

JOHN GLOVER

Curriculum vitae

2009

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CURRICULUM VITAE

Name

John Stephen GLOVER

Addresses

- (residential) 8 Beatrice Street
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525 Lonsdale Street
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- RMIT University
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(Mobile)

Marital Status

Married, with one daughter

Citizenship

Australian

Education And Professional Experience

Degrees and Prizes

- 1997 Ph.D. (Mon)
1982 B.C.L (Oxon)
1979 Rhodes Scholar for Victoria
1978 LL.B. (hons) (Melb.)
1976 B.A. (hons) (Melb.)

Professional experience

Barrister and Solicitor of the Supreme Court of Victoria (March 1979-).

Professional training

- 1978-9 Corr & Corr - Articled Clerk and Solicitor (securities and general commercial areas)
1979-82 B.C.L course, Oxford University
1982-4 Corrs, Pavey, Whiting & Byrne - Senior Associate

1984	Reading for the Victorian Bar (with Mr A.J. Myers of Counsel - taxation and commercial)
1984-9	Victorian Bar (general commercial work - appearances and opinions).
1985-7	Law School, Monash University, part-time tutoring in Evidence.
2005-	Victorian Bar

Present Appointment

(2009-) Professor, RMIT University, Graduate School of Business and Law
Barrister, Victorian Bar

Employment history at RMIT University and Monash University:

0.5 part-time appointment 2005-2009-
Full-time appointment 1990-2005,
OSP leave 1993 (semester 1), 1997 (semester 1), 2000 (semester 1), 2005 (semester 1), 2008 (semester 2); LSL 2001 (semester 1)

Previous Appointments

1998-2008	Associate Professor, Faculty of Law, Monash University
1993-1997	Senior Lecturer, Faculty of Law, Monash University
1990-1992	Lecturer, Faculty of Law, Monash University
1989	Pinkerton Research Scholar, Faculty of Law, University of Melbourne
1984-1988	Barrister (full-time), Victorian Bar
1985-1986	Sessional Tutor, Faculty of Law, Monash University
1982-1984	Solicitor and Senior Associate, Corrs Pavey Whiting and Byrne, solicitors, Melbourne
1978-1979	Articled Law Clerk and Solicitor, Corr and Corr, solicitors, Melbourne

TEACHING**Lecturing (undergraduate)**

Unit Name	Points	
Taxation Law 506	6	Semester I, 2004, Chief Examiner Semester I, 2002, Chief Examiner
Equity 406	6	Semester I, 2009 Semester I, 2008 Semester I, 2007, Chief Examiner Semester I, 2006 Semester I, 2004, Chief Examiner Semester I, 2002
Advanced Taxation Law 506	6	Semester II, 2005, Chief Examiner Semester II, 2003, Chief Examiner Semester II, 2001, Chief Examiner
Trusts 406	6	Semester II, 2007 Semester II, 2006 Semester II, 2003, Chief Examiner Semester II, 2000
Taxation Law 512	12	Semester II, 2000, Chief Examiner Semesters I & II, 1999, Chief Examiner Semesters I & II, 1998, Chief Examiner Semesters I & II, 1997, Chief Examiner Semester II, 1996 Semesters I & II, 1995 Semester II, 1994
Equity and Trusts 406 (FY)	12	Semesters I & II, 1999 Semesters I & II, 1998 Semester I, 1997 Semester II, 1996 Semester I, 1995 Semester II, 1994 Semesters I & II, 1993 Semesters I & II, 1992 Semesters I & II, 1991
Insolvency 415	6	Semester I, 1992 (with J. Duns)
Property II	12	Semester II, 1990
Legal Process	12	Semester I, 1991 Semesters I & II, 1990

Lecturing (graduate)

Unit Name	
Taxation of Trusts and Partnerships (LLM)	Semester I, 2007
Principles of Taxation LLM (LP)	Trimester I, 2004 Trimester II, 2003
International Taxation Law (LLM)	Semester II, 1997
Commercial Equity (LLM)	Semester II, 1996 Semester II, 1995 Semester II, 1994 Semester II, 1991

Curriculum Development

Curricula for the following subjects and associated legislation to obtain Monash University Law Faculty Board approval were designed and prepared by me.

Equity 406

Trusts 406

Equity & Trusts 406

Taxation Law 506

Advanced Taxation Law 506

Equity 406 and *Trusts 406* are “quasi-compulsory” undergraduate subjects, re-designed by me in 2000 to replace the year-long subject *Equity & Trusts 406*. The year-long subject had itself been developed by me in 1991 - to replace *Property II*. When I joined the Monash Faculty in 1990, its undergraduate teaching in equity was conducted through a subject named *Property II* - based in 1960s notions with an exclusive focus on the trust. In 1985 the Council of Legal Education Rules had changed to require a “basic competence” in equity, as well as trusts, in order for candidates to qualify for a solicitor’s practising certificate. *Equity & Trusts 406* was designed and introduced accordingly.

Taxation 406 and *Advanced Taxation 506* were introduced in 2000 in response to the Faculty’s need to restructure and upgrade its taxation offerings in line with changing student needs. *Taxation 512* was unnecessarily complex. It was a year long subject which unduly restricted students’ choices of electives. In order to introduce as many students as possible to the high social and constitutional importance of taxation law, I designed a more flexible two-tiered treatment of the subject. *Taxation 406* is broadly based on taxation of individuals and tax avoidance, whilst *Advanced Taxation 506* introduces business, accountancy and international perspectives. To develop materials in *Advanced Taxation 506*, I liaised with the Department of Business Law and Taxation. Student feed-back on the restructured taxation subjects has been very positive and overall enrolments have increased.

Insolvency 415 was developed by me in 1991 (in collaboration with J Duns). I initiated the redevelopment of this area, drawing on the recommendations of the *General Insolvency Inquiry: ALRC 45* and newly separated regimes for corporate and personal insolvency. The new subject was established and taught by me in 1992, and it has since become a standard offering in the Faculty’s undergraduate commercial syllabus.

