

## **BARRISTER**

Murray Chambers  
12 Coglin Street  
Adelaide SA 5000  
T : 08 8110 9100 F : 08 8231 5439

*Gillian regularly appears in all major courts and tribunals and accepts briefs in most areas of civil and commercial law, including employment and industrial matters, insolvency and Corporations Act matters, construction disputes, appeals and regulatory proceedings. Pro bono Briefs are only accepted via referral from JusticeNet SA or similar entities.*

*Doyle's Guide lists Gillian in a variety of categories, including as pre- eminent Junior Counsel for Commercial Litigation & Dispute Resolution in South Australia and pre-eminent Junior Counsel for Employment & WHS Law in South Australia.*

## **ACADEMIC QUALIFICATIONS AND ADMISSION TO LEGAL PRACTICE**

BA LLB (Hon) – Macquarie University	2000
Admitted to practice	2003
Signed the South Australian Bar Roll	2010
LLM – University of Melbourne	2013

## **PREVIOUS EMPLOYMENT**

Senior Associate, DMAW Lawyers (Adelaide)	2007 – 2010
Lawyer, Minter Ellison Lawyers (Sydney)	2002 – 2007
Tipstaff to the Honourable Paul Stein AM, QC Court of Appeal, Supreme Court of New South Wales	2001

## **ROLES WITH PROFESSIONAL ASSOCIATIONS**

Member of Council of the South Australian Bar Association	2010 to date
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## **EXAMPLES OF EXPERIENCE**

(Appearances were unled unless otherwise noted)

### **Appellate Matters**

Appeared for the successful Respondent on an appeal to the Full Court of the Supreme Court of South Australia regarding the proper construction of the test for orders extending to time for removal of a caveat: *Reschke v Trevor Reschke Nominees Pty Ltd* [2019] SASCFC 27.

Appeared for the successful Respondent in a dispute regarding the extension of a compensation scheme for defaulting land agents to persons who lost funds in the Charterhill Group collapse: *Commissioner for Consumers Affairs v Piantadosi* [2018] SASCFC 109.

Appeared for the Fair Work Ombudsman on an appeal by an employer to the Full Federal Court. The employer was wholly unsuccessful: *Complete Windscreens (SA) Pty Ltd v Fair Work Ombudsman (No 2)* [2017] FCAFC 212.

Appeared for the Respondent in the Full Court of South Australia in a dispute under the *De Facto Relationships Act 1996* (SA): *N, A-B v V, AM* [2017] SASCFC 147.

Appeared for the Respondent in the Full Court of South Australian in a dispute regarding the extension of a compensation scheme for defaulting land agents to persons who lost funds in the Charterhill Group collapse: *Commissioner for Consumers Affairs v McMurray* [2017] SASCFC 16.

Appeared as junior counsel for the ACCC on appeal regarding attempted cartel conduct: *ACCC v Australian Egg Corporation Limited* [2016] FCA 447; *ACCC v Australian Egg Corporation Limited* [2017] FCAFC 152.

Appeared as junior counsel for successful appellant in proceedings where the Full Court of South Australia accepted that recent NSW Court of Appeal authority should not be followed in respect of whether occupation rent ought to be awarded where a joint property owner leaves voluntarily: *W v D* [2012] SASCFC 142.

Appeared as junior counsel on behalf of appellant in the Full Court of South Australia and on the High Court special leave application seeking declarations regarding the use of trust property by a local council: *Penola & District Ratepayers' & Residents Assn Inc v Wattle Range Council* [2011] SASCFC 62.

Appeared in various appeals to a single judge of a superior court. See for example *Carson v Comcare* (2015) 231 FCR 394; *Dowker v Secretary, Dept of Social Services* [2017] FCA 1175;

### **Corporations Act and Bankruptcy Disputes**

Appearing as junior counsel for ASIC in proceedings commenced against Select AFSL Pty Ltd and related companies and their director seeking relief in respect of alleged unconscionable conduct towards vulnerable consumers arising out of telephone sales of insurance and alleged contraventions of the conflicted remuneration provisions of the *Corporations Act 2001*.

