



## **TODD ALEXIS SC**

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### **Qualifications**

LLM (Sydney)

Entitled to practice in all Australian jurisdictions

### **Practice at the Bar**

Admission to the Bar - 1986

Appointment as Senior Counsel - 2003 (39 years of age)

Todd has been in continuous practice at the Bar for over 35 years. He is predominantly a trial advocate with extensive experience across all jurisdictions in the Superior Courts of Australia, particularly in equity and commercial law. He regularly appears in the Court of Appeal, and in the Court of Criminal Appeal and the High Court of Australia.

He is a versatile Silk, having conducted hundreds of broad ranging commercial cases in trial and appellate Courts involving:

- contracts
- misleading, deceptive and unconscionable conduct
- estoppel
- breaches of fiduciary duty
- partnership, joint ventures, trusts and franchises
- fraud
- oppression of shareholders, director's duties and insolvent trading
- professional negligence
- deceased estates, including testamentary capacity and family provision
- vendor/purchaser
- real property, including easements and restrictive covenants

Todd has also conducted a wide range of common law, planning and environment, building and construction, defamation, insurance and criminal matters, both at first instance and on appeal. In crime, Todd has appeared for accused indicted on serious criminal offences including murder, fraud, sexual assault, acts of indecency and historical sex offences. He has also appeared in sentencing appeals.

Through his broad practice, Todd has developed expertise in litigation involving landslides, agriculture and prosecutions in Class 5 of the Land and Environment Court's criminal jurisdiction involving land clearing and contraventions of the *Water Management Act 2000* (NSW).

Todd has appeared as Counsel Assisting the Independent Commission Against Corruption at public inquiries (Operation Charity and Operation Hawker) and for the ICAC in various judicial review proceedings in the Supreme Court and appellate Courts. He has also represented affected persons at various public inquiries (including Operations Credo and Spicer in 2014 and Operation Misto in 2015). He appeared in the Royal Commission into Institutional Responses to Child Sexual Abuse in 2016.

Further, Todd has appeared in hundreds of mediations and is often retained to act as a Mediator in commercial disputes.

### ***Notable cases in the High Court and the Full Court of the Federal Court of Australia***

*McMillan v Warner (Trustee)* [2022] FCAFC 20 - main purpose for transfer of property in contravention of section 121(1)(b) of the *Bankruptcy Act 1966* (Cth).

*Boland v Cush* [2011] HCA 30; 243 CLR 298 - defamation and the defence of qualified privilege.

*Marcolongo v Chen* [2011] HCA 3; 242 CLR 546 - alienation of property to defraud creditors and section 37A of the *Conveyancing Act 1919* (NSW).

*Hearne v Street* [2008] HCA 36; 235 CLR 125 - contempt of Court and the implied undertaking.

### ***Recent cases in the NSW Court of Appeal and Court of Criminal Appeal***

*Cassaniti v Katavic (No 2)* [2023] NSWCA 107 - misleading or deceptive conduct and breach of trust.

*Carter v Mehmet* [2021] NSWCA 286 - "Aboriginal object" under the *National Parks and Wildlife Act 1974* (NSW), requisitions on title, defects in title and repudiation of contract for sale.

*Century 21 Plateau Lifestyle Estate v Hall* [2020] NSWCA 205; 102 NSWLR 921 - contract and the effective cause of sale of a property where more than one sales agent is involved.

*Campbell v Hamilton* [2019] NSWCA 22 - easement binding successors in title and section 88 of the *Conveyancing Act 1919* (NSW).

*Mehmet v Carter* [2018] NSWCA 305; 98 NSWLR 977 – capacity for "Aboriginal object" under the *National Parks and Wildlife Act 1974* being a defect in title and rescission of contract for sale.

*Turnbull v Strange* [2018] NSWCA 157; 98 NSWLR 248 - subpoena seeking personal information (recorded telephone conversations) and the *Privacy and Personal Information Protection Act 1998* (NSW).