I also initiated the Masters subject *Commercial Equity 706*, which was designed to fill a gap in the Faculty’s graduate program. Commercial litigation in Melbourne and elsewhere had assumed an increasingly equitable form, whilst established practitioners often had a rudimentary knowledge of equitable principle. I offered the course four times between 1991 and 1996. In 1994, it enjoyed the Faculty’s highest graduate enrolment.

International Taxation 706 was revived by me in 1997, to exploit a potential student intake amongst those city and suburban legal practitioners who advised overseas clients and dealt with Australian off-shore investments. The enrolment in the course was 30, and included practitioners, students enrolled in f/t and p/t studies at the

University of Melbourne, and staff from the ATO. Whilst lectures were held in the Melbourne office of Ernst & Young and I was assisted by a partner in the firm, development of teaching materials and the conduct of assessment was undertaken by me.

Taxation of Trusts and Partnerships 706 revived by me in Semester I of 2007 (with P Sokolowski). The course was taught above-load to my then 0.5 academic appointment, as part of a move by the Faculty to revive graduate tax teaching and possibly offer a (coursework) Masters in Taxation.

HDR thesis supervision

Completions:

Three PhD theses, four LL.M. major theses, and eight LL.M minor theses were completed under my supervision. In 1999 I received an ‘Honourable Mention’ in the Monash Postgraduate Association, PhD Supervisor of the Year competition.

Honours and research subject supervision

Since 2002:

N Papson	“Cost-setting rules in corporate tax consolidations”
C Peacock	“VAT and immovable property”
D Katsavos	“Exploring the term ‘joint venture’ in taxation law”
B Chessell	“Assessing the validity of the RBT claim that ‘Option 2’ will not change what is included in taxable income.”
S Keller	“Taxation of trusts: interpretation of Division 6 and the meaning of income”
J Savage	“Disjunction between legal and beneficial ownership in income tax assessment”

RESEARCH

My research fields include equity, trusts, tax, tax policy, commercial fraud and insolvency. I have written two sole-authored monographs and over 50 chapters in books and refereed journal articles.

A 2005-2006 ARC Linkage Grant (with S Barkoczy of Monash University) involved a comparative examination of venture capital tax expenditure programs in 13 countries.

A 2001-2003 ARC SPIRT Grant project (with B Tran-Nam of UNSW) involved an assessment of the effects of tax reform on small business taxation. Research findings have now been considered by the Australian Treasury and a Senate Inquiry.

Over the years, I have developed academic and professional networks within my research fields. Postgraduate research students have been attracted to work under my supervision (see HDR Thesis Supervision).

Commercial fraud

My first monograph *Commercial Equity: Fiduciary Relationships* (1995a) explores the penetration of equitable ideas into the commercial laws of Australia and comparable jurisdictions, with particular reference to the fiduciary relationship. To date, the book has sold in 12 countries. It has been widely reviewed and cited in appellate courts, including the High Court of Australia and the United Kingdom Court of Appeal (see Citations). Critical comments on it include:

Professor John D McCamus, York University, and Law Reform Commission of Canada:

“I find Glover’s analysis to be convincing and persuasive . . . [it] has a critical edge . . . a superb piece of work . . . I know that I have profited from my careful reading of it, and that my having done so will inform my own work in this field in the future.”

Professor L S Sealy, (then) Professor of Corporate Law at the University of Cambridge, United Kingdom:

“The merits of this book, apart from the extensive industry and thought which underlie the writing, include the cool and balanced quality of the commentary and the thoroughness with which the issues are explored . . . [it is] always of a careful and considered quality and sometimes weighty, even trenchant.”

Lionel D. Smith, St. Hugh’s College, Oxford (1996) *75 Canadian Bar Review / Le Revue du Barreau Canadien*, 388.

“ . . . this is an important work for Canadian lawyers. The sweep of Glover’s book is impressive. His innovative approach to fiduciary relationships, identifying them according to four paradigm types, is worthy of careful consideration by lawyers in all common law jurisdictions. He makes much use of Canadian materials, and pays particular attention to decisions of the Supreme Court of Canada. Thus, Canadian lawyers will find that the book

provides not only a solid analysis of their own cases, but an *entrée* into Australian, New Zealand and United Kingdom cases as well.”

My second monograph *Equity, Restitution & Fraud* (2004a) examines restitutionary recovery in the contexts of misappropriation, insolvency and multi-party frauds. The study was published in 2004. It examines and contrasts the corrective reach of restitution and the requirements of distributive justice, as they apply to the adjudication of (multiple) claims to the proceeds of fraud. The book has been cited in the Victorian and NSW Supreme Courts and other Australian jurisdictions. I believe that I have established myself as a leader in the field of commercial fraud - within the Law Schools of which I have been a member, within Australian academia, and internationally.

Taxation and tax policy

My research in the area of taxation and taxation policy has been wide-ranging – with a particular emphasis on interposed entities and the fairness of the tax system to the small business sector. Tax law publications authored by me have appeared in the *Australian Law Journal*, the *Australian Tax Review*, *Journal of Australian Taxation*, *New Zealand Journal of Tax Law and Policy*, *Australian Tax Forum*, *Taxation in Australia* and the *Journal of Money-Laundering Control*, as well as university law reviews. An article in 2001 was a contribution to a national debate amongst tax scholars concerning the Ralph committee’s recommended alternative conceptual base for Australian tax law.

Insolvency

Related to my two main areas of research, insolvency is the recurring context of my published work on frauds and tax avoidance. My research in insolvency law has focused on practical and philosophic underpinnings of insolvency priorities, as well as the remedial consequences of finding a fiduciary relationship in an insolvency context. The latter was a significant theme of my 1995 monograph. An early refereed publication (1991b) addressed this subject, as did a 2001 co-authored article published in the *Insolvency Law Journal* (2001c). Another co-authored article published in the *International Insolvency Review* (2006b) explores the tax dimensions of insolvency law.

