

Stephen Warne

Education

University of Melbourne

Graduate Diploma of Insurance Law*

Advanced Litigation (H1)
The Insurance Contract (H1)
Insurance Litigation (H1)
Professional Indemnity Insurance (H1)

Bachelor of Law (Hons)

Bachelor of Arts

Camberwell Grammar School

VCE (1988)

Dux/equal dux of 5 subjects
Captain of Debating

* not yet bestowed

Employment

After clerkships at Minter Ellison Morris Fletcher and Blake Dawson Waldron, and six months' full-time work at the former, I took articles in March 1995 at Middletons Moore & Bevins. I was admitted in May 1996. That firm is now simply Middletons following mergers with Molomby & Molomby and Coltmans Price Brent.

Commercial Litigation

In Middletons' commercial litigation department, I personally conducted proceedings in the Legal Profession Tribunal, VCAT, the Insurance Enquiries & Complaints Scheme (now the Insurance Ombudsman), the Magistrates' Court, the County Court, the Supreme Court, the Court of Appeal, the Federal Court, and the High Court. I was lucky enough to act for some of Australia's iconic companies such as Qantas and AAMI.

Professional liability

Unusually, I always combined varied commercial litigation with insurance litigation in roughly equal proportions. For ten years, I did professional indemnity work, defending

solicitors, barristers, and judges against negligence claims on behalf of the insurers of Victorian barristers, and the Legal Practitioners' Liability Committee, which insured almost all Victorian and many interstate solicitors and, more recently, all Victorian barristers. I acted for other insurers as well, and, on occasion, for plaintiffs.

In conjunction with another solicitor, I instructed Neil Young QC in the High Court case reaffirming advocates' immunity, *D'Orta-Ekenaike v Victoria Legal Aid* (2005) 223 CLR 1, Middletons having been retained by the Victorian Bar for that purpose.

General insurance

I also developed a general insurance law expertise, and acted for and against motor vehicle, home & contents, and industrial property insurers, including several fire claims. That expertise was consolidated by the completion of a graduate diploma in insurance law.

I am a member of the Australian Professional Indemnity Group, and the Australian Insurance Law Association.

Publications & Seminars

- “Joining the Fence-Sitting Insurer as Defendant in Liability Proceedings” published in two parts at (1998) 9 *Insurance Law Journal* 208; (1998) 10 *Insurance Law Journal* 29, an article on the circumstances in which an insured may join its own insurer in third party proceedings for indemnity in the face of a refusal either to deny or admit indemnity;
- “In Search of the Rationale for the Co-Insured Sub-Contractor's Immunity from Subrogated Actions in Contractors' All-Risk Policies” (1999) 10 *Insurance Law Journal* 262, an article on the reasons why an insurer may not step into the shoes of an insured and sue a fellow insured under policies common in construction projects covering multiple interests;
- “Insurance Aspects of Rented Vehicles” (2000) 11 *Insurance Law Journal* 259, an article suggesting the illegality of arrangements for the so-called insurance offered by certain car rental agencies;
- “Legal Professional Liability” published in two parts at (2000) 8 *Torts Law Journal* 283; (2001) 9 *Torts Law Journal* 29, an article looking at the relationship between professional negligence and pure economic loss claims more generally, limitation periods for professional negligence claims, concurrent liability, and the limits of claims for breach of fiduciary duties against solicitors;
- In 2001, I presented a seminar on Advanced Legal Professional Privilege;
- In August 2001, I presented a seminar in Sydney on Professionals' Concurrent Liability and Contributory Negligence;
- “Compromise of Litigation and Lawyers' Liability” (2002) 10 *Torts Law Journal* 167, an article which investigates the numerous legal issues associated with “regretted settlement claims”, and asserting the entitlement of litigation solicitors to advocates' immunity (as subsequently confirmed by the High Court in *D'Orta-Ekenaike v Victoria Legal Aid*);
- In 2005 I presented a well-attended seminar on Ethics for Business and Commercial Lawyers.

- In 2006, I arranged and chaired a seminar by Dr Ron Desiatnik on the Full Federal Court's decision in *Commissioner of Taxation of the Commonwealth of Australia v Pratt Holdings Pty Ltd* (2005) 225 ALR 266.

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