

GREENS LIST

BARRISTERS



KIEREN MIHALY

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EXPERTISE

Appellate | Commercial Law | Equity & Trusts Law | Industrial Relations Law & Employment Law | Property Law | Wills & Estates Law

PROFILE

Kieren specialises in property law as well as practising in general commercial law and testator family maintenance claims. Kieren is the principal examiner for the Law Institute of Victoria's property law Accredited Specialisation program.

Within property law, Kieren has expertise in:

- Adverse possession claims;
- Caveat disputes;
- Constructive and resulting trusts;
- Domestic building defects disputes;
- Easement disputes, including prescriptive easements under the doctrine of lost modern grant;
- Fencing disputes;
- Leasing disputes;
- Owners Corporation disputes;

- Possession orders, including applications for relief against forfeiture;
- Priority disputes, including as to liens and other equitable interests in land; and
- the sale of land, including the *Sale of Land Act 1962* and misleading and deceptive conduct.

Kieren has a mathematics degree and a Master of Laws, both of which he uses to aid complex claims for damages and compensation.

Recent judgments include:

Alan Sheppet & Associates v Zelmanovich & Anor [2016] VCC 1969, in which Kieren (unled) appeared to intervene on behalf of a law firm and successfully claim equitable liens.

Brazenor & Ors v Vicprop OC Pty Ltd [2019] VCAT 1152, in which Kieren (unled) appeared to successfully obtain injunctive relief on behalf of lot owners to prevent the respondent from purporting to act as an owners corporation manager of four owners corporations.

Budd & Budd v Budd (unreported, VCAT, Senior Member Davis, 19 November 2019) in which Kieren (unled) successfully appeared for a co-owner of land to compel the other co-owners to transfer their interests to him.

Butler v Dickson & Dickson [2018] VCC 610 and *Butler v Dickson & Dickson (No. 2)* [2018] VCC 718, in which Kieren (unled) appeared to successfully claim adverse possession of a whole, unfenced, title and successfully oppose a prescriptive easement (that is, an easement through long use by the doctrine of lost modern grant).

Carron Investments Pty Ltd v Lang & Anor [2016] VSCA 287, in which Kieren (led by J Davis, KC) appeared for a respondent to successfully oppose the granting of leave to appeal against the setting aside of an irregular default judgement.

Cresswell & Anor v Cresswell [2017] VSCA 272, in which Kieren (led by M Bearman) appeared to successfully appeal (and set aside) a judgment entered at trial without proper notice of the plaintiff's contractual claim.

Global Traders Australia Pty Ltd v White & Ors (unreported, County Court, Macnamara J, 19 April 2023), in which Kieren (unled) successfully obtained summary possession of a property under Order 53 of the Court's Rules.

Gurappaji v Duncan (Supreme Court judgment reserved), in which Kieren (led by D Collins, KC) appeared to resist a claim by a plaintiff that a property is held on constructive trust for her, as well as the related hearings *Gurappaji v Phillips (Costs)* [2021] VSC 11 and *Gurappaji v Phillips (No 2) (Costs)* [2021] VSC 62.

Harris v [K7@Surry Hills Pty Ltd](#) [2019] VSC 551, in which Kieren (unled) appeared to successfully claim the return of a deposit from an off the sale purchase of property, for repudiation, breach of s 9AC of the *Sale of Land Act 1962* and misleading and deceptive conduct contrary to s 18 of the Australian Consumer Law.

Hatty v Hatty & Hatty (unreported, Supreme Court of Victoria, Irving AsJ, 7 December 2021), in which Kieren (unled) appeared successfully in an application for judicial advice under Order 54 in connection with the sale of a property.

Laming v Jennings [2017] VCC 1223 (unled), *Laming v Jennings (No. 2)* [2017] VCC 1932 (unled), *Laming v Jennings* [2018] VSCA 335 (led by R Hay, KC), *Jennings v Laming* [2019] HCASL 120 (led by M Pearce, KC), in which Kieren appeared in relation to a claim for adverse possession and a prescriptive easement.

Leonello Service Centre Pty Ltd v Rany Pty Ltd [2019] VCAT 1752, in which Kieren appeared (unled) to successfully set aside a rental determination.

Ma v Tasevksi (County Court judgment reserved), in which Kieren appeared (unled) in a suit for specific performance by a purchaser to compel the transfer of land.

RJ & C Holdings Pty Ltd & Anor v Parkside Developments (Vic) Pty Ltd & Anor [2016] VCC 237 and *RJ & C Holdings Pty Ltd & Anor v Parkside Developments (Vic) Pty Ltd & Anor (No. 2)* [2016] VCC 420, in which Kieren (unled) appeared for a defendant to successfully oppose the removal of an easement from title.

Singh v Lugondella & Anor [2020] VSC 544 and *Singh v Lugondella & Anor (No. 2)* [2020] VSC 799, in which Kieren (unled) appeared to successfully obtain damages and costs on behalf of a purchaser of property after the vendor failed to settle the contract of sale.

The Heat Group Pty Ltd v Paragon Care Limited [2021] VSC 204, in which Kieren (unled) appeared for a landlord to successfully ensure that all past breaches by a tenant of a lease were remedied prior to the grant of relief against forfeiture and obtain the landlord's costs.

Tian Ci Australia Pty Ltd v Neilson & Wells [2017] VCC 1125, in which Kieren (unled) appeared for a plaintiff to successfully obtain a possession order under Order 53 of the Court's Rules following a Sheriff's sale of land.

Kieren has published articles on topics including: adverse possession claims, owners corporation disputes, legal costs as a head of damages, misleading and deceptive conduct in the sale of land, section 9AC of the *Sale of Land Act 1962*, contract penalties, and testator family maintenance claims. In addition, Kieren has previously instructed legal trainees and junior lawyers in advocacy at the Leo Cussen Centre for Law and is a past Sir Charles Lowe prize winner for advocacy.

To get in touch with Kieren Mihaly | or for more information please contact the

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