Research grants

Name of Grant	Internal	External	Year	Value
ARC Linkage ¹		✓	2005-2006	\$124,252 (\$62,252 ARC grant + \$62,000 industry partner contribution).
ARC Strategic Partnerships with Industry – Research and Training ^{2*}		✓	2001-2003	\$310,000 (\$142,000 ARC grant + \$160,000 industry partner contribution).
Strategic Monash University Research Fund 2, funding research into equity and restitution	✓		2000	\$5,835
Monash Law Faculty Research Committee, funding for Research Assistance for new monograph	✓		1998	\$2,161
ARC Small Grant “Taxation of trustees, beneficiaries and contributors to trusts”		✓	1996	\$7,200
ARC Small Grant “Developing an Australian law of restitution”		✓	1993	\$5,000
Law Book Company Ltd funding for restitution project		✓	1990-1991	\$2,000
Monash Research Grants Committee, funding for restitution project	✓		1990	\$2,200
University of Melbourne, Pinkerton Research Foundation, funding for restitution project		✓	1989	\$3,500

¹ *ARC Linkage* project LP0562593: “Venture capital and tax expenditure programs – an international comparative analysis” (with Co-Chief Investigator Associate Professor Stephen Barkoczy, Faculty of Business and Economics, Monash University). *Industry Partner*: Dept of Industry, Tourism and Resources (Com).

² *ARC Strategic Partnerships with Industry – Research and Training* project C00106796: “Assessing the effects of Ralph reforms on small business” (with Co-Chief Investigator Dr Binh Tran-Nam of the Australian Taxation Studies Program, UNSW). *Industry Partners*: National Farmers Federation, Taxation Australia Inc and the Council of Small Business Organisations of Australia Ltd.

Published works

Books

EQUITY, RESTITUTION & FRAUD
(LexisNexis Butterworths, Sydney, 2004a), xlvii + 491 pp

judicially cited:

NSW Supreme Court

Surf Road Nominees Pty Ltd & Ors v Tass James [2004] 61 (20 February 2004, Einstein J).

Victorian Supreme Court

P & V Industries Pty Ltd v Porto [2006] VSC 131 (7 April, 2006)

reviewed: *Lawyers Weekly* June 10, 2004 www.lawyersweekly.com.au
(2004) 23 *University of Qld Law Journal* 258
(2004) 32 *Australian Business Law Review* 452
(2005) 33 *Australian Business Law Review* 158
(2005) 79 *Law Institute Journal* 72

academic citation list available on request

Educational Lending Right 2006/2007 Program:	49 copies in Australian Public Libraries
Educational Lending Right 2007/2008 Program:	50 copies in Australian Public Libraries
Educational Lending Right 2008/2009 Program:	50 copies in Australian Public Libraries

COMMERCIAL EQUITY: FIDUCIARY RELATIONSHIPS
(Butterworths, Sydney, 1995a) xxxi + 358 pp

Judicially cited:

High Court of Australia

Roxborough v Rothmans of Pall Mall Ltd (2001) 208 CLR 516

Pilmer v Duke Group Ltd (in liq) (2001) 207 CLR 165.

Concut Pty Ltd v Worrell (2000) 176 ALR 693.

Bridgewater v Leahy (1998) 194 CLR 457.

Breen v Williams (1996) 186 CLR 71:

Federal Court of Australia

University of Western Australia v Gray (No 20) [2008] FCA 498 (17 April, 2008)

Doolan v Dare [2004] FCA 682 (17 April 2004)

Gartner v Ernst & Young (No 2) (unrep. 8 Dec. 2003, Mansfield J).

National Mutual Property Services (Australia) Pty Ltd & Ors v Citibank Savings Ltd (unrep. 28 May 1998, Lindgren J).

Tresize v National Australia Bank Ltd (unrep. 22 January 1999, French J)

Bulun Bulun v R & T Textiles Pty Ltd (1998) 157 ALR 193, Von Doussa J

Compaq Computer Australia Pty Ltd v Merry (1998) 157 ALR 1, 23 Finkelstein J

National Mutual Property Services (Aust) Pty Ltd v Citibank Securities Ltd (unrep. 28 May 1998 Lindgren J)

Hughes Aircraft Systems International v Air Services Australia (1997) 146 ALR 1, Finn J

C-Shirt Pty Ltd v Barnett Marketing and Management Pty Ltd (1996) 37 IPR 315, Lehane J

ASC v AS Nominees Ltd (1995) 62 FCR 504, Finn J

NSW – Court of Appeal

Harris v Digital Pulse Pty Ltd (2003) 44 ACSR 390

NSW Supreme Court

McEvelly v Maneti Quinlan and Associates Pty Ltd (unrep. 1 July, 1998, Einstein J)
Allstate Explorations NL & Ors v Beaconsfield Gold & Ors [1999] 39 (10 February 1999, Master Macready).

Queensland Court of Appeal

Richardson v Radford (unrep. 24 December 1996, McPherson JA)

Queensland Supreme Court

Daniels Corporation International Pty Ltd v Australian Waste Services Pty Ltd (unrep. 26 June 2003, Atkinson J).

Victorian Supreme Court

Victoria University of Technology v Wilson & Ors [2004] 33 (18 February 2004, Nettle J).
Re an Appln for directions by Lofthouse (as liq of MML Management Ltd (in liq)) (unrep, 15 August 2002, Hansen J).
Disctronics Ltd & Ors v Edmond & Ors (unrep.23 October 2002, Warren J).
Ali v Hartley Poynton Ltd (unrep. 16 April 2002, Smith J).
MML Management Limited (in liq) [2002] 330 (15 August 2002, Hansen J).
Yunghanns v Elphic Pty Ltd [2000] 1 VR 113
King v Lintrose Nominees Pty Ltd (unrep. 17 Sept. 1999, Byrne J)
Farrow Finance Company Ltd (in liq) v Farrow Properties Pty Ltd (unrep. 26 Feb, 1998, Hansen J)

Western Australian Supreme Court

Fico v O'Leary [2004] WASC 215 (11 October, 2004)
The Bell Group Ltd (In Liq) & Ors v Westpac Banking Corporation & Ors (unrep.19 December 2001, Owen J).