Appeared as junior counsel for ASIC in proceedings in which it was found that the companies made and distributed offers for the acquisition of shares without disclosure. Banning orders were obtained against the directors: *ASIC v Astra Resources Plc & Ors* [2015] FAC 759; *ASIC v Astra Resources Ltd (No 2)* [2016] FCA 560.

Appears for insolvency practitioners in a variety of jurisdictions. See for example *Strazdins v Enterprise Global Resources Pty Ltd* [2018] SASC 160; *Naudi and Reid v Albarouki (No 2)* [2019] FCCA 2187.

Appeared for ASIC in various review matters in the AAT. See for example *Re Angas Securities Ltd and ASIC* [2019] AATA 807; *Re Leadenhall Australia and ASIC* [2018] AATA 4612.

### **Commercial, Construction and Tortious Disputes**

Appeared as junior counsel for Leighton Contractors in a Construction and Australian Consumer Law dispute in which the client was substantially successfully, and obtained a significant indemnity costs order: *Basetec Services Pty Ltd v Leighton Contractors Pty Ltd (No 6)* [2016] FCA 1534; *Basetec Services Pty Ltd v Leighton Contractors Pty Ltd (No 8)* [2017] FCA 258.

Appeared as junior counsel in *York Civil Pty Ltd v BHP Billiton Mitsui Coal Pty Ltd & Anor.* see for example, interlocutory decision [2014] FCA 1422.

Appeared as junior counsel on behalf of a valuer in relation to a negligent valuation of a property. Successfully obtained an order on appeal that the damages award be reduced by 50% for the lender's contributory negligence: *Valcorp Australia v Angas Securities* [2011] FCA 190; *Valcorp Australia v Angas Securities* [2012] FCAFC 22.

As a solicitor, represented Wyong Shire Council in its successful appeal to the High Court in relation to a claim for compensation for catastrophic injuries suffered when the plaintiff dove off rocks near a public, patrolled beach: *Vairy v Wyong Shire Council* (2005) 223 CLR 422.

As a solicitor, represented an insurer in proceedings where an exclusion clause in its broad form public liability policy was tested: *Forbes Shire Council v AG Australia Holdings Ltd* [2007] NSWSC 847.

### **Administrative Law**

Appeared as junior counsel for the applicant on a successful application to set aside a decision of the Ombudsman on the basis of Wednesbury unreasonableness: *City of Port Adelaide Enfield v Bingham* [2014] SASC 36.

Appears for Comcare in the Federal Court and AAT. See for example: *Corby v Comcare* [2015] FCA 1124; *Carson v Comcare* [2015] FCA 50; *McGree and Comcare* [2014] AATA 613; *Sener and Comcare* [2014] AATA 734; *Gibbs v Comcare* [2015] AATA 72; *Tuck v Comcare* [2013] AATA 206.

Appeared as junior counsel on an application for judicial review brought by neighbours affected by a planning permission: *Holds v The City of Port Adelaide* [2011] SASC 226.

As a solicitor, represented Friendly Society Medical Association Ltd in two separate proceedings before the Administrative Appeals Tribunal and obtained successful reviews of refusals by the Australian Community Pharmacy Authority to a PBS licence to separate pharmacies operated by the Association: *Friendly Society Medical Association Ltd v Australian Community Pharmacy Authority* [2008] AATA 1055.

### **Defamation, Breach of Confidence and Contempt of Court**

Appeared for the plaintiff on a successful application for injunctive orders requiring the defendant to remove certain material from a website, and refrain from further publishing such material: *Stokes v Ragless* [2014] SASC56. Also appeared for the plaintiff at trial, obtaining an order for a permanent injunction and payment of \$90,000 in damages: *Stokes v Ragless* [2017] SASC 159

Appeared as junior counsel in successful application for injunctive orders restraining the director of a party to ongoing proceedings from committing future contempt of court: *Basetec Services Pty Ltd v Leighton Contractors Pty Ltd* [2015] FAC 762.

As a solicitor, represented the plaintiff in matter claiming an abuse of process, breach of confidence and defamation, including successfully obtaining urgent injunctive relief, suppression orders and anonymity orders: *Y & Z v W* [2007] NSWCA 329.

