

**DR VICKI M. PRISKICH**

<b>Qualifications</b>	LLB (UWA) SJD (Melb)
<b>Admission</b>	29 August 2001 (Vic)
<b>Signed Bar Roll</b>	10 November 2005
<b>Jurisdiction</b>	Victoria
<b>Mediator/Arbitrator</b>	CIArb
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<b>Chambers</b>	<b>Owen Dixon Chambers West</b> 525 Lonsdale Street Melbourne



<b>Areas of Practice</b>	Commercial / Trade Practices / Building and Construction / Administrative / Equity and Trusts / Banking and Finance / Energy / Corporations / Insolvency
<b>General profile</b>	<p>Vicky Priskich is a commercial barrister. She acts across a broad range of complex commercial disputes. Her work has been principally in general commercial law, equity, trusts, energy, banking and finance, commercial fraud, company law and director's duties and insolvency. She has also published and lectured in these fields.</p> <p>Vicky is a Fellow of the Chartered Institute of Arbitrators (CIArb) and Convenor of the Victorian Chapter of CIArb.</p> <p>In 2001 Vicky completed her doctoral thesis at the University of Melbourne on the liability of companies, directors and lenders of an insolvent corporate group. She has lectured at the University of Melbourne in Corporate Banking and Finance and lectures in Trusts and Equity at Monash University. Vicky is a co-author with Professor James O'Donovan of the text "Lender Liability (Thomson Reuters, 2016).</p>
<b>Previous occupation</b>	Lawyer, DLA Piper

**Significant cases:****Banking and Finance**

- Acting for financiers and banks in the enforcement of commercial loan agreements, overdrafts, and guarantees. Advising a commercial customer on its liability to a bank for dishonoured cheques from an overseas third party involving over \$2 million.
- Acting for Westpac Banking Corporation in a Supreme Court proceeding involving cheque fraud by a dishonest accountant.
- Preparing written advice concerning the operations of a bank with regard to unconscionable conduct under the ASIC Act.
- Appearing in proceedings commenced by APRA in the Federal Court, led by Peter Hanks QC and Debbie Mortimer SC, involving an alleged breach of the Banking Act and of a mareva order.
- Acting for a financier in proceedings against a fraudulent insurance broker who purported to provide Lloyds of London insurance. Involved claims of breach of a commercial loan agreement, misleading and deceptive conduct, and restitution for mistaken payments.

**Construction**

- Part of a team who acted for BHPB in a Supreme Court action led by Charles Scerri QC, regarding the construction of a gas plant.

**Company and Securities, Equity and Trusts, Insolvency**

- Appearing in a proceeding in the Supreme Court acting on behalf of administrators. Proceeding involved forestry plantation managed investment schemes and allegations of breach of duties of the responsible entity and its officers.
- Preparing written advice to ASIC in connection with a managed investment scheme.
- Preparing written advice concerning the operations of a bank with regard to unconscionable conduct under the ASIC Act.
- Appearing in an application for special leave to the High Court concerning the scope of equitable set-off and its exclusion by contract.
- Appearing in the Federal Court seeking an order pursuant to s 447A of the Corporations Act to vary a deed of company arrangement; **Silvia, In the matter of FEA Plantations Ltd (administrator appointed)** [2013] FCA 469.)
- Appearing in a Federal Court proceeding to vary the power of a trustee of a managed investment scheme to alter the rights of members of the schemes and to wind up the schemes; In the matter of **FEA Plantations Ltd (subject to deed of company arrangement) (receivers appointed)** [2013] FCA 1331.)
- Appearing in a Federal Court proceeding seeking the winding up or replacement of a trustee and appeared in interlocutory

applications; **Valuestream Investment Management Ltd v Richmond Management Pty Ltd** [2012] FCA 898,) **Valuestream Investment Management Ltd v Richmond Management Pty Ltd (No 2)** [2012] FCA 914)

- Appearing in Supreme Court proceedings involving a privately-held company trust structure concerning breach of officers' duties, statutory derivative action, relief by way of rescission, constructive trust and restitution; **Vigliaroni v Concrete Precast Systems Pty Ltd** [2009] VSC 253), **Vigliaroni v CPS Investment Holdings Pty Ltd** [2009] VSC 254).
- Giving written advice to the ACCC regarding liability of companies incorporated overseas forming part of a corporate group.
- Preparing written advice to ASIC in connection with the non-registration of a managed investment scheme.