United Kingdom Court of Appeal

Swindle v Harrison [1997] 4 All ER 705, Hobhouse LJ

reviewed: (1997) 71 *Australian Law Journal* 642
 (1997) 75 *Canadian Bar Review* 388
 (1997) 23 *Monash University Law Review* 222
 (1996) 7 *International Company and Comm. Law Review* 284
 [1996] *Lloyd's Maritime and Commercial Law Quarterly* 423
 (1996) 8 *Journal of International Banking Law* 344
 [1996] *Restitution Law Review* 253
 (1996) 18 *Adelaide Law Review* 117.
 (1996) 11 *Australian Banking Law Bulletin* 79
 (1995) 11 *Queensland Univ. of Technology Law Journal* 212
 (1995) 95 *Victorian Bar News* 74
 (1995) 69 *Law Institute Journal* 1280

academic citation list available on request

PRINCIPLES OF THE LAW OF TRUSTS

(Thomson Reuters, Sydney, loose-leaf and online)

Contributing author (since 2008),
 with HAJ Ford, WA Lee, M Bryan and I Fullerton)

Chapters in books

“The compliance costs of the GST for small business: Empirical evidence from Australia” (with B Tran-Nam) in Fisher, R & Walpole, M (eds) *Challenges of Globalising Tax Systems* (Birmingham, Fiscal Publications, 2005d), 288-302.

“Contribution” (with A Robertson, 50%) in THE PRINCIPLES OF EQUITY ed. P. Parkinson 2nd edn (Lawbook Co, Sydney, 2003a), Chapter 14, 541-553.

“Subrogation” (with A Robertson, 50%) in THE PRINCIPLES OF EQUITY ed. P. Parkinson 2nd edn (Lawbook Co, Sydney, 2003b), Chapter 14, 555-567.

“Small business, tax reform and tax compliance costs” (with B. Tran-Nam, 50%) in M. Walpole, and R. Fisher (eds) 5TH INTERNATIONAL CONFERENCE ON TAX ADMINISTRATION (Timebase, Sydney, 2002a): <http://www.timebase.com.au>

“Conflicts of interest in a corporate context” in CORPORATE CRIME WORKSHOP 2002 G Acquah-Gaisie (ed) (Monash University, Dept of Business Law and Taxation, Melbourne, 2002b), Chapter 3, 39-57.

“Globalisation of banking: an Australian perspective” in COMMERCIAL LAW IN A GLOBAL CONTEXT ed. B. Rider, Y Tajima and F Macmillan (Kluwer Law International, London: 1998a), Chapter 5, 55-64 [based on conference paper September 1996h]

“Trusts” in 31.8 LAWS OF AUSTRALIA *Taxation* (LBC Information Services, Sydney: 1997a), Chapters 1-9, 1-89.

“Identification of fiduciaries” in PRIVACY AND LOYALTY ed. P. Birks (Clarendon Press, Oxford: 1997b), Chapter 10, 270-281 [based on conference paper September 1996f]

reviewed: (2000) 8 *International Journal of Law and IT* 221 (UK)

cited: Evan Fox-Decent, The Fiduciary Nature of State Legal Authority (2005) 31 *Queen's Law Journal* 259

“Taxing the constructive trustee” in TRENDS IN CONTEMPORARY TRUSTS LAW ed. A. Oakley (Clarendon Press, Oxford: 1996a), Chapter 13, 315-331 [based on conference paper, January, 1996i].

reviewed: (1997) Vol. 45 No. 1 / n° 1 *Canadian Tax Journal / Revue Fiscale Canadienne* 193.

“Equity and restitution” in THE PRINCIPLES OF EQUITY ed. P. Parkinson (LBC Information Services, Sydney, 1996b), Chapter 4, 92-118.

cited: M Bryan ‘Unjust enrichment and unconscionability in Australia’ in J Neyers et al *Understanding Unjust Enrichment* (2004) 47, 67 and n. 101.

K Barnett ‘The uneasy position of unjust enrichment’ (2002) 23 *Adel L Rev* 277, n.85.

R Bigwood ‘Conscience and the liberal conception of contract’ (2000) 16 *JCL Lexis* at nn. 328, 329.

P Birks ‘Annual Miergunyah lecture: Equity, Conscience and unjust enrichment’ (1999) 23 *MULR* 1.

Foreword to I.M. Jackman *The Varieties of Restitution* (1998) (Hon. Justice W.M.C. Gummow)

“Contribution” in THE PRINCIPLES OF EQUITY ed. P. Parkinson (LBC Information Services, Sydney, 1996c), Chapter 14, 537-548 [based on LAWS OF AUSTRALIA, 1993].

cited: NSW – Court of Appeal

Zurich Australia Insurance Ltd v CSR Ltd (unrep. 13 August, 2001, Spigelman CJ).

“Subrogation” in THE PRINCIPLES OF EQUITY ed. P. Parkinson (LBC Information Services, Sydney, 1996d), Chapter 15, 549-561 [based on LAWS OF AUSTRALIA, 1993].

cited: Ontario Superior Court of Justice
Re Ontario New Home Warranty Program v Jack Grant 512729 Ontario Ltd (2001) 4 RPR (4TH) 56.

“Restitutionary recovery of taxes after the Royal Insurance case: commentary” in *RESTITUTION: UNJUST ENRICHMENT IN AUSTRALIA* ed. M. McInnes (LBC Information Services, Sydney, 1996e), Chapter 8, 131-136.

“Contribution” in 15.3 *LAWS OF AUSTRALIA* ed. G. Masel (Law Book Co, Sydney, 1993a), [4]-[13].

