



**Andrew P. Downie**

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Admitted to practice as a barrister and solicitor of the Supreme Court of Victoria in 2004

Signed the Victorian Bar Roll in 2008

Member of the Tasmanian Independent Bar from 2012

**Qualifications**

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LLB (Hons) / BSc (Hons) – Monash University

Currently enrolled in Masters of Commercial Law – The University of Melbourne.

**Practice Areas**

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Bankruptcy/Insolvency

Intellectual Property

Building and Construction

Professional Negligence

Commercial Law

Property Law

Constitutional Law

Residential/Retail Tenancies

Consumer Credit

Sports Law

Corporations and Securities

Telecommunications/IT/Computers

Equity/Trusts

Trade Practices

*From 1 July 2008 liability limited by a scheme approved under Professional Standards Legislation*

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## Professional Experience

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Andrew has a predominantly commercial practice. He regularly appears in trials and interlocutory hearings across all jurisdictions. Andrew's trial work frequently involves complex expert issues (both financial and scientific) and extensive documentary evidence.

Andrew is regularly briefed to give advice and to prepare pleadings and written submissions for his matters. Andrew also regularly appears in complex interlocutory applications, including Anton Piller orders, freezing orders, injunctions, and receiver appointments.

Andrew appeared as junior counsel in the liquidation of the Willmott Forests Ltd group, which concerned an informal winding up of many registered and unregistered managed investment schemes. This was a complex series of proceedings in the Supreme Court of Victoria and the Court of Appeal that decided important issues of law including the scope of both the liquidators' and the court's powers under the *Corporations Act 2001*.

Andrew also regularly appears in technology, engineering and construction (TEC) matters and matters involving issues of property law, contract, equity and trusts.

Andrew read with Richard Attiwill. Immediately prior to coming to the bar, Andrew was a dispute resolution lawyer at MolinoCahill Lawyers, specialising in large-scale construction, mining, infrastructure and defence projects.

Prior to being admitted as a solicitor Andrew worked in the chemical sciences field and has been published in scientific journals, including the Journal of the American Chemical Society and CrystEngComm. This expertise enhances Andrew's ability in matters concerning technical scientific matters and expert evidence.



## Professional Experience (cont)

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

- *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 S.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 S.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 S.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 S.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.

Andrew was recently appointed by Cycling Victoria as the chairman of a judiciary committee for BMX Victoria. In this capacity Andrews hears and determines charges brought against members of the association.



## Publications and seminars

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- Legal website and blog on commercial and civil practice (since February 2011): [www.the-civil-lawyer.net](http://www.the-civil-lawyer.net)
- Seminar and paper for the Victorian Bar '*Ethical and effective settlement negotiations*', 20 May 2013.
- Seminar and paper for Legalwise '*Ethical and effective settlement negotiations*', 21 March 2013.
- Instructing in the 2012 Bar Readers' Course '*Technology for Barristers*', 12 September 2012, with David Levin, Q.C.
- Seminar and Paper to the Victorian Bar '*Offers of Compromise and 'Calderbank' offers in civil litigation*', 9 July 2012, with Daryl Williams, S.C.
- Seminar and Paper to the Victoria Bar '*Legal practitioner costs and VCAT*', 9 March 2010

## Past and present committee/board memberships

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- Commercial Bar Association (CommBar) Construction Law section, Assistant Monitor (2012 to present)
- Commercial Bar Association (CommBar) Sports Law section, Monitor (2012 to present)
- The Essoign Club Ltd, Assistant Honorary Treasurer (2012 to present)
- Health and Wellbeing Committee of the Victorian Bar (2011 to present)
- Victorian Bar Council (2011-2012)
- Victorian Bar Counsel Committee (2011-2012)



### **Current association memberships**

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- Melbourne TEC Chambers
- The Building Dispute Practitioners' Society
- Society of Construction Law Australia, and the Society of Construction Law (UK)
- Institute of Arbitrators & Mediators Australia
- The Intellectual Property Society of Australia & New Zealand
- Law Council of Australia
- Commercial Bar Association
- Barrister's Animal Welfare Panel
- Law Hawks