### Energy and Competition Law

- Appearing for the Australian Energy Regulator concerning the making of a deduction to the opening capital base to remove the effect of the rate of return on capital of the difference in estimated and actual capital expenditure; **Application by Jemena Gas Networks (NSW) Ltd (No 3)** [2011] ACompT 6).
- Appearing for the Australian Energy Regulator before the Australian Competition Tribunal concerning the calculation of the cost of capital, in particular the calculation of the debt risk premium (led by Stephen Lloyd SC); **Application by ActewAGL Distribution** [2010] ACompT 4)
- Appearing for the Australian Energy Regulator concerning whether proposed forecast operating expenditures represented efficient costs (led by Peter Hanks QC); **Application by EnergyAustralia and Others** [2009] ACompT 8)
- Appearing for the ACCC in the Fast Track List of the Federal Court. The trial concerned alleged misleading and deceptive conduct by Telstra Corporation involving the publication of advertisements concerning the scope and capabilities of the Next G mobile network (led by Norman O'Bryan SC); **Australian Competition and Consumer Commission v Telstra Corporation Limited** [2007] FCA 1904)
- Part of a team acting for the ACCC in Federal Court proceedings that involved an international price cartel for fine paper products (led by John Sheahan SC and Michael Wigney SC); **Australian Competition and Consumer Commission v April International Marketing Services Australia Pty Ltd (No 6)** [2010] FCA 704), **Australian Competition and Consumer Commission v April International Marketing Services Australia Pty Ltd** [2009] FCA 735).
- Appearing for the ACCC in an appeal that included questions as to the meaning of "purpose" (the difference between motive and purpose) in a provision hindering the acquisition of services by a company from another, statutory interpretation as to whether accessory liability excluded from the TPA (led by Norman O'Bryan SC); **Communications, Electrical,**

**Electronic, Energy, Information, Postal, Plumbing & Allied Services Union of Australia v Australian Competition and Consumer Commission** [2007] FCAFC 132).

- Academic Appointments:**
- Sessional lecturer, Law School, University of Melbourne, Corporate Banking and Finance (2008-2011)
  - Sessional lecturer, Law School, Monash University, Equity (2016), Trusts (2015), Current Issues in Banking and Finance, Anti-Money Laundering (Masters by Coursework Units) (2006-2008, 2010, 2012)
  - Sessional lecturer, Law School, University of Western Australia, Corporations Law (Undergraduate Law Unit) (2000)
  - Research Assistant to Professor Graeme Cooper, University of Melbourne, research on international corporate taxation (1999 to 2001)
  - Tutor, Law School, University of Western Australia, Constitutional Law (1999)

- Publications:**
- O'Donovan & Priskich, Lender Liability (2015) (Thomson Reuters)
  - "Equitable set-off: Principles, application and exclusion by contract" (2014) 22 Insolvency Law Journal 115
  - "Cheques and conversion: Five different categories of fraud" (2012) 23 Journal of Banking and Finance Law and Practice 214
  - "Liability of a payee on a cheque for conversion and moneys had and received - Heperu Pty Ltd v Perpetual Trustees Australia Ltd" (2011) 34 Australian Bar Review 214
  - "Theft, Fraud and Mistaken Payments: Personal and Proprietary Remedies" (2008) 19 Journal of Banking and Finance Law and Practice 163
  - "Funds Recovery From Fraudulent Deposit" (2004) 20 Australian Banking and Finance Law Bulletin 70
  - "Bank Liability When Customer is Fraudulent" (2002) 18 Australian Banking and Finance Law Bulletin 65
  - "Corporate Groups: Current Proposals for Reform in Australia, the UK and a Comparative Analysis of the Regime in Germany" (2002) 4 International and Comparative Corporate Law Journal 37
  - "CASAC's Proposals for Reform of the Law Relating to Corporate Groups" (2001) 19 Companies and Securities Law Journal 250
  - "A Statutory Business Judgment Rule in Australia: Proposals and Policy" (1999) 27 Australian Business Law Review 38
  - "Webb Distributors Revisited: The Interaction between the Principle of Preservation of Share Capital in Winding Up to Claims for Misleading and Deceptive Conduct" (1998) 16