“Subrogation” in 15.3 *LAWS OF AUSTRALIA* ed. G. Masel (Law Book Co, Sydney, 1993b), [15]-[22].

Refereed journal articles

“*Kennon v Spry*: are the “lights changing” for discretionary trusts” (2009) 84 *Law Institute Journal* (accepted for publication)

“*Kennon v Spry*: predicting the future of the discretionary trust in Australian tax law” (2009) 43 *Taxation in Australia* 581-583.

“Dissatisfied beneficiaries: challenging discretionary trustees” (2009) 83 *Law Institute Journal* 54-57.

“Shams, reimbursement agreements . . . and the return of economic equivalence?” (2008) 43 *Taxation in Australia* 21-26.

“Insolvency – calling in the undertakers: income tax, CGT, GST and stamp duty aspects” (2007) 10 *Journal of Australian Taxation* 220-250.

“A challenge to established law on discretionary trusts? *Re Richstar Enterprises*” (2007) 30 *Australian Bar Review* 70-89.

cited: Lee Aitken, Case Note ‘Control’, ‘ownership’ and the beneficiary of the discretionary trust (2008) 31 *Australian Bar Review* 128

“Dissecting trusts and trusteeship: CGT and stamp duty consequences” (2007) 36 *Australian Tax Review* 201-221.

“The rule against perpetuities and its application to unit and discretionary trusts” (2007) 14 *Australian Property Law Journal* 225-237.

“Unintended consequences: International Accounting Standards, Public Unit Trusts and the Rule Against Perpetuities” (with P Von Nessen) (2006a) 80 *Australian Law Journal* 675-693.

“Insolvency, Tax and Liquidation Distributions: Dividends, Capital Gains and the Dead Hand of the Past” (with J Duns) (2006b) 15 *International Insolvency Review* 109-128 (UK).

“Resettlements: revenue consequences of varying discretionary trusts” (2005a) 79 *Australian Law Journal* 620-640.

“Taxing liquidation distributions: an assessment of Australian deemed dividend and capital gains regimes and how they interrelate” (2005b) 34 *Australian Tax Review* 88-103.

“The taxation priority in insolvency: an Australian perspective” (with J Duns, 50%), (2005c) 14 *International Insolvency Review* 1-16 (UK)

“The Goods and Services Tax – recurrent compliance costs and benefits for Australian small business: a case study approach” (with B Tran-Nam, 50%), (2004d) 10 *New Zealand Journal of Tax Law and Policy* 334-352 (NZ)

“Estimating the transitional compliance costs of the GST in Australia: a case study approach” (with B. Tran-Nam, 50%) (2002c) 17 *Australian Tax Forum* 499-536.

cited: Michael Dirkis and Brett Bondfield “Much ado about nothing”: Ralph's consideration of small business - (2005) 1 *Journal of The Australasian Tax Teachers Association* 110

“Conflicts of interest, conflicts of duty and the information professional” (2002d) 23 *Adelaide Law Review* 215-242.

cited: Sandro Goubran “Conflicts of Duty: The Perennial Lawyers' Tale” (2006) 30(1) *Melbourne University Law Review* 88

“Tax reform in Australia: impacts of tax compliance costs on small business” (with B. Tran-Nam) (2002e) 5 *Journal of Australian Taxation* 338-381.

cited: Mark Burton “Small Business Tax Advantages - Towards Holism with a Suggested Definition, Typology and Critical Review” (2006) 2(1) *Journal of the Australasian Tax Teachers Association* 78

“RBT ‘Option 2’ – problems in concept and in practice” (2001a) 4 *Journal of Australian Taxation* 1-39.

cited: Mark Burton, “There are Too Many Witchdoctors in Our Tax Courts: Is There a Better Way?” (2005) 15 *Revenue Law Journal* 4

“Is breach of confidence a fiduciary wrong? Preserving the reach of judge-made law” (2001b) 21 (4) *Legal Studies* 594-617 [based on conference paper September 2000c].

cited: Victorian Supreme Court
Disctronics Ltd & Ors v Edmond & Ors (unrep. 23 October 2002, Warren J).

David F. Partlett, “Misuse of genomic information: the common law and professionals' liability,” in (2003) 42 *Washburn Law Journal* 489 (USA).

George Wei, “Breach of Confidence, Downstream Losses, Gains and Remedies” (2005) *Singapore Journal of Legal Studies* 20

“Insolvency administrations at general law: fiduciary obligations of company receivers, voluntary administrators and liquidators” (with J Duns) (2001c) 9 *Insolvency Law Journal* 130-146.

“Discretionary trusts, fiduciary duties and the Family Law Act: has the Family Court acted beyond power?” (2000a) 14 *Australian Family Law Journal* 180-206.

cited: Anthony Dickey, Family law (2006) 80 *Australian Law Journal* 643
Peter Agardy, Aspects of trading trusts (2006) 14 *Insolvency Law Journal* 7

“Entity taxation and trusts arising by operation of law” (2000b) 23 *UNSW Law Journal* 330-337.

“Re-assessing the uses of the resulting trust: medieval and modern themes” (1999a) 25 *Mon LR* 110-131

“Taxing trusts: entity or conduit - an assessment” (1999b) 2 *Taxation in Australia* (Red Series) 194-203.

cited: Mark Burton, *There are Too Many Witchdoctors in Our Tax Courts: Is There a Better Way?* (2005) 15 *Revenue Law Journal* 4

“Australia’s mechanism for preventing the pass-through of corporate tax preferences: is change desirable?” (1999c) 2 *Taxation in Australia* (Red Series) 124-131.

“Taxing the proceeds of crime” (1997c) 1 *Journal of Money Laundering Control* 117-124 [based on conference paper, September 1996g]

“Wittgenstein and the existence of fiduciary relationships: notes towards a new methodology” (1995b) 18 *University of New South Wales Law Journal* 443-463

cited: R Fisher ‘Mediation and the fiduciary relationship’ (1997) 16 *ABR* 8.

