

DALE MARIE BAMPTON

Barrister - North Quarter Lane Chambers (Brisbane); 5 Wentworth Chambers (Sydney)

LIST OF SELECTED CASES

Competition and Consumer Law

Stillwater Pastoral Company Pty Ltd v Stanwell Corporation Pty Ltd & Anor (Federal Court of Australia) Ms Bampton appeared for the Applicant and group members (with Lachlan Armstrong KC, instructed by Piper Alderman) in this large class action before Derrington J, in relation to alleged contraventions by Stanwell and CS Energy of s46 of the *Competition and Consumer Act 2010* (Cth) (misuse of market power). The Applicant was unsuccessful after a 3-month trial. That decision is being appealed.

SPEL Environmental Pty Ltd v IES Stormwater Pty Ltd [2022] FCA 891 (Federal Court of Australia). Ms Bampton appeared unled (instructed by Clayton Utz) before her Honour Justice Downes, for the respondent in this proceeding. She successfully defended a claim for misleading or deceptive conduct in relation to publications made regarding stormwater filtration devices, including obtaining an order for indemnity costs in relation to certain aspects of the proceeding.

Australian Competition and Consumer Commission v Lorna Jane Pty Ltd & Lorna Jane Clarkson [2021] FCA 852 (Federal Court of Australia). Ms Bampton appeared (with S Couper QC, instructed by Hopgood Ganim) for Lorna Jane and Ms Clarkson for alleged breaches of the Australian Consumer Law in relation to an advertising campaign regarding activewear products. The parties reached agreement as to penalty.

DBCT Management v The Treasurer and Minister for Infrastructure and Planning (Qld) [2021] QSC 335 (Supreme Court of Queensland) Ms Bampton acted for the Treasurer, with J McKenna KC and G Del Villar KC, in relation to a judicial review application brought by DBCT Management relating to the Treasurer's declaration of a "declared service" under the *Queensland Competition Authority Act*.

Australian Competition and Consumer Commission v Emirates (Federal Court of Australia). Ms Bampton acted (with C Scerri KC, instructed by Allens) for Emirates in this matter, regarding alleged cartel conduct by a number of international airlines. The matter settled prior to hearing.

Singtel Optus Pty Ltd v Australian Competition and Consumer Commission [2012] FCAFC 20 (Federal Court of Australia – Full Court). Ms Bampton appeared with Justin Gleeson SC (instructed by Minter Ellison Lawyers) for the appellant on an appeal before the Full Court of the Federal Court (Keane CJ, Finn and Gilmour JJ) from a pecuniary penalty imposed by Perram J on Singtel Optus. The appeal was allowed and the pecuniary penalty reduced by \$1.65 million.

Australian Competition and Consumer Commission v Singapore Airlines Cargo Pte Ltd & Ors (Federal Court of Australia). Ms Bampton acted (with S Free of counsel, instructed by Minter Ellison Lawyers) for Singapore Airlines in this matter, regarding alleged cartel conduct by a number of international airlines.

Singtel Optus Pty Ltd v Vodafone Pty Ltd (Federal Court of Australia). Ms Bampton appeared with R Cobden SC for Singtel Optus in the preliminary stages of an application for injunctive relief against Vodafone for alleged contraventions of s52 of the *Trade Practices Act 1974*.

Australian Competition and Consumer Commission v Singtel Optus Pty Ltd [2010] FCA 1177 (Federal Court of Australia); Australian Competition and Consumer Commission v Singtel Optus Pty Ltd (No 2) [2010] FCA 1200; Australian Competition and Consumer Commission v Singtel Optus Pty Ltd (No 3) [2010] FCA 1272; Australian Competition and Consumer Commission v Singtel Optus Pty Ltd (No 4) [2011] FCA 761

Ms Bampton appeared (with S Finch SC, instructed by Minter Ellison) before Perram J, acting for Singtel Optus. The case concerned a claim by the ACCC that certain Optus advertisements regarding the provision of broadband services contravened ss 52, 53(aa) and 55A of the *Trade Practices Act*, as well as claims for injunctive relief, corrective advertising and pecuniary penalties. The proceedings also included a successful claim by Singtel Optus for confidentiality orders under s50 of the *Federal Court Act*.

Australian Competition and Consumer Commission v Link Solutions Pty Ltd (No 2) [2010] FCA 919 (Federal Court of Australia). Ms Bampton appeared (with M Darke of counsel) in the Federal Court of Australia before Bennett J, for multiple respondents in a case concerning alleged third line forcing.

Frederick Schulman & Anor v Abbott Tout Lawyers (A Firm) t/as Abbott Tout Solicitors (Federal Court of Australia). Ms Bampton appeared with MBJ Lee of counsel (as he then was) before Rares J in a claim for breaches of s52 of the *Trade Practices Act*. The matter settled following trial but prior to judgment.

Abyss by Abby Pty Limited v Glazori Pty Limited [2016] (Federal Court of Australia). Ms Bampton appeared for the Applicant in a claim for breaches of the Australian Consumer Law brought by the designer of women's fashion, including at mediation. The matter settled prior to trial.

