



SUZANNE KUPSCH

T: +61 3 9229 5022

List Y: +61 3 9225 6777

skupsch@vicbar.com.au

Dawson Chambers

Room 5, 405 Little Bourke Street

Melbourne VIC 3000

ADMISSIONS

Admitted to practice as a barrister & solicitor on 6 March 2000 (Supreme Court of Victoria)

Admitted to the High Court of Australia (2001)

Signed the Victorian Bar roll on 1 May 2014

QUALIFICATIONS

1993 - 1998 Bachelor of Arts/Bachelor of Laws – University of Melbourne

AREAS OF PRACTICE

- Administrative Law (Judicial Review)
- Administrative Law (Merits Review)
- Alternative Dispute Resolution/Mediation
- Commercial Law
- Defamation, Media, and Entertainment
- Equity/Trusts
- Inquests
- Insurance
- Disciplinary Tribunals
- Probate/Wills/TFM
- Professional Negligence
- Torts
- Trade Practices

PROFILE

Suzanne has more than 14 years' experience as a solicitor and senior associate practising in commercial and civil litigation and dispute resolution. Suzanne is experienced in a wide range of commercial and contract disputes, torts, property disputes, regulatory investigations, corporate compliance, trade practices, and directors' disputes. Suzanne also has particular experience in the regulation of professionals and disciplinary tribunals. She has acted in matters in all Victorian jurisdictions and the Federal Court of Australia.

Suzanne has significant expertise in insurance law and litigation, spanning across several classes of insurance including professional indemnity, public and products liability, property damage, construction, employment practices and management liability, and directors' and officers' liability. She has specialist knowledge in

From 1 May 2014 liability limited by a scheme approved under Professional Standards Legislation



professional indemnity claims, having acted in matters involving a wide range of professionals including accountants, financial advisers, stockbrokers, solicitors, real estate agents, engineers, health professionals, building professionals and municipal councils.

In addition to her experience in private practice, Suzanne held a position as Legal Counsel/Insurance and Risk Adviser at a corporate insurance and risk consultancy firm.

PROFESSIONAL EXPERIENCE

Commercial disputes/ Trade Practices

- Acted on behalf of a prominent company in respect of an ACCC investigation into a complaint of misleading and deceptive conduct. Prepared and presented a compliance program to employees of the company in accordance with the terms of an enforceable undertaking.
- Acted on behalf of a company sued for unpaid wages by an outgoing director, with a counterclaim for breach of directors' duties and losses realised upon the unauthorised sale of security under a loan agreement.
- Provided advice to a client in relation to the impact of proposed terms of settlement in an unfair dismissal claim on the client's professional indemnity insurance arrangements.
- Acted on behalf of a manufacturer of milk powder products in the defence of a counterclaim brought against it for damages and other losses arising out of the supply of allegedly defective product for use in infant formula in overseas markets.
- Acted on behalf of deed administrators in the defence of a claim involving alleged breaches of contract while the plaintiff company was under administration.

Professional liability

Financial lines

- Acted in the defence of several claims brought against accountants and financial planners in relation to negligent and/ or misleading advice, eg:
 - Defended a large financial services firm in Federal Court proceedings brought by the partner of a deceased client. The claim arose from advice given to the client in relation to the structure of his superannuation plan (to ensure that death benefits would not be paid to estranged family members).
 - Acted on behalf of a firm of accountants in relation to negligent tax advice provided by an employee of the firm to several clients.

Real estate agents

- Defended a number of claims against real estate agents and valuers, eg:
 - claims involving allegations of misleading and deceptive conduct in the course of sales campaigns (such as errors in the calculation of land size);
 - claims for breach of duty arising out of injury sustained by employees and/or visitors to premises;
 - claims by tenants of commercial and residential properties arising out of negligent property management.