“Banks and fiduciary relationships” (1995c) 7 *Bond Law Review* 50-66 [based on conference paper July 1994a]

“Loch v Westpac Banking Corporation and the problem of superannuation fund surpluses” (1992a) 9 *Australian Bar Rev* 172-184

cited: Anthea Nolan, “The Role of the Employment Contract in Superannuation: An Analysis Focussing on Surplus Repatriation Powers conferred on Employers,” in (1996) 4 *ABLR* 343.

“Restitutionary principles in tort” (1992b) 18 *Monash Law Review* 169-193

cited: E.J. Weinrib (2000) 1 *Theoretical Inquiries in Law* 1, 35.
E.J. Weinrib (1995) *The Idea of Private Law*, 142.
E.J. Weinrib (1994) 44 *Duke Law Journal* 296.
P Cane *Tort Law and Economic Interests* 2nd edn, 298.
S Doyle and D Wright, “Restitutionary damages – the unnecessary remedy?” in (2000) 25 *MULR* at n 11.

“Equity, restitution and the proprietary recovery of value” (1991a) 14 *University of New South Wales Law Journal* 247-282

cited: Robert A Klotz ‘What’s happening in bankruptcy/family law?’ (2004) 10 *Canada Bankruptcy Reports* (articles) (4th) 145.
Robert A Klotz ‘Bankruptcy and insolvency law newsletter’ 1999-5 *Insolvency L News* at n. 95 (Can)
reproduced: (electronically) in Queensland University of Technology teaching materials for 1999 LLM subject “Contemporary equitable doctrines, principles and remedies”

“Bankruptcy and constructive trusts” (1991b) *Australian Business Law Review* 98-123

cited: Leonard Rotman, “Deconstructing the Constructive Trust,” (1999) *Alberta Law Review*, note 178 (Can)
D Wright ‘The statutory trust’ (1999) 14 *JCL* 79, 80.
Hanoch Dagan, “Restitution in bankruptcy: why all involuntary creditors should be preferred” (2004) 78 *American Bankruptcy Law Journal* Summer 247

extracted: R Klotz *Bankruptcy, Insolvency and Family Law* 2nd ed (Toronto, Carswell, 2001), 7-28.

Other journal contributions

“Resettlements, discretionary trusts and the *Duties Act 2000* (Vic)” Law Institute of Victoria, Commercial Law Section Newsletter (2006 on-line):

<https://www.liv.asn.au/members/sections/commercial/about/commercial-Commerci.html>

“Gain-Based Damages: Contract, Tort, Equity and Intellectual Property by James Edelman” (2004) 12 *Torts Law Journal* 259-261.

“Conflicts of Interest and Chinese walls by Charles Hollander and Simon Salzedo (2001d) 15 *Tolley’s Trust law International* 61-63.

“The Varieties of Restitution by I.M. Jackman” (1999d) 73 *Australian Law Journal* 686-691

“Unjust enrichment” in *THE PHILOSOPHY OF LAW: AN ENCYCLOPAEDIA* ed C. Gray, (Garland Publishing, New York, 1999e), Vol 2, 878-880.

“Circumstances in a commercial case that give rise to a constructive trust” (1990a) 64 *Australian Law Journal* 297-301

Conference papers

“Unintended consequences: International Accounting Standards, (with Prof Paul von Nessen), paper presented to 2006 *Corporate Law Teachers’ Association* conference, University of Queensland Law Faculty, Old Customs House, Brisbane, 7 February, 2006.

“A comparative survey of tax incentives used for the promotion of venture capital investment in Spain, Ireland and New Zealand” paper presented to 2006 *Australasian Tax Teachers’ Association* conference, Law Faculty, University of Melbourne, Parkville, 30 January, 2006.

“An analysis of legal structures and tax concessions used to encourage venture capital investment in Australia” (with S Barkoczy, 50%), 2005 Hawaii International Conference on Business, Waikiki Beach Marriot, Honolulu, Hawaii, USA, 26-29 May, 2005

“Taxation of liquidation surpluses” (with J Duns, 50%), Insol International Academics Group Meeting, Sydney, Darling Harbour, 12-13 March, 2005a.

“Compliance costs of the GST to small business: preliminary results based on a case-study approach” (with B Tran-Nam, 50%) 6th International Conference on Tax Administration, ATAX, University of NSW, Sydney, 15-16 April, 2004c.

“The taxation priority: Australian experience and international comparisons” (with J Duns, 50%), Insol International Academics Group Meeting, Cape Town, Republic of South Africa, 2-3 April, 2004d.

“GST recurrent compliance costs/benefits for small business in Australia” (with B Tran-Nam, 50%), 16th Annual Australian Tax Teachers Association Conference, Flinders University, 29-31 January, 2004e.

“Tax reform in Australia: impacts on tax compliance costs” (with B. Tran-Nam, 50%) 5th International Conference on Tax Administration, ATAX, University of NSW, Sydney, 4-5 April, 2002f.

“Conflicts of interest, conflicts of duty and the information professional” at ‘Law of Obligations: Connections and Boundaries’ conference, Faculty of Law, University of Melbourne, 21-22 February 2002g.

“Conflicts of interest in a corporate context” Monash BLT Dept ‘Corporate Crime Workshop’, Melbourne, 13 February 2002h.

“Is breach of confidence a fiduciary wrong? Preserving the reach of judge made law” SPTL annual conference (Restitution Section), University College, London 19-21 September 2000c.

“Entity taxation and trusts arising by operation of law” at the 12th annual Australasian Tax Teachers’ Conference, Monash University, Melbourne, 3-5 February 2000d.

“Changes in the taxation of trusts” at the 11th annual Australasian Tax Teachers’ Association conference, University of Canberra, 5-7 February 1999f.

“Identification of fiduciaries” (invited paper, airfare paid and visiting fellowship at Magdalen College) at the SPTL conference: *Fiduciaries in Context*, All Souls College, Oxford, 28 September, 1996f.

