of Victoria on behalf of a grower investor association, led by David Denton Q.C., in relation to proceedings to wind up and sell assets of a responsible entity of multiple timber investment schemes.
- *Re Willmott Forests Ltd* [2012] VSC 29 (insolvency). Appearing in the Supreme Court of Victoria in a hearing on a question of law, led by David Denton Q.C., about whether a liquidator of a lessor can disclaim a lease.
- *E & E Sterling Enterprises Pty Ltd v Watpac Construction (Vic) Pty Ltd* [2012] VCC 806 (TEC, evidence). An interlocutory application in the County Court of Victoria concerning privileged documents and construction of the Evidence Act.
- *Androvitsaneas v Members First Broker Network Pty Ltd* [2012] VCC 406 (contract, administrative law). A trial in the County Court of Victoria concerning termination of contract of a mortgage broker under national credit legislation.
- *Linking Melbourne Authority v K-Line, Nedanovski and Fiore*, VCAT ref: L114/2009 & L124/2009 (land acquisition). Two compulsory land acquisition valuation proceedings in VCAT. Proceeding 1 between the State and the owners resolved; proceeding 2, led by David O'Brien, between the State and the lessee business owner was determined (see [2011] VCAT 159).
- *Rees v Ahmaed* [2010] VCC 208 (property & equity). Appearing in the County Court of Victoria in a dispute in which a mortgagee was seeking to enforce a mortgage in circumstances where the mortgagor was arguing the mortgagee was *Anshun* estopped.