RESUME OF ANDREW FRANCIS FERNON SC

A. ADMISSION AS A BARRISTER/SOLICITOR

- 1. Admitted to practice as a barrister in New South Wales on 25 February 2000
- 2. Admitted to practice as a solicitor in New South Wales on 1 July 1988
- 3. Admitted to practice as a barrister and solicitor in the A.C.T. in June 1988

B. <u>TERTIARY EDUCATION</u>

- Bachelor of Economics Australian National University Year Conferred - 1985
- 2. Bachelor of Laws (with Honours) Australian National University Year Conferred 1987
- 3. Master of Laws Sydney University
 Date Conferred 30 April 1994

C. **CURRENT OCCUPATION**

Barrister/ Senior Counsel 22 years

Appointed to Senior Counsel 2020

Contact details: University Chambers

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Sydney NSW 2000

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Work in all jurisdictions, including High Court, Supreme Court (including Court of Appeal), Federal Court, Federal and Family Court of Australia (formerly the Family Court of Australian and the Federal Circuit Court of Australia), District Court, Local Court, NSW Civil and Administrative Tribunal (retail leasing, strata and home building), Administrative Appeals Tribunal and other tribunals. My practice is principally commercial including corporations, property, leasing, insolvency, trade practices, partnership, insurance, building, professional negligence and other commercial based disputes. My practice also extends to family law, in particular where family disputes intersect with

equity, property and insolvency law principles.

I have appeared in various interstate jurisdictions, including Queensland, Victoria, ACT, South Australia, Western Australia and the Northern Territory.

Recent significant cases include:

<u>Tulloch Brae Pty Ltd v Environmental Protection Equipment Pty Ltd [2022]</u> <u>QCA 097</u> – successfully defendant appeal against award of damages for breach of contract

<u>Tulloch Brae Pty Ltd v Environmental Protection Equipment Pty Ltd [2021]</u> <u>QSC 213</u> – successfully claim damages for breach of contract and defendant offsetting claim of damages

Narellan Franchise Pty Ltd v RBME Pty Ltd [2022] NSWSC 988 – defended restraint of trade claim against franchisee

Gilmore Finance Pty Ltd v Aesthete Pty Ltd [2022] NSWSC 557 successfully defended a claim for breach of trust, fiduciary duties and misleading and deceptive conduct arising from property trusts.

<u>Biogene Pty Ltd v Mullan [2022] FCAFC 73</u>- appeal against finding of industrial award coverage.

Re Aesthete Pty Ltd (atf Real Money Unit Trust) [2022] NSWSC 769 – Application for judicial advice to defend claim for breach of trust.

<u>Harper v Gold Coast Pistol Club Ltd [2022] FCA 525</u> – successful appeal to obtain injunction against possession claim

<u>Harris v Harris [2021] NSWCA 329</u> – acting for appellant on appeal against findings and orders for breach of fiduciary duties and corporate duties.

<u>Aspen Medical Pty Ltd v BA Capital Inc [2021] ACTSC 321</u> – successful application for summary judgment against overseas defendant.

Re Wetherill Park Holdings Pty Ltd [2021] NSWSC 1397 Successful application for third party costs orders

Kelby v Kelby [2021] FedCFFamC1A 34 Acting for appellant against family law property orders made

Re Sirrah Pty Ltd (In liq) [2021] NSWSC 1274 successfully opposed application for appointment of receiver to assets.

<u>Vissell and Vissell [2021] FamCAFC 76</u> successful appeal to set aside subpoenas

Re Sirrah Pty Ltd (In prov liq) [2021] NSWSC 413 defended application for breach of directions and fiduciary duty and oppression.

Eastlings Pty Ltd v Calidu Import Export Pty Ltd [2021] NSWSC 316, successfully defending allegations of misleading and deceptive conduct and fraud on sale of business transaction

Re Wetherill Park Holdings Pty Ltd [2021] NSWSC 282 successful application to wind up company against opposition from creditor alleging solvency

<u>Elanor Funds Management Ltd v Alceon Group Pty Ltd [2021] FCA 298</u> successful application for preliminary discovery.

Re Dodd & Dodd Group Pty Ltd and Minister for Environment [2021] AATA 215 successfully opposed application to review Minister's decision to refuse export licence for contaminated waste.

Canon Finance Australia Ltd v Reliance Medical Practice Pty Ltd [2020]

NSWSC 554 successfully defendant allegations of misleading and deceptive conduct in sale of goods.

<u>Safework NSW v Hydromet Corpt Pty Ltd [2020] NSWDC 82</u> defending allegations of breach of work health and safety laws.

D. **PAST EMPLOYMENT**

1. JANUARY 1997 TO FEBRUARY 2000

Employer: Landerer & Company

Position Held: Senior Associate

Head of Litigation Department (1998 to 2000)

Duties: Conducted general commercial (including trade practices,

breach of contract, banking, Retail Leases Act, other property actions, Corporations Law, professional

negligence claims, Water Act, Agricultural Tenancies Act, fiduciary obligations, insolvency, bankruptcy,), family, industrial and building litigation in the NSW Supreme, District, Local and Industrial Courts, the Federal Court, Federal Industrial Court, Family Court, the Administrative Appeals, Commercial and Anti-Discrimination Tribunals

and in inter-partes arbitrations

2. DECEMBER 1994 TO JANUARY 1997

Employer: Commonwealth Bank of Australia, Legal Department

Position Held: Litigation Solicitor

Duties: Conducted banking litigation for the Commonwealth Bank

of Australia in the NSW Supreme and the Federal Courts

and defended insurance claims against the Bank's

insurance division.

3. **JUNE 1988 TO NOVEMBER 1994**

Employer: Clayton Utz - Sydney Office

Position Held: Senior Solicitor

Duties: Originally employed as a 1st year solicitor upon

completing my articles. Conducted general commercial litigation NSW Supreme, District, and Local Courts, the Federal Court and the Family Court and in inter-partes arbitrations with emphasis in lease disputes, insurance claims, building arbitration, Petroleum Retail Franchise Marketing, trade practices litigation, insolvency and family

law

D. OTHER WORK RELATED ACTIVITIES

groups and/or schools

Regular mentor of law students, secondary students and junior legal practitioners
Presentation of Continuing Legal Education Seminars;
Speaking on behalf of the Law Society of New South Wales to community