“Taxing the proceeds of crime: should the fruits of corruption be assessable?” (invited paper) at the *Fourteenth International Symposium on Economic Crime*, Jesus College, Cambridge, 8-13 September, 1996g.

“Globalisation of banking: an Australian perspective” (invited paper) at the Institute of Advanced Legal Studies conference: *Commercial Law in a Global Context - Perspectives in Anglo-Japanese law*, Jesus College, Cambridge, 16-17 September, 1996h.

“Taxing the constructive trustee” (invited paper) at the University of Cambridge, Faculty of Law conference: *Trends in Contemporary Trusts Law*, Cambridge, 6-7 January, 1996i.

“Banks and fiduciary relationships” (invited paper) at the Bond University, Faculty of Law conference *Equity, Restitution and the Banking Lawyer*, Gold Coast, Queensland, 23 July 1994a.

ACADEMIC LEADERSHIP

Currently, I am a member of the executive of the Law Group, School of Accounting and Law, RMIT University and co-ordinator of private and commercial law subjects.

I have served on the Monash University Academic Board, committees of the Law Faculty and as Law Faculty representative on the Faculty Board of the Business & Economics Faculty. This includes important Faculty committees, such as the Research Committee and Staff and Chair Selection committees.

In 2000, I was Associate Dean (Research) in the Law Faculty at Monash University and HDR Co-ordinator. In this combined brief I carried significant administrative responsibility and workload. Since 2005, I have been the Chair, Occupational Health, Safety and Environment committee.

I have been a Performance Management Staff supervisor, have mentored younger staff, and participated in the selection of junior academics for the award of research trimesters. I have also mentored publications for research students.

Participation in academic governance since appointment has been as follows.

2009-	Executive, Law Group, School of Accounting and Law and co-ordinator private and commercial law subjects, RMIT University.
2005-8	Chair, Occupational Health, Safety and Environment committee (Law Faculty, Monash University).
2005	Reader and Assoc. Prof. selection committee (Monash University)
2002-2004	Chair, Academic Progress committee (Monash Law Faculty)
2003-4	Research committee (Monash Law Faculty)
2002	Honours committee and scrutiny panel (Monash Law Faculty)
2002	Academic Board (Monash University)
2001-2002	Reader and Assoc. Prof. selection committee (Monash Law Faculty)
2001	Honours committee and scrutiny panel (Monash Law Faculty)
2001	Academic Board (Monash University)
1999-2001	Research committee (Monash Law Faculty)
2000	Associate Dean (Research) (Monash Law Faculty)
2000	Director, HDR Students (Monash Law Faculty)
2000	Committee of Associate Deans (Research) (Monash University) - MURF subcommittee
1997, 2000	Monash Research Graduate School committee (Monash University) - Postgraduate Publications Awards committee - Working Group on Doctoral regulations
2000	Cwth Schol & Fellowship Plan selection committee (Mon. University)
2000	Chair, Research committee (Monash Law Faculty)
2000	Executive committee (Monash Law Faculty)
2000	Honours committee (Monash Law Faculty)
2000	Graduate Studies committee (Monash Law Faculty)
2000	Faculty Info. Technology Advisory committee (Monash Law Faculty)
1999-2000	OSP committee (Monash Law Faculty)
1992-2000	Faculty of Bus & Economics Faculty Board (Monash BusEco Faculty)
1994-1997	Staff committee (Monash Law Faculty)
1997	Exclusions committee (Monash Law Faculty)
1993-1996	Academic Board (Monash University)
1996	Chair selection committee (Monash Law Faculty)
1990-1994	Academic Progress committee (Monash Law Faculty)
1991-1992	Discipline committee (Monash University)
1990-1991	Graduate Studies committee (Monash Law Faculty)

PROFESSIONAL INVOLVEMENT

GOVERNMENT CONSULTANCIES

- Department of Industry, Tourism and Resources (Cwth)
Venture Capital Tax Expenditure Programs: An International Comparative Analysis of Legal Structures and Benefits
Written report (253 pages) funded and commissioned by the Department of Industry Tourism and Resources, Commonwealth of Australia (S Barkoczy, D Sandler, J Glover and R Kowalski) 2006.

House of Representatives Standing Committee on Economics, Finance and Public Administration
 Inquiry entitled: *Australian Manufacturing – Today and Tomorrow*, July 2007 frequently cited (and quoted) the *Venture Capital Tax Expenditure Programs* Report; recommendations 9-12 followed the Report's recommendations.

- Australian Senate Standing Committee on Employment, Workplace Relations and Education
 Invited submission on small business taxation (10,400 words).
 Attendance and oral evidence at public hearing: *Hansard* Volume of Submissions to Public Hearings, Melbourne, 25 July 2002, 178-203; further submissions and invited response to ATO submission (J Glover, with B. Tran-Nam).
- Australian Taxation Office
 National Tax Liaison Group (Trusts Law Sub-Committee) – appointed 2006.
- Australian Treasury (Board of Taxation)
 Independent Expert appointed to evaluate Taxation – Tax Value Method lectures and experimental questions (April 2002).
- Victorian Civil and Administrative Tribunal
 Sessional Member from 2000, re-appointed until January 2010 (General List).
- Victorian Department of Justice
 Memoranda of advice (2) at the request of the Victorian Department of Justice on proposed amendments to the *Trustee Act 1958* (concerning secondary mortgage market, mortgage-backed securities and custodial trustees) (May 2000 and May 2001).
- Republic of South Africa: Coordinating Research Institute for Corporate Law Consultant (1996-) to the standing advisory committee on company law of the Department of Trade and Industry of the Republic of South Africa - codification of company directors' duties project.

LECTURES AND ADDRESSES

(2006-2009)

- “*Kennon v Spry* [2008] HCA 56 and the future of the discretionary trust” - VicBar CPD seminar, Owen Dixon Chambers, 205 William Street, Melbourne – 4 August 2009.
- “Unpaid present entitlements” - *Taxation Institute of Australia* Trusts & Estates seminar RACV Club 501 Bourke Street, Melbourne (with Ron Jorgensen) – 11 June 2009.
- “Discretionary trusts – when an individual’s “control” becomes “property” - *Taxation Institute of Australia* Trusts & Estates seminar RACV Club 501 Bourke Street, Melbourne (with Ian Hardingham) – 25 March 2009.