Zmudzinski v Apollo Motor Home Holidays Pty Ltd (Supreme Court of NSW, Equity Division). Ms Bampton acted for the plaintiff in a *Contracts Review Act/Consumer Claims* dispute, also involving questions of unfair contract terms under the Australian Consumer Law. Ms Bampton successfully opposed the transfer of the matter out of the jurisdiction. The substantive matter settled at mediation.

Representative Proceedings

Stillwater Pastoral Company Pty Ltd v Stanwell Corporation Pty Ltd & Anor (Federal Court of Australia). Ms Bampton acted for the Applicant and group members (with Lachlan Armstrong KC, instructed by Piper Alderman) in this complex class action, in relation to alleged contraventions by Stanwell and CS Energy of s46 of the *Competition and Consumer Act 2010* (Cth) for alleged misuse of market power.

SA Country Pubs Pty Ltd v AGL Energy Ltd (Federal Court of Australia) Ms Bampton acted for the Applicant and group members (with Lachlan Armstrong KC, instructed by Piper Alderman). The proceeding involved allegations that AGL was involved in anti-competitive conduct in breach of section 46 of the *Competition and Consumer Act*.

Its Eco Pty Ltd v BPS Financial Limited & Ors (Federal Court of Australia) Interlocutory decisions include *Its Eco Pty Ltd v BPS Financial Ltd* [2022] FCA 842 (security for costs); *Its Eco Pty Ltd v BPS Financial Ltd (No 2)* [2023] FCA 110 (stay application).

Ms Bampton acted (with John Peden KC) for the first, second, fourth and fifth respondents, being various entities associated with a form of cryptocurrency known as "Qoin". The proceeding alleged misleading or deceptive conduct, and unconscionable conduct, against 7

different respondents. The respondents include companies involved in setting up the cryptocurrency and its exchange, companies holding AFSLs that were utilised in issuing the cryptocurrency, and certain directors of those companies.

Rodriguez & Sons Pty Ltd v Queensland Bulk Water Supply Authority trading as Seqwater, SunWater Limited & the State of Queensland (Supreme Court of New South Wales) Ms Bampton acted for the State of Queensland, with then Solicitor General GA Thompson KC and J Horton KC in the Brisbane Floods Class Action.

Adeva Home Solutions v Queensland Motorway Management Pty Ltd & Ors (Supreme Court of Queensland). Ms Bampton acted for the plaintiff and group members in this representative proceeding relating to the fees charged for toll roads on a number of Queensland roads.

Tammy Stanford & Anor v DePuy International Ltd & Anor (Federal Court of Australia) [2015]. Ms Bampton appeared (with S Finch SC and R Dick SC, instructed by Herbert Smith Freehills) for DePuy International Limited and Johnson & Johnson Medical Pty Limited, the manufacturers and suppliers of medical devices, in a representative proceeding regarding the design of a hip replacement device.

John & Kaye Watson v AWB Limited (AWB shareholder class action) (Federal Court of Australia). Ms Bampton appeared (with J Sheahan SC and MBJ Lee of counsel (as he then was)) before Foster J for the applicants on a class action brought by shareholders against AWB Limited. The class action involved alleged breaches of continuous disclosure and misleading and deceptive conduct provisions arising out of AWB's involvement in the UN Oil for Food Programme.

Calinoiu v Queensland Law Group (Representative Proceeding) (Federal Court of Australia). Ms Bampton was briefed to appear for the applicant, before Rares J, on a class action relating to the charging of legal costs under a costs agreement.

Intellectual Property

E & J Gallo Winery v Lion Nathan Australia Pty Limited [2009] HCATrans 180 (31 July 2009) (High Court of Australia). Ms Bampton appeared (with I Jackman SC and M Darke of counsel) for the applicant in an application to the High Court of Australia for special leave regarding a trade mark dispute. Ms Bampton also appeared with M Darke in related proceedings in the Trade Marks Office (*E & J Gallo Winery v Lion Nathan Australia Pty Limited [2009] ATMO 87 (31 October 2009)*).

The Herbal Tea Company Pty Ltd v Skin Inc Global Pte and Sephora Australia Pty Ltd [2017] (Federal Court of Australia). Ms Bampton appeared for Skin Inc Global as first respondent and cross-claimant in a trade mark dispute, including at mediation. The matter settled prior to trial.

Trend Imports Pty Limited v PW Trading Pty Limited (Federal Court of Australia). Ms Bampton acted (with S Jacobs of counsel) for the applicant in a claim in the Federal Court before Robertson J for trade mark infringement, passing off and misleading or deceptive conduct.

OrangeTee.com Pte Limited & Anor v OrangeTee Australia Pty Limited & Ors (Federal Court of Australia). Ms Bampton acted (with J Cooke of counsel) for the Respondents and cross-claimants in relation to a claim for passing off, misleading or deceptive conduct and

breach of contract. Ms Bampton was also briefed in related Trade Marks Office opposition proceedings.

Chi Drinks Limited v Encompass & Ors [2013] (Federal Court of Australia, Victorian Registry). Ms Bampton acted for the defendant in a trade mark and copyright dispute, also involving an allegation of breach of contract. The matter involved interlocutory disputes including an application for security for costs. The matter settled prior to hearing.

