

JOHN NUNNS -

Liability Limited by a Scheme approved Under the Professional Standards Legislation

John is an experienced trial advocate, mediator, arbitrator and adjudicator. His conviction is that litigation is too expensive for anyone but big business or government. This drives his commitment to alternative dispute resolution methods as a preferred way of achieving economical, quick and fair or commercial outcomes for all parties. Where litigation is unavoidable, he offers his clients the benefits of over 27 years acting as both an advocate (over 40 years) and a binding decision maker himself.

Barrister and Mediator

His practice includes :

- interlocutory and trial advocacy, advice, pleadings and other litigation paperwork in the Supreme and County Courts, arbitrations and the VCAT Building and Property List,
- mediation as both mediator or counsel representing parties in commercial, equity and estate cases.
- Commercial litigation experience includes building construction, small companies and partnership disputes, property law (including sale of property and businesses, commercial leases including retail tenancies, and loan securities), sale and lease of goods and insurance.
- Equity and estate litigation experience includes trusts, probate (including testamentary capacity and undue influence and passing over and replacing executors), and family provision (testators' family maintenance).
- Professional liability experience includes acting for accountants, architects, engineers and lawyers in areas related to his areas of practice as listed above.

Recent cases

- He successfully and recently represented the plaintiffs in **Lei v Lei [2016] VSC 336** (validity of allotment, issue, transfer and beneficial ownership of

shares and beneficial ownership of properties); **Lei v Lei (Ruling No 1) [2016] VSC 121** (admissibility of Chinese company search), a 9 day Commercial Court trial, claiming the beneficial ownership and control of a small company and 3 small property developments (1 business + 2 residential). The major issues were how and for whom the company was incorporated and funded, subsequent membership, and how each of the property purchases and redevelopments came about and who funded each of them, involving constructive and resulting trusts and expert accounting evidence.

- Recent probate List matters have included passing over and replacement of executors and an application for an injunction to restrain an executor from breach of trust. Family provision matters have included applications for extension of time **Maier & Ors v Maier & Ors** [2018] VSC 318

Mediation qualifications and experience

- **Victorian Bar Advanced Mediator** (including accreditation under the Australian National Mediator Accreditation Standards), and accreditation as a mediator with the Resolution Institute (formerly the Institute of Arbitrators and Mediators Australia (“IAMA”) and LEADR Association of Dispute Resolvers).
- He has over 23 years’ experience as a mediator in the areas of practice listed above. He is a current panel mediator for the Small Business and Family Enterprise Ombudsman and on the LEADR Motor Vehicle Insurance and Repair Industry mediator panel, and was on the previous Office of Franchising Mediation Adviser’s panel of franchising mediators.

Other Alternative Dispute Resolution qualifications and experience

- He is a practising **arbitrator** (Resolution Institute Grade 2) and an **adjudicator** under the Building and Construction Industry Security of Payment Act 2002 as amended (Vic), with the Resolution Institute as the

Authorised Nominating Authority. He has carried out expert determinations and a court reference.

- **Arbitrator** – over 27 years, conducting both international (under the International Arbitration Act 1974 (C'wealth) and the Uncitral Model Law and Rules), and domestic arbitrations (under the superseded Commercial Arbitration Act 1984 (Vic.) and the Commercial Arbitration Act 2011 (Vic.)), in commercial construction and other contract disputes (including misleading and deceptive conduct, rectification, and uncertainty and international trade) and lease, internet domain name registration and partnership dissolution disputes.
- **Adjudicator** - 10 years adjudicating under the Building and Construction Industry Security of Payment Act (Vic) 2002, including claims for extras and variations.
- **Expert determinations** – determining the validity of a tenant's termination (under a break clause for failure to achieve a town planning permit time goal) of an agreement for construction and lease of commercial premises (before the validity of his Law Institute of Victoria appointment was confirmed by the Court of Appeal in 1144 Nepean Highway v Abnote Australasia (2009) 26 VR 551; [2009] VSCA 308);
- **Court Referee** determining the amount of damages for breach of a partnership dissolution agreement by his report, which was adopted by the court for judgment.

Professional Memberships

The Victorian Bar, the Resolution Institute, associate membership of the Law Institute of Victoria, and the Building Disputes Practitioners' Society.

Papers written and presented

He wrote and presented the following papers for the Leo Cussen Institute, Law Institute (including Business Law specialist practice groups), Greens List and commercial CPD providers –

- Commercial Law. Remedies for the Oppressed Equity Holder, Business Partnerships – Disputes and Dissolution, Partnership, the High Court on Protective Contractual Terms (Restraint of Trade, Reservation of Title, Exclusion and Disclaimer Clauses) – Validity and Effectiveness,
- Practice and Procedure. - Preliminary Discovery,
- Mediation/Alternative Dispute Resolution - Representing Clients' Best Interests in Mediation
- Wills & Probate - Leo Cussen Institute 2016 Update on Estate Litigation in the Supreme Court Trusts, Equity & Probate List; Succession Law and Elder Law - Victorian Law Reform Commission Report on Guardianship.

The 2017 updated partnership papers and representation in mediation paper are available in the commercial section of the Greens List website library.