- Dissatisfied beneficiaries: challenging the discretions of discretionary trustees” seminar at *Law Institute of Victoria* CPD Intensive at Crown Promenade Hotel, 8 Whiteman Street, Southbank – 18 March 2008.
- “Give the tax man only what belongs to him: taxation implications of estate planning” *LexisNexis* 6th annual Wills, Succession and Estate Planning conference, Stamford Plaza Melbourne - 20 February 2008
- “Advanced issues in trusts law” LPD seminar, *Leo Cussen Institute* 360 Little Bourke Street, Melbourne – 13 September 2007.
- “Raftland and sham trusts”, (invited) presentation to *Pitcher Partners*, accountants, 15 William Street, Melbourne, 26 August 2008.
- “Sham trust distributions” *Taxation Institute of Australia* “Breakfast Club” seminars at Leonda by the Yarra, Hawthorn, Vic - 28 August, 2008 and Hotel Mercure, Geelong, 29 August 2008.
- “Advanced trusts issues” - presentation at LPD seminar, *Leo Cussen Institute*, Little Bourke Street, Melbourne - 13 Sept, 2007.
- “Dissecting trusts – structural surgery” - *Taxation Institute of Australia* Trusts & Estates seminar RACV Club 501 Bourke Street, Melbourne (with Bernard Marks) – 5 September 2007.
- “Insolvency – calling in the undertakers: Income Tax, CGT, GST and Stamp Duty aspects” – *Taxation Institute of Australia* CPD seminar, Leonda-by-the-Yarra, Wallen Road, Hawthorn – 31 July 2007.
- “Dissecting trusts and trusteeship: CGT and Stamp Duty consequences” - Presentation to 7th *Annual States’ Taxation Conference* (joint venture of state and territory State Revenue Offices and Taxation Institute of Australia), Hyatt Hotel, Canberra - 26 July, 2007.
- “Moving real property assets from discretionary trusts to self-managed superannuation funds” (invited) presentation at *Mason Sier Turnbull* solicitors, 315 Ferntree Gully Road, Mount Waverley – 16 May 2007.
- “Challenges to discretionary trusts: *Re Richstar Enterprises*” – seminar *Geelong Lawyers’ Association*, Deakin Waterfront Campus, Geelong - 2 March, 2007.
- “Discretionary trusts and the new challenge of transparency” – Presentation to CPD Specialist Forum, *Law Institute of Victoria*, 470 Bourke Street, Melbourne - 15 February, 2007.
- “Resettlement of trusts: Duties Act and CGT consequences” seminar at Business Law Discussion Group, Level 2, *Law Institute of Victoria* 470 Bourke Street, Melbourne – 28 February, 2006
- “Resettlements: tax consequences of varying discretionary trusts” seminar at *Law Institute of Victoria* CPD Intensive at Rydges 186 Exhibition Street, Melbourne - 30 March, 2006

- “Powers of provisional liquidators and the termination of provisional liquidation” presentation at *LegalWise* seminar: “Trading under Provisional Liquidation” Cliftons 440 Collins Street, Melbourne - 18 May, 2006
- “Land tax and trusts” presentation at *Law Institute of Victoria* 2006 Small Practice Conference at RACV, 501 Bourke Street, Melbourne - 17 June, 2006
- “Ethics and integrity in tax compliance” Taxation Institute of Australia seminar, in Applied Tax Structured Education Program, Cliftons 440 Collins Street, Melbourne – 20 June 2006
- “Cloned, Split & Challenged” Taxation Institute of Australia “Breakfast Club” seminar on trust-splitting, Leonda by the Yarra, Hawthorn, Vic - 31 August, 2006
- “The Rule Against Perpetuities and its operation in relation to unit and discretionary trusts” VicBar CPD seminar, Owen Dixon Chambers, 205 William Street, Melbourne - 8 November, 2006
- “Splitting and merging trusts” (with Paul Sokolowski) *Monash Law Faculty* CPD seminar, Monash Law Chambers, 472 Bourke Street, Melbourne - 15 November, 2006

VICTORIAN BAR

1984-1989 – commercial practice (tax, corporate, general litigation) – appearances etc with counsel including RA Sundberg QC (now Mr Justice Sundberg of the Federal Court), P Buchanan QC (now Mr Justice Buchanan of the Victorian Court of Appeal), GAA Nettle (now Mr Justice Nettle of the Victorian Court of Appeal), PD Cummins QC (now Mr Justice Cummins of the Victorian Supreme Court), TEF Hughes QC, BJ Shaw QC, and CL Pannam QC.

2005- – commercial practice (tax, trusts, general litigation) - appearances etc with counsel including Michelle Gordon SC (now Ms Justice Gordon of the Federal Court, Roger Gillard QC – acting for Australian Taxation Office, State Trustees etc..

PROFESSIONAL ASSOCIATIONS

- Taxation Institute of Australia
Fellow 2004-
Victorian Education Committee member 2006-2007
- Law Institute of Victoria
Taxation and Revenue Committee, 2005-
State Taxes Committee, 2005-

OTHER MATTERS

- Commentary and advice has been sought by radio, television and press media in connection with taxation, corporate law, and matters involving trusts, wills and estates. I have a folder of relevant engagements and press cuttings.

- Examining PhD theses: (i) October 2002, University of Queensland – DM Jensen ‘Informal property-sharing arrangements: a study of administrative coherence’; (ii) November 2001, Griffith University - PM McDermott ‘Equitable damages’; (iii) November 2004, Bond University – Zhenting Tan ‘Perfecting the Chinese law of trusts’; (iv) C Rankine, August 2008, UNSW “Taxation of trusts.”