

GREENS LIST

BARRISTERS



SAM PRENDERGAST

BAR ROLL: 2015 | ADMITTED: 2006

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EXPERTISE

[Banking & Finance](#) | **[Bankruptcy Law & Insolvency Law](#) | **[Building Law & Construction Law](#) | **[Commercial Law](#) | **[Competition Law & Consumer Law](#) | **[Corporations Law & Securities Law](#) | **[Intellectual Property](#) | **[Property Law](#) | **[Public Law & Administrative Law](#)****************

PROFILE

Sam has more than 13 years' experience in commercial litigation and corporate regulation. He accepts briefs in a broad range of commercial matters. He appears in all Victorian courts and civil tribunals. Before coming to the Bar, Sam was a Senior Associate in the Commercial Litigation team at Norton Rose Fulbright.

Sam's experience at the Bar includes the following matters of significance:

Commercial acquisitions

- Appearing for Glencore and Viterra in their defence of claims for alleged breach of warranties, misleading or deceptive conduct and non-disclosures in connection with the sale of an Australian malting business (Cargill Australia Ltd v Viterra Malt Pty Ltd & Ors). The matter is currently awaiting judgment. Interlocutory applications in which Sam has appeared during the trial include:
 - Admissibility of expert evidence to be provided by industry experts ([Cargill Australia Ltd v Viterra Malt Pty Ltd \(No 20\) \[2019\] VSC 44](#)), led by Suresh Senathirajah QC.
 - Amendments to pleadings, ([Cargill Australia Ltd v Viterra Malt Pty Ltd \(No 18\)](#))

[\[2018\] VSC 772](#)) led by Allan Myers AC QC;

- Admissibility of evidence disclosing without prejudice communications pursuant to section 131(2)(g) of the Evidence Act ([Cargill Australia Ltd v Viterra Malt Pty Ltd \(No 14\) \[2018\] VSC 541](#));
- Applications for further discovery relating to recent events impacting upon loss and damage ([Cargill Australia Ltd v Viterra Malt Pty Ltd \(No 9\) \[2018\] VSC 433](#)), led by David McLure SC.

Banking/Financial Services

- Appearing for an investor in the Great Southern managed investment schemes in his defence of class action enforcement proceedings, including a successful application for orders that he be removed from the group proceeding (and therefore not bound by the settlement) under section 33KA of the Supreme Court Act ([Murray & anor v Great Southern Managers Aust Ltd & ors \(an Application by Garry James Parker \[2018\] VSC 416\)](#)). This was the first instance where a group member had successfully been removed from a group proceeding under that section.
- Advising a financial services group of companies in relation to various regulatory issues arising under the Corporations Act and the group's Australian Financial Services Licences relating to fees charged for foreign exchange services.
- Appearing in a successful claim by an assignee of a debt who was permitted to rely upon email communications as effective assignment under the Electronic Transactions (Victoria) Act 2000 notwithstanding section 134 of the Property Law Act 1958. (*Credit Corp Services Pty Limited v Hammet*).

Corporations/Insolvency

Sam has appeared in numerous hearings in the Corporations Lists of the Supreme and Federal Courts including winding up applications, applications to set aside statutory demands, public examinations and company reinstatement, including the following:

- Applications for injunctive relief and declarations in relation to the validity of meeting notices and special resolutions under sections 249F and 252D of the Corporations Act ([Aveo Group Limited v State Street Australia Ltd in its capacity as custodian for the Retail Employees Superannuation Pty Limited as trustee of the Retail Employees Superannuation Trust \[2015\] FCA 1019](#)).
- Successful application to set aside a statutory demand (*Kevlah Pty Ltd v Debono Bros Concrete & Constructions [2016] VSC 511*).

Other experience

Sam's work as a solicitor included acting in a broad range of disputes involving general commercial litigation, corporations law, insolvency, financial services, franchising, competition, trade practices, product liability and real estate. He also acted in applications for court approval

of corporate schemes of arrangement and also acted in numerous regulatory investigations, enforcement proceedings and administrative appeals involving government agencies such as ASIC, ACCC, ACMA, the ATO, the Tertiary Education Quality and Standards Agency (TEQSA) and Energy Safe Victoria.

Sam was also a member of Norton Rose Fulbright's Business Ethics and Anti-Corruption team, advising clients in relation to a range of domestic and international compliance issues including directors' duties, managed investment schemes, market manipulation, trade sanctions and bribery.

He has published articles and presented seminars on a variety of subjects including bribery offences, trade sanctions, contracts and privilege.

Sam holds a Bachelor of Laws (with Honours) and a Bachelor of Science (Biomedical) from Monash University.

To get in touch with Sam Prendergast | or for more information please contact the

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