

DAVID GEORGE ROBERTSON

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OCCUPATION

King's Counsel	Appointed 17 March 2015
Senior Counsel in and for Victoria	Appointed 26 November 2014
Barrister-at-Law	Since 1985

PROFESSIONAL EXPERIENCE

- Commercial Law
- Banking, Finance and Securities
- Trusts, Superannuation, Equity, Company Law and Administrative Law
- Arbitration and Mediation

PROFESSIONAL ASSOCIATIONS

- The Victorian Bar
- Commercial Bar Association of Victoria
- Chartered Institute of Arbitrators

OTHER PROFESSIONAL ACTIVITIES

- Senior Honorary Fellow and Part-Time Lecturer in Finance Law, Department of Finance, Faculty of Economics and Commerce, University of Melbourne
- Legal Education — Judge / Arbitrator in the Vis East Moots

PAST EMPLOYMENT

Articled Clerk CORR & CORR, SOLICITORS	1980
Solicitor CORR & CORR, SOLICITORS Associate from 1983	1981 – 1984

EDUCATION

Bachelor of Arts THE UNIVERSITY OF MELBOURNE Majored in Economics and also studied Mathematics	1979
Bachelor of Laws THE UNIVERSITY OF MELBOURNE	1980
Master of Laws THE UNIVERSITY OF MELBOURNE	1984
Diploma in International Commercial Arbitration CHARTERED INSTITUTE OF ARBITRATORS	2020

QUALIFICATIONS

- Barrister and Solicitor of the Supreme Court of Victoria and the High Court of Australia 1981
- Signed the Roll of Counsel kept by the Victorian Bar Council 1985
- Barrister of the Supreme Court of New South Wales 1993
- Barrister and Solicitor of the Supreme Court of the Australian Capital Territory 1994
- Barrister and Solicitor of the Supreme Court of Western Australia 1998
- Member of the Chartered Institute of Arbitrators 2000
- Senior Counsel in and for the State of Victoria 2014
- Appointed one of Her Majesty's Counsel for the State of Victoria 2015
- Fellow of the Chartered Institute of Arbitrators 2020

OTHER ACTIVITIES

- Member of the Human Research Ethics Committee of the Royal Children's Hospital

SELECTED PAST CASES

- *AGC (Advances) Ltd v R Lowe Lippmann Figdor & Franck* (1990) 4 ACSR 337 and *R Lowe Lippmann Figdor & Franck v AGC (Advances) Ltd* [1992] 2 VR 671 (on appeal) — Auditors' negligence
- *Morlend Finance Corporation (Vic) Pty Ltd v Luke* (1991) ASC ¶56-095 — Finance
- *Swann Insurance (Aust) Pty Ltd v Fraillon* [1992] 1 VR 401 — Insurance
- *Westpac Banking Corporation v Donald-Murrell* [1992] 2 VR 429 — Finance
- *Lagarna Pty Ltd v Bridge Wholesale Acceptance Corporation (Aust) Ltd* [1995] 1 VR 150 — Appellate procedure
- *Case Credit Wholesale Pty Ltd v Clarke* (1997) ASC ¶56-365 — Finance
- *Australia and New Zealand Banking Group Ltd v Various Respondents* (1998) ASC ¶155-013 — Finance
- *Asea Brown Boveri Superannuation Fund No 1 Pty Ltd v Asea Brown Boveri Pty Ltd* [1999] 1 VR 144 — Superannuation trusts

