

Dispute Resolution & Litigation Services Guide



Dispute resolution is more than just Court proceedings.

Our results driven Dispute Resolution and Litigation team develops strategies for commercially desirable outcomes, not simply academic argument on points of law.

You are, after all, in business.

We have successfully assisted a range of clients with:

- Complex Strategy
- Advocacy
- Court work
- Asset Protection
- Negotiation
- Mediation
- Arbitration

Murfett Legal is a full-service business and property law firm, and as such the Dispute Resolution and Litigation team works closely with lawyers from other Murfett Legal teams, handling disputes in a range of legal and commercial areas including:

- Commercial and Contracts
- Insolvency
- Competition and Consumer
- International
- Construction
- Employment
- Personal Property Securities Act (PPSA) and registrations
- Trusts and Superannuation
- Aboriginal Corporations and Trusts
- Defamation
- Property and Leasing
- Debt Collection
- Estate Planning and Probate and Inheritance
- Liquor Licensing and Hospitality
- ATO and Tax
- Business Advisory
- Sports and Entertainment

See overleaf for some examples of recent matters in which we have assisted clients.



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Director / Shareholder Disputes	Assisted a Director, through negotiation, to exit from a complex corporate structure where a dispute arose between Directors, minimising his exposure moving forward.
Business Sale disputes	Negotiated a resolution (on behalf of the vendor) regarding a dispute with the purchaser of an Aviation business.
Partnership Dispute	Assisted the continuing-partners of a professional services firm, through negotiation and application of the terms of the partnership agreement, to resolve issues with the departing partner, including issues regarding: <ul style="list-style-type: none">• Departing equity valuation• Return of goods and equipment and intellectual property• Post-exit competition
Guarantee liability negotiation	<p>Negotiated and implemented a strategy for a Director of a failed (liquidated) company with a significant alleged guarantee creditor and other smaller alleged guarantee creditors, for a settlement involving a significant compromise (waiver / reduction) of the debt claimed, and payment of the settlement sum by instalments. The payments were manageable and avoided bankruptcy</p> <p>Release of volunteer guarantors, on the basis that the guarantee had no direct or indirect benefit to the guarantor.</p>
Construction Contracts Act	<p>In respect of the Construction Contracts Act and the adjudication process therein:</p> <ul style="list-style-type: none">• Appealed to the Supreme Court and settled a significant Construction Contracts Act dispute• Registered Adjudications as judgments and enforcement, including statutory demands and negotiations• International arbitration on oil and gas projects and rail project adjudications
Debt Collection	<p>In respect of debt collection:</p> <ul style="list-style-type: none">• Demands• Negotiations• Court action• Deeds of Settlement (and security)• Deeds of Guarantee• Instalment payment agreements• Compromise and release agreements



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Mortgage / Equipment Finance Disputes

Negotiating with mortgagees (banks / financiers / private lenders) for:

- Forbearance and time to re-finance
- Partial release of security
- Orderly sale of assets, rather than fire sale by mortgagee in possession
- Release of 'volunteer' guarantors

Acting for a defendant in a mortgagee repossession action and successfully negotiating a stay of execution with the mortgagee, whilst acting for the same party (as plaintiff) in an action for sale in lieu of partition of a jointly owned property. We successfully settled the partition action, the proceeds from which are sufficient to discharge the mortgage debt and prevent our client from being evicted from his family home.

Land Tax

Successfully overturned a Land Tax decision. See *Quito Pty Ltd v Commissioner of State Revenue* [2014] WASAT 8, which turned on the statutory interpretation of the word "use" in the context of the primary production land tax exemption under WA state law.

ATO disputes and winding up applications

Various disputes and dealings with the ATO, including:

- Defending Court actions
 - Negotiating for adjournment (postponement) of winding-up applications, to allow time for re-finance and payment of tax debt
 - Instalment arrangements
 - GIC (General Interest Charges) and penalty remission applications
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Prosecutions

Defending against prosecutions and civil claims relating to breaches of environment protection and mining acts and WorkSafe and EnergySafety prosecutions.

Estate claims

Determination of binding wills and their interpretation and family provision claims.

Aboriginal Corporations and Trusts

- Indigenous Land Use Agreements
 - Injunction applications
 - Employment advice
 - Joint Venture disputes
 - Property and Leasing
 - Internal Governance Disputes
 - Royalty Agreements
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Insolvency	Click here for more information about Business Advisory and Insolvency
Intellectual Property Disputes	Ownership and use disputes regarding: <ul style="list-style-type: none">• Copyright• Patent• Trademarks• Domain Name and Cybersquatting
Defamation	Bringing and defending claims.
Administrative Law	Acting for the applicant in a successful review application under the <i>Business Names Registration Act 2011</i> (Cth) in the Administrative Appeals Tribunal. See <i>Stasiw v ASIC</i> [2015] AATA 328, which turned on the statutory interpretation of the words 'nearly identical' for the purposes of comparing prospective business names to existing company names.
Employment	Bringing or defending claims including: <ul style="list-style-type: none">• Unfair dismissal• General protections• Restraints• Discrimination

If you would like more information, please contact us on +61 8 9388 3100 or visit our [website](#).