As a solicitor, represented The Age, Business Review Weekly and private clients in defamation matters (see for example *The Age Corporation Ltd v Beran* [2005] NSWCA 289).

Appeared for the plaintiff on successful application for a defendant to be charged with contempt for failing to comply with orders: *Strata Corporations 8103 Inv v Blanch* (unreported, Magistrates Court of South Australia, 26 February 2013)

### **Taxation Disputes**

Appeared as junior counsel on behalf of the Commissioner of State Taxation in the Supreme Court of South Australia. The focus of the proceedings was the proper meaning of 'life insurance' within the context of the *Stamp Duties Act 1912*: *National Mutual Life Association of Australia Ltd & Ors V Commissioner of State Taxation* [2010] SASC 261.

Appearing for the Deputy Commissioner of Taxation in various enforcement proceedings arising from judgments against the persons involved in the Agape Ministries. See for example, *Deputy Commissioner of Taxation v Joseph Veneziano* (unreported, Registrar Bochner, Federal Circuit Court, 11 December 2014).

Appears regularly in the AAT, and State courts and on appeals for the Commissioner of Taxation and Deputy Commissioner of Taxation. See for example, *Trustee for the Grewal Property Trust v Commissioner of Taxation* [2013] AATA 788; *Enviro Systems Renewable Resources Ltd v Deputy Commissioner of Taxation* (unreported, Supreme Court of SA Judge Withers 27.02.15); *Breakwell v Commissioner of Taxation* [2015] AATA 628; *CZRS v Commissioner of Taxation* [2015] AATA 40; *Breakwell v Commissioner of Taxation* [2015] FCA 1471.

### **Disciplinary proceedings**

Appeared as junior counsel for the Legal Practitioners Conduct Board at first instance, on appeal and in the High Court in proceedings which resulted in the striking off of a practitioner: *Viscariello v Legal Practitioners Conduct Board* [2012] SASC 92; *Viscariello v Legal Practitioners Conduct Board* [2012] SASCFC 147; *Viscariello v Legal Practitioners Conduct Board (No 2)* [2013] SASCFC 27; *Viscariello v Legal Practitioners Conduct Board* [2013] SASCFC 37; *Viscariello v Legal Practitioners Conduct Board* [2013] HCATrans 149.

Appears in various disciplinary matters in the Legal Practitioners Disciplinary Tribunal. See for example, the matter of Kruse dated 27 August 2014; the matter of Hill dated 8 August 2013; the matter of A and M dated 1 October 2015.

Appears in various matters in the South Australian Health Practitioners Tribunal. See for example *Chiropractic Board of Australia v Shanahan* [2017] SAHPT 9; *Physiotherapy Board of Australia v Adey* [2017] SAHPT 3; *Medical Board of Australia v Richard Thompkins* [2019] SAHPT 18.

### **Competition Law**

Appeared as junior counsel for the ACCC at hearing on penalty for attempted cartel conduct: *ACCC v Australian Egg Corp Ltd* [2016] FCA 447.

As a solicitor, represented Harris Scarfe Pty Ltd in proceedings commenced by the ACCC alleging that the retailer's television and catalogue advertising is in breach of section 52 of the *Trade Practices Act 1979*: *ACCC v Harris Scarfe Pty Ltd* [2009] FCA 54.

### **Other Disputes**

Appeared as junior counsel in the matter of *Adelaide City Council v Minister for Sustainability, Environment and Conservation*, relating to the compulsory acquisition of a large and complicated parcel of land at Wingfield (commonly known as the Gilman Land).

Appeared for disability support services provider seeking an injunction under the Australian Human Rights Commission Act (proceedings resolved while decision reserved).

Prosecuted a café operator for breaches of the *Food Act 2001*: *City of Port Adelaide Enfield v Raschella* (unreported, Magistrates Court of South Australia, 14 August 2014)

Appeared as junior counsel for the Australian Crime Commission on an application challenging a Notice to Produce: *B v Australian Crime Commission* [2011] FCA 1046.