- *Australia and New Zealand Banking Group Ltd v Bollas* (1999) ASC ¶155-031 — Finance
- *Australia and New Zealand Banking Group Ltd v Director-General of Department of Fair Trading* (1999) 47 NSWLR 223 — Finance
- *Linkenholt Pty Ltd v Quirk* (2000) ASC ¶155-040 — Finance
- *Royal Society for the Prevention of Cruelty to Animals (Vic) Inc v Marson Constructions Pty Ltd* (2000) 1 VR 274 — Arbitration and judicial power
- *BHLSPF Pty Ltd v Brashs Pty Ltd* (2001) 8 VR 602 — Superannuation trusts
- *Australian Vegetable Company Pty Ltd v Farm Fresh Distribution Pty Ltd* [2003] VSC 480 — Commercial contacts
- *Guglielman v Trescowthick* (2004) ATPR ¶41-995 — Directors' duties
- *Power v Hamond* [2005] VSC 2 and *Power v Hamond* [2005] VSCA 25 (on appeal) — Professional regulation
- *Australian Finance Direct Ltd v Director of Consumer Affairs Victoria* (2005) ASC ¶155-073 and *Australian Finance Direct Ltd v Director of Consumer Affairs Victoria* (2006) 16 VR 131 (on appeal) — Finance
- *Invensys Australia Superannuation Fund Pty Ltd v Austrac Investments Ltd* (2006) 15 VR 87 — Superannuation trusts
- *Broque Tableau Pty Ltd v Binningup Nominees Pty Ltd* (2007) 35 WAR 27 — Trusts and real property
- *Gippsreal Ltd v Registrar of Titles* (2007) 20 VR 157 — Contract law
- *Solak v Bank of Western Australia Ltd* (2009) VConvR ¶54-762 — Finance and identity fraud
- *DiPietro v Basjo Catering Pty Ltd* [2008] VSC 326 and *DiPietro v Basjo Catering Pty Ltd* [2009] VSCA 223 (on appeal) — Commercial contracts
- *Kheirs Financial Services Pty Ltd v Aussie Home Loans Pty Ltd* (2010) 31 VR 46 — Damages and indemnity
- *Ipex ITG Pty Ltd v Melbourne Water Corporation* [2012] VSCA 169 — IT contracts
- *Literski v Fresh 2 U Pty Ltd* [2013] VSC 307 — Commercial contracts
- *Mathieson Nominees Pty Ltd v AJH Lawyers* [2013] VSC 325 and *AJH Lawyers v Mathieson Nominees Pty Ltd* [2015] VSCA 227 — Judicial power
- *De Oliveira v Udayaratna* [2016] VSC 123 — Commercial contracts
- *Lawrence & Hanson Group Pty Ltd v Young* [2016] VSCA 69 — Securities
- *Bimem Nominees Pty Ltd v Methven Croydon Pty Ltd* [2016] VSC 473 — Injunctions and commercial leases
- *FSS Trustee Corporation v Eastaugh* [2016] VSC 636 — Superannuation trusts
- *Goodenough v State of Victoria* (2017) AustTortsR ¶82-324 — Limitation periods
- *Goodenough v State of Victoria* (2017) 53 VR 670 — Civil effect of Royal Pardon
- *Hill v Love* (2018) 53 VR 459 and *Burness and Jess v Hill* [2019] VSCA 94 (on appeal) — Marshalling securities
- *Harstedt Pty Ltd v Tomanek* (2018) 55 VR 158 — Knowing assistance in a breach of trust
- *Bendigo and Adelaide Bank Limited v DY Logistics Pty Ltd* [2018] VSC 558 — Execution of commercial documents and choice of law

- *Keys Consulting Pty Ltd v CAT Enterprises Pty Ltd* [2019] VSCA 136 — Damages for breach of contract
- *Central Innovation Pty Ltd v Garner (No 4)* [2020] FCA 1796 — Taking confidential customer information (IT database)

PUBLICATIONS AND ARTICLES

- Chattel Securities Chapter of Lexis Nexis, *Court Forms, Precedents and Pleadings* — Victoria, 1997 – 2006
- “My Flotsam or Your Jetsam: International Trade and Ownership of Goods in the Event of Insolvency” (written jointly with M. Flood) in *International Trade & Business Law Bulletin* (2000) Vol. 1, No. 2, p. 26 and also in *Inhouse Counsel* (1999) Vol. 3, No. 3, p. 25
- “Defences in Mortgage Enforcement” presented at Legalwise Seminar, *Resolving Mortgage Disputes*, 14 September 2005; updated and re-presented at Legalwise Seminar, 14 March 2008
- “Recent Tribunal and Supreme Court Cases Relating to the Consumer Credit Code” in *Consumer Credit Disputes*, Seminar Papers, 2007, Leo Cussen Institute
- “Invoking the Statutory Power of Sale of a Mortgagee of Land” presented at the Television Education Network Seminar, *The Mortgagee’s Power of Sale*, 21 February 2008
- “Commercial and Retail Leases” presented to the Western District Law Association, 26 March 2015
- “Caveats Over Joint and Common Interests in Land” presented to the Commercial Litigation Specialist Study Group at the Law Institute of Victoria, 16 August 2017
- “Notes on the Medical Treatment Planning and Decisions Act 2016” presented to the Human Research Ethics Committee of the Royal Children’s Hospital, 7 May 2018; updated and re-presented to the Western District Law Association, 15 March, 2019
- “Topical Ethics” presented to the Western District Law Association, 15 March, 2019
- “Marshalling Securities and Words of Release” presented to the Commercial Litigation Specialist Study Group at the Law Institute of Victoria, 18 September, 2019
- “Trustee Responsibilities and Overpayments” presented at the Superannuation Law Conference, Leo Cussen Centre for Law, 25 October, 2019
- “Common Law Rules for the Construction of Releases”, Letter to the Editor in *Australian Law Journal*, (2019) Vol. 93. p. 904
- “Settlements and Releases” presented (jointly with I.W.D. Upjohn CSC, QC) at the Howells’ List Barristers Continuing Professional Development Breakfast, 28 November 2019
- “The Doctrine of Marshalling — When Does It Apply & Advising Your Client” presented by Zoom in the Mortgage & Securities Intensive, Leo Cussen Centre for Law, 18 August 2022