Commercial disputes

United Terminals Pty Ltd v Viva Energy Pty Ltd (Supreme Court of Queensland). Ms Bampton was briefed in this matter for the plaintiff with John Peden KC, instructed by K&L Gates. The central issue in dispute was whether the defendant had become bound by a licence agreement, such that it was required to grant United Terminals access to a terminal and wharf, and what loss flowed from Viva's refusal to grant United Terminals access to the terminal and wharf.

Sanrus & Ors v Monto Coal & Ors [2019] (Supreme Court of Queensland). Ms Bampton was instructed to appear (with P O'Shea KC, D O'Sullivan KC and K Downes KC (as her Honour then was) for the plaintiffs in a complex dispute between mining entities in relation to alleged breaches of a joint venture agreement and a claim of interference with contractual relations.

Macquarie International Health Ltd v Sydney Local Health District [2013] (Supreme Court of NSW). Ms Bampton was instructed to appear (with G Burton SC and P Bruckner of counsel) for SLHD in the Supreme Court of NSW in relation to a claim by Macquarie for damages for the wrongful eviction of Macquarie from a large-scale development project site.

Secure Funding Pty Limited v Insurance Australia Limited [2010] FCA 1094 (1 October 2010) (Federal Court of Australia, Victorian Registry). Ms Bampton appeared (led by MBJ Lee of Counsel (as his Honour then was)) for the respondent in the Federal Court of Australia (Victorian Registry) before Middleton J, regarding the responsiveness of a policy of insurance and interpretation of section 48 of the *Insurance Contracts Act 1984* (Cth).

Coastline Constructions (Aust) Pty Ltd & Ors v Kakavas & Ors [2009] NSWSC 1438 (Supreme Court of NSW). Ms Bampton appeared (with D Robinson SC and M Darke) for Mr Kakavas in a hearing in the Supreme Court of NSW before Schmidt J. The proceeding concerned claims in restitution, contract, conversion and a cross-claim for damages for assault.

Employment law

Public Service Association and Professional Officers' Association Amalgamated Union of NSW v Department of Education & Anor – Pay Equity Case (NSW Industrial Relations Commission) [commenced 2017 (ongoing)]. Ms Bampton was instructed to appear (with D Chin of counsel) in a major pay equity case seeking to vary the award applicable to School and Administrative Support Staff, on the basis of gender-based undervaluation. It is only the third case to be brought in New South Wales relying on gender-based undervaluation, since the inception of the Equal Remuneration Principle in 2000 in NSW. The matter settled prior to trial.

Fair Work Ombudsman prosecutions [2017, 2018, 2019]. Ms Bampton was briefed as counsel (with E Raper of counsel, as her Honour then was) in two major Fair Work

Ombudsman prosecutions (which cannot be named for confidentiality reasons) involving breaches of the *Fair Work Act* by significant franchises in Australia.

OTHER SELECTED CASES

Ms Bampton has been briefed as sole counsel on a number of matters in the Federal Court of Australia (including unled in the Full Federal Court), the Family Court of Australia, the Supreme Court of New South Wales, the District and Local Courts, NCAT, AAT and Fair Work Australia. A selection of those cases includes:

Minister for Immigration and Border Protection v CQW17 (Federal Court of Australia – Full Court) [2018]. Ms Bampton appeared unled before the Full Court of the Federal Court of Australia (McKerracher, Murphy and Davies JJ) on a migration appeal for the Respondent, dealing with complex issues of statutory construction of a new provision of the *Migration Act 1958* (Cth) relating to powers and obligations of the Immigration Assessment Authority. The Respondent successfully responded to the Minister's appeal.

BHKM v Minister for Immigration and Border Protection [2018] (AAT). Ms Bampton successfully appealed a decision of the Minister's delegate to refuse the applicant a protection visa.

Dargin & Anor v State of New South Wales [2018] (District Court). Ms Bampton was briefed to appear for the Applicants against the State in a claim for false imprisonment and trespass in a case involving questions of the police's power to perform bail compliance checks.

Applicant LMYW v Minister for Immigration and Border Protection [2016] (AAT). Ms Bampton successfully appealed a decision of the Minister's delegate declining to revoke a visa cancellation determination.

Maree-Ross v NSW Land and Housing Corporation [2016] (NCAT, Appeal Panel). Ms Bampton successfully appealed a decision under the *Residential Tenancies Act* terminating a social housing tenancy agreement. The appeal involved matters of law including denial of procedural fairness.

Weti-Safwan v Minister for Immigration and Border Protection [2016] (AAT). Ms Bampton successfully appealed a decision of the Minister's delegate to cancel the Applicant's visa.

Murphy v State of NSW [2015] (District Court) Ms Bampton acted for the plaintiff in a false imprisonment claim, instructed by Legal Aid NSW. The matter settled prior to trial.

Bosco v Gabosco Pty Limited [2013] (Supreme Court of NSW, Equity Division). Ms Bampton appeared for the plaintiff in a successful application for access to the records of a trust, including successfully applying for an order that the defendant trustee not be indemnified from the trust estate.