From 1 May 2014 liability limited by a scheme approved under Professional Standards Legislation



Construction/ building professionals

- Acted on behalf of a building contractor in the defence of a multi-million dollar recovery claim following a large fire (suspected arson) at commercial premises.
- Acted for consultant engineers in relation to a \$450 million claim for misleading and deceptive conduct concerning one of Victoria's largest infrastructure projects.
- Acted on behalf of construction professionals in several claims including a claim arising out defective building works at an inner city high rise apartment building. Advised insurer client in relation to indemnity issues including the effect of "other insurance" clauses.
- Acted on behalf of architects, surveyors and engineers in the defence of claims for professional negligence and/ or breach of contract eg claims arising out of soil classification and/ or design issues.

Councils/ local government

- Acted on behalf of Councils in defending professional negligence/breach of duty claims brought in various courts and at the Victorian Civil and Administrative Tribunal. These matters included claims at common law for negligent misrepresentation, breach of professional duty by Council surveyors, and claims for common law damages and/or compensation under Section 94 of the *Planning & Environment Act* arising out of cancellation of or amendments to planning permits.
- Advised a council in relation to allegations of impropriety and abuse of process in the administration of a tender process, and its handling of media enquiries about the matter.

Professional regulation/ disciplinary tribunals

- Acted as counsel assisting the Chinese Medicine Registration Board:
 - Prosecuted practitioners in the Magistrates' Court of Victoria for breaches of the Chinese Medicine Registration Act (now *Health Professions Registration Act*).
 - Prepared and conducted hearings into the professional conduct of registered practitioners arising out of complaints in relation to issues including alleged sexual assault of patients, inappropriate treatment, infection control, boundary crossing, breaches of codes of conduct in relation to advertising and testimonials, and Medicare and health insurance fraud.
- Represented and appeared on behalf of dentists at several informal and formal hearings at the Dental Practice Board of Victoria. Also defended dentists in court proceedings brought by patients arising out of negligent treatment.

Public liability/ property damage/ product liability

- Acted on behalf of a construction company in relation to several claims arising out of the company's use of an apparently faulty product in works conducted at several properties.
- Resolved several claims against a building contractor arising out of a scaffold collapse and advised the insurer client regarding issues including double insurance.
- Conducted the defence of various product liability claims including defending a third-party claim in the Supreme Court of Western Australia against a manufacturer and supplier of industrial couplings for use in a mining operation.

From 1 May 2014 liability limited by a scheme approved under Professional Standards Legislation



- Defended a number of personal injury claims against a wide range of occupiers including hoteliers, supermarkets, shopping centres, motels and recreation centres.
- Acted on behalf of schools and sporting clubs in respect of schoolyard and sporting injuries.
- Conducted the defence of statutory recovery actions under the Accident Compensation Act and dependency claims under the Transport Accident Act

IN-HOUSE EXPERIENCE

In 2008/2009 Suzanne held a position as In-house Legal Counsel/Insurance and Risk Adviser at a corporate advisory firm whose clients included top tier and mid-tier law firms, insolvency practices and media organisations.

Legal Counsel:

- Advised the firm on legal issues relating to the business. For example, drafted contracts and agreements relating to the firm's activities (employment and consultancy agreements, joint venture agreements).
- Drafted the firm's service documents (e.g. retainer agreements, terms of engagement).

Insurance and Risk Adviser:

In this role Suzanne conducted a wide range of projects including but not limited to:

- Policy advice and policy reviews (e.g. reviewing D&O policies for law firm partners holding external directorships)
- Professional indemnity and management liability claims management for key clients.

Advising clients regarding compliance with legislative requirements/schemes (e.g. limitation of liability schemes; changes to financial services regulations, DOFI legislation) and drafting amendments to policy wordings to reflect recent changes.

MEMBERSHIPS

- Law Institute of Victoria (Litigation Lawyers' section)
- APIG (Australian Professional Indemnity Group)
- Australian Insurance Law Association
- Women in Insurance
- Women Barristers' Association
- Commercial Bar Association
- Common Law Bar Association

From 1 May 2014 liability limited by a scheme approved under Professional Standards Legislation