*Ul-Hassan v R* [2018] NSWCCA 177 - sentence appeal for aggravated dangerous driving occasioning grievous bodily harm and section 21A(3)(a) of the *Crimes (Sentencing Procedure) Act 1999* (NSW).

*Turnbull v Chief Executive of the Office of Environment and Heritage* [2018] NSWCCA 229 - sentence appeal for land clearing contrary to the section 12 of the *Native Vegetation Act* 2003 (NSW) and the parity principle.

*Boyd v Thorn* [2017] NSWCA 210; (2017) 96 NSWLR 390 - issue estoppel and the principle of privity of interest where a current party is not a party to earlier proceedings.

*Priestley v Priestley* [2017] NSWCA 155 (special leave to appeal refused) - proprietary estoppel and detriment involving life changing decisions with irreversible consequences beyond the measure of money.

*Turnbull v Chief Executive of the Office of Environment and Heritage* [2017] NSWCA 161 (special leave to appeal refused) - extent of land clearing and remedial orders under the *Native Vegetation Act* 2003 (NSW).

*Hawcroft General Trading Co Pty. Limited v Hawcroft* [2017] NSWCA 91 - proper construction of contract and promissory estoppel.

*Treloar Constructions Pty. Limited v McMillan* [2017] NSWCA 72 - proper construction of contract and recovery of compensation from director pursuant to section 588M of the *Corporations Act* for insolvent trading, contrary to section 588G.

*Turnbull v R* [2016] NSWCCA 109 - partial defence of extreme provocation and section 23 of the *Crimes Act* 1900 (NSW).

*Johnston v Johnston* [2016] NSWCA 52 - Offer of Compromise and proper construction of UCPR 42.13A.

*Workplace Safety Australia Limited v Simple OHS Solutions Pty. Limited* [2015] NSWCA 84; (2015) 89 NSWLR 594 (special leave to appeal refused) - whether a distribution agreement is a franchise agreement under the *Franchising Code of Conduct*.

*Gold & Copper Resources Pty. Limited v The Hon Chris Hartcher, Minister for Resources & Energy, Special Minister* [2015] NSWCA 57 - statutory construction of the *Mining Act* 1992 (NSW) and the renewal of an exploration licence.

*D'Amore v Independent Commission Against Corruption* [2013] NSWCA 187 (special leave to appeal refused) - jurisdictional error and corrupt conduct.

### **Outside Court**

Todd was formerly the Head of Chambers of the Sixth Floor of Selborne Wentworth Chambers.

He is a passionate advocacy coach and the NSW member of the Advocacy Training Council of the Australian Bar Association. Todd was the Course Director of the Appellate Advocacy Course in the Federal Court 2013 and 2014 and the Course Director of Advanced Trial Advocacy Intensive in the Federal Court in 2017, 2018 and 2023. He has taught the Advanced International Advocacy Course at Keble College, Oxford, the Expert's Advocacy Course in Singapore, and the Appellate Advocacy Course in South Africa.

Todd is also the Chairman of the Board of Governors of The Pittwater House Schools and a director of Triathlon NSW Limited.

### **As junior Counsel**

Notably, Todd represented the families of the victims of the Thredbo landslide at the Coronial Inquiry into that tragedy that was heard over a period of 18 months. He conducted most

of the nervous shock and compensation to relative claims, and most of the commercial claims that arose from the landslide in the Supreme Court of New South Wales against the State of NSW. He has since been briefed in cases involving geotechnical engineering issues.

He also appeared at the Coronial Inquiry into the Seaview Airlines crash near Lord Howe Island and represented the family of the pilot at the Coronial Inquiry into the Air Frontier crash in East Arnhem Land, Northern Territory.

As a commissioned officer in the Royal Australian Navy Reserve, Todd prosecuted and defended military personnel before Courts Martial and Defence Force Magistrates.

### **Professional and other memberships**

- NSW Bar Association
- Australian Bar Association
- The Commercial Law Association of Australia
- Law Council of Australia - Business Law Section
- Australian Surfing Lawyers Association
- Warringah Triathlon Club
- Thredbo Chamber of Commerce