

Glen Pauline

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Admitted to practice as a barrister & solicitor in 1995.

Practised at Maddock Lonie and Chisholm, the Office of Public Prosecutions and Norton Gledhill.

Signed the Victorian Bar Roll in 2001.

Accredited as a mediator in 2006.

Nationally accredited mediator in 2010.

Qualifications

LLB (Hons); BA

Practice Areas

Alternative Dispute Resolution/Mediation	Equity/Trusts
Commercial Law	Industrial Relations
Discrimination	Property Law
Employment	Torts
Equal Opportunity	Trade Practices

From 21 May 2009, liability limited by a scheme approved under Professional Standards legislation.

Profile

Glen Pauline (*BA, LLB (Hons)*) has over two decades legal experience in all aspects of litigation including fifteen years at the Bar. He practises in commercial and industrial/employment disputes as counsel and as mediator including:

- Unfair dismissals, general protections (adverse action) claims, discrimination and underpayment claims under the *Fair Work Act 2009*;
- Defending prosecutions brought by the Fair Work Ombudsman and Victorian Workcover Authority;
- Unlawful industrial action, coercion, discrimination and right of entry under the *BCII Act 2005* and *Fair Work Act 2009*;
- Reasonable notice and breach of employment contract claims;
- Contract and joint venture disputes;
- Franchising disputes including as mediator appointed by OFMA;
- Finance including enforcement of guarantees, leases and hire purchase agreements;
- Misleading and deceptive conduct claims;
- Property and equity including constructive trusts, estoppel and priority issues.

Industrial

[Cozadinos v CFMEU](#) [2013] FCA 1243 - Penalty decision of Tracey J re contravention of s 44 of the BCII Act – applying undue pressure to a contractor to enter an EBA.

[Cozadinos v CFMEU & Bell](#) [2013] FCAFC 8 - Appeal to Full Court led by J.Bourke S.C against dismissal of proceeding at first instance; retrial ordered on two grounds: failure to take into account the cumulative effective of corroborative evidence; and incorrect application of the rule in *Browne v Dunn*.

[Cozadinos v CFMEU & Bell](#) [2012] FCA 46 - Appeared at trial led by R.Maidment S.C for Australian Building & Construction Commission alleging threat to take action to coerce or apply undue pressure to a contractor to make an enterprise bargaining agreement, and discrimination in contravention of BCII Act 2005.

[Boulderstone Qld Pty Ltd v Construction, Forestry, Mining and Energy Union](#) [2012] FCA 520 (27 April 2012, Dowsett J) led by N.Green Q.C – injunctions – industrial action – union seeking “support” of sub-contractors on three building sites in relation to protected

industrial action by union members on one site - failure of subcontractors to attend work – picketing by union organisers – union aiding abetting counselling or procuring a ban imposed by sub-contractors – coercion of principal contractor to agree to enter building enterprise agreement on union’s terms – injunctions granted - *BCII Act* 2005 s 38, s 39, s 44, s 48.

The West Gate Bridge industrial dispute:

Injunctions:

- [*Williams v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union*](#) [2009] FCA 86 (6 February 2009, Jessup J) (led by N.Green Q.C for the Australian Building and Construction Commissioner);
- [*Williams v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union \(No. 2\)*](#) [2009] FCA 103 (17 February 2009, Jessup J) (led by N.Green Q.C for the Australian Building and Construction Commissioner);
- [*John Holland Pty Ltd v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union*](#) (2009) 174 FCR 526; [2009] FCA 235 (17 March 2009, Jessup J) (led by N.Green Q.C for the Australian Building and Construction Commissioner as Intervener);
- [*Williams v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union \(No 3\)*](#) [2009] FCA 371 (24 March 2009, Jessup J) (led by N.Green Q.C for the Australian Building and Construction Commissioner).

Penalty:

- [*Williams v Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union*](#) [2010] FCA 754 (led by R.Maidment S.C for the Australian Building and Construction Commissioner).

Employment

[*Avagiannis v Commercial Bedding Supplies \(Australasia\) Pty Ltd*](#) [2012] VCC 1866 (Ginnane J) Employment contract - whether a term that employment would be at particular store – store not opened – whether repudiation – damages – reasonable notice – performance bonus – loss of a chance – mitigation of damages.

[*Conlon v Anthony Dickinson t/as Raylook Pty Ltd*](#) [2012] FWA 7989 (Lewin C) - Unfair dismissal, redundancy held not to be a sham, failure to consult as per Award.

[Manson v Village Vet](#) [2011] FWA 3541 - **unfair dismissal application - Small Business Fair Dismissal Code** - employer summarily terminated employee after forming view she would have committed **theft of goods from clinic** - employee not honest when questioned about goods in her possession - held employer had reasonable grounds for believing employee would not have paid for goods and reasonable grounds for believing her conduct sufficiently serious to justify immediate dismissal.

Victorian Workcover Authority v Windsor Hotel (2005, Hodgens M) with T. Tobin S.C **successful defence at trial of three charges under the *Accident Compensation Act 1985*** for alleged termination of an employee because of lodgement of a Workcover claim, including obtaining a costs order of \$65,000 against the VWA.

Commercial

[Sugar Australia Pty Ltd v Southern Ocean Pty Ltd \[2015\] VCC 428](#) (Kennedy J) – 13 day trial led by M.Rinaldi – **contract dispute** – whether plaintiff entitled to termination payments in lieu of notice under contracts or whether defendant entitled to terminate without notice; summary dismissal for alleged misconduct

The Optimise Group Pty Ltd v HIS Research and Development Pty Ltd (October 2008) - 10 day Supreme Court trial before Kyrou J led by TJ North QC re a development contract for conversion and/or development of a totally new software product for the hospitality industry from a DOS environment to a Windows environment.

[Mimi v Millennium Developments Pty Ltd](#) [2003] VSC 260 (Nettle J) - **priority dispute** - successfully argued for the removal of an injunction preventing settlement of the subsequent contract of sale of land.

A series of successful County and Magistrates' Court trials **enforcing guarantees and motor vehicle hire-purchase agreements and sale agreements:**

- *Macquarie Leasing Pty Ltd v Simmons*
- *Macquarie Leasing Pty Ltd v Hercules*
- *Macquarie Leasing Pty Ltd v Foley and Evans*
- *Macquarie Leasing Pty Ltd v Skoulllos*
- *Macquarie Leasing Pty Ltd v Gribble*

Presentations and Publications

- Franchise Council of Australia Conference Legal Symposium 9 October 2016– Case Update: *Marmax Investments Pty Ltd v RPR Maintenance Pty Ltd, and Franchisor Liability for Franchisee Wage Exploitation – Update*
- Article: “*Reinforcing the building blocks*” (with S.Kollmorgen) Law Institute Journal July 2014 page 33 (LIJ 88.07)
- Article: “*Credibility, corroboration and the cumulative effect in fact finding*” Law Institute Journal September 2013 page 58 (LIJ 87.09)
- Update author of *The Laws of Australia 26.2 Discrimination*, October 2012 (Thomson Reuters).
- *Postcard from the World Bar Conference: The Victorian Bar CPD session*, 17 October 2012
- Article: “*Bridging the jurisprudential gap*” Law Institute Journal July 2011 page 50 (LIJ 85.07)
- *The West Gate Bridge Dispute*: Law Institute Workplace Relations Conference, 2010
- *Drafting and Understanding Pleadings*, Law Institute Young Lawyers Seminar 2006, 2007

Other Experience

Mediator, Panel of the Office of the Franchising Mediation Adviser since 2014

Adjunct Lecturer in Advocacy, The College of Law Victoria 2005 - 2012