

HOWARD INSALL SC

Barrister at Law



TENTH FLOOR

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OVERVIEW

Admitted to the Bar: June 1981 (Barrister of Lincoln's Inn)
Sep 1981 (NSW)

Appointed Senior Counsel: Sep 2001

Education: LLB (Hons) University of Canterbury

Since admission in 1981, Howard Insall SC has practised in the field of commercial/equity and has been retained in many cases in that field. He has appeared in a number of major cases including *AWA v Daniels*, (auditors negligence/directors duties) *State Bank of South Australia v Peat Marwick Mitchell and Others* (auditors negligence/banking law/fiduciary duties), *Idoport Pty Ltd & ors v National Australia Bank Ltd & ors* (contract/implied terms/financial markets), *Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd* (litigation funding/champerty and maintenance), *The Bell Group v Westpac & Others* (Barnes v Addy/directors duties/fiduciary duties/bankruptcy/equitable remedies).

He appeared for the successful respondent in the High Court in *Sidhu v Van Dyke* (2014 - equitable estoppel). He recently appeared for the successful respondent in the NSW Court of Appeal in *Pittmore Pty Ltd v Chan* (2020 – joint ventures/fiduciary duties/procuring breach of duty/deeds/rectification/affirmation). He has appeared in a number of cases involving amendment of superannuation trusts including *Retail Employees Superannuation Trust v Pain* (2016), *Westpac Securities Administration Ltd v Cooper* (2016) and *HESTA v Inkley* (2018).

PRINCIPAL AREAS OF PRACTICE

Appellate	Professional Negligence
Bankruptcy & Corporate Insolvency	Real Property
Commercial	Succession Law
Corporations Law	Trade Practices & Competition
Equity	Trusts & Superannuation
Insurance	

SELECTED CASES

AWA v Daniels

State Bank of South Australia v Peat Marwick Mitchell and Others

Idoport Pty Ltd & ors v National Australia Bank Ltd & ors

Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd

The Bell Group v Westpac & Others

Sidhu v Van Dyke: He appeared for the successful respondent in this High Court matter

Retail Employees Superannuation Trust v Pain: He appeared for the applicant in recent leading case on amendment of superannuation trusts

PUBLICATIONS & SEMINARS

The scope of a Superannuation Trustee's obligations in dealing with and litigating member claims (Part 1) (2019) 31(3) Superannuation Law Bulletin 40 (Lexis Nexis)

The scope of a Superannuation Trustee's obligations in dealing with and litigating member claims (Part 2) (2019) 31(4) Superannuation Law Bulletin 59 (Lexis Nexis)

Cross-examination: is it worth it? – Gibraltar CPD Conference, March 2020

Nadinic, Reid, Hasler and Sgro - object lessons in running cases involving fraud - Gibraltar CPD Conference, March 2018

Penalties after *Andrews, Cavendish Square* and *Pagiocco* - Gibraltar CPD Conference, Bowral, March 2017

Unconscionable use of “Unconscionability” - Gibraltar CPD Conference, Bowral, February 2016

Advice and Advantageous dealings - curial aid for Trustees - Gibraltar CPD Conference, Bowral, March 2015

“Conscience” in claims under *Barnes v Addy* – Gibraltar CPD Conference, Bowral, March 2014

Pursuing recovery actions – Liquidators’ powers and obligations – NSW State Legal Convention 2013

Issues in pleading and proving fraud, dishonesty and similar states of mind – Gibraltar CPD Conference, Bowral, November 2012

The statutory action for knowing participation in breaches of directors’ duties – NSW Bar Association 2009 & NSW State Legal Convention 2009

Litigation funding and the impact of the decision in *Campbells Cash & Carry Pty Ltd v Fostif Pty Ltd* – Australian Insurance Law Association Conference 2006

Author of Winding Up by the Court – Lexis Nexis Australian Corporations Law Principles and Practice Service

PROFESSIONAL MEMBERSHIPS

Chairperson, Companies Auditors and Liquidators Disciplinary Board (CALDB): 2010 - 2014.