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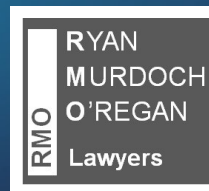
RYAN
MURDOCH
O'REGAN
Lawyers

Commercial Litigation



Protect your interests. Assert your rights.

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About Ryan Murdoch O'Regan Lawyers

We are a general law practice which is organised into teams of specialised experts in each of our areas of law.

Our practice area teams are committed to focussing on their area of law to ensure you always have the expertise that you need.

And, unlike some other firms – who focus on only one area of law – we can offer expert solutions for all legal areas, without the need for you to search around.

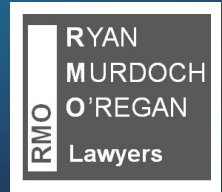
As a client you can have comfort that irrespective of what problem you may encounter in whatever area of law, our teams in all our practice areas will be able to work in tandem to offer any other specialist solutions you might require – utilising the history we already know about you and / or your business.

“Often, we meet our clients for the first time at the most stressful period in their life. Together we work to solve their personal and / or business problem, leading to a lifetime relationship.”



Queensland
Law Society
MEMBER

Commercial Litigation: An Overview



Commercial litigation is where a business or company is involved in a dispute.

In most cases, disputes are resolved by negotiations and court action can be avoided.

You need a commercial litigation lawyer when:

Your dispute:

- concerns a business, whether operated by you or somebody else,
- is over money owed by you or to you concerning any commercial arrangement,
- is related to a company, a trust, a partnership or any other agreement or arrangement between people,
- concerns a contract such as a loan agreement, any lease, building contract, franchise agreement, insurance contract, employment contract, contract concerning property, or
- concerns the purchase of goods or services.

You:

- have debts you cannot pay or are owed money by people who have not paid you,
- are being stuffed around by someone who does not do what they said they would do, or does not do what they should do,
- if court proceedings have been commenced against you,
- receive a notice, such as a bankruptcy notice, statutory demand, directors penalty notice, garnishee notice, notice to remedy breach or notice of defect,
- are being prevented from doing something you would like to, or
- are uncertain about your rights concerning any of the above.

It is important to note, strict time limits often apply to litigation proceedings.

We recommend obtaining expert legal advice from our experienced litigation lawyers early on in the piece so you can move quicker than your opponent, and resolve your dispute.

Please note, litigation can be costly and you should consider the value of your loss before commencing court action.

The plan we will develop for you:

1. Takes into account your individual circumstances – **we listen!**
2. Draws on our experience – **we are the experts!**
3. Helps you achieve the best possible outcome – **you win!**

“Invest in the best. RMO Lawyers”

Bankruptcy, Insolvency & Reconstruction



When you owe money, there may be options available to you.

The best plan for you depends on:

- your asset position,
- the debts owed and who they are owed to,
- how your debts are structured, for example you may have companies or trusts,
- your income and expenses, and
- most importantly – your plans for the future.

We regularly deal with bankruptcy, corporate insolvency including liquidation, administration and receivership and all related legal issues.

Do people owe you money? Are a bankruptcy trustee, liquidator, administrator or receiver?

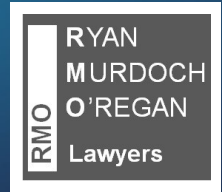
Engage our experienced team to provide the best possible legal advice on insolvency law.

Case Examples

- advising on statutory demands and bankruptcy notices – often resulting in arrangements which do not result in bankruptcy or liquidation,
- negotiating with the Australian Taxation Office ("**ATO**") concerning unpaid tax debts,
- preparing deeds of company arrangements – which enable companies to keep trading with an arrangement in place with creditors,
- acting for secured creditors to have receivers appointed and recover secured assets, including entire operating businesses,
- advising people considering bankruptcy, including 1 individual who allegedly owed over \$40 million, and
- acting for a franchisee to have a provisional liquidator appointed to a franchisor who refused to pay franchise fees (or staff wages) – our negotiations resulted in a suitable settlement arrangement.



Building & Construction Disputes



We are experienced representing builders, home-owners and subcontractors to protect their interests and assert their contractual rights.

It is frustrating when you are a builder, building inspector or subcontractor and:

- the Queensland Building & Construction Commission (“QBCC”) is trying to take your licence, due to circumstances beyond your control,
- you have a multimillion dollar contract to build a commercial premises and suppliers have not delivered the right materials to site,
- you are running a large operation with several offices and multimillion dollar turnover, but unexpectedly find yourself with large debts or facing bankrupt, or
- you have not been paid despite doing the job perfectly.

Have you engaged a builder, building inspector or other contractor to build your home? Did things not turn out as expected?

Case Examples

- representing builders and subcontractors in QBCC proceedings,
- resolving disputes through the use of mediation, informal settlement conference, negotiation, court or tribunal proceedings and formal offers according to the rules of court,
- advising about the termination of building contracts, delays, disruption, and rights under construction contracts,
- acting for subcontractors against large building companies concerning payments not received,
- relentlessly pursuing negligent people and companies who have failed to meet their contractual obligations,
- advising on payment claims, payment schedules and adjudication applications, and
- acting against the QBCC.

Have you engaged a builder, building inspector or other contractor to build your home?

Did things not turn out as expected?

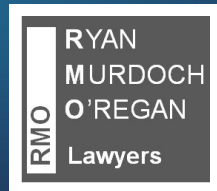
Is the build is completely different from what you ordered, leaks or deteriorates?

We can assist you to get what you paid for.

Our experienced team will strongly defend your position and work to resolve the dispute in a cost-effective manner.



Business Disputes



Going into business with someone can be like entering into a marriage, except it may be more difficult to dissolve a business relationship. Our experienced litigation lawyers can assist with:

- company disputes,
- director disputes,
- guarantor disputes
- partnership disputes,
- shareholder disputes, and
- trustee disputes.

There are a range of potential solutions we can implement to protect your interests. This includes; devising strategies, detailed advices, negotiation, mediation, formalising agreements, letters of demand, obtaining or resisting an injunction, litigation proceedings or engaging other professionals to assist obtain the desired outcome e.g. accountants, administrators and receivers.

Case Examples

- resolved a company dispute between directors, where administrators were appointed and the business was later sold,
- defended a director dispute where a company director refused to return vehicles and other property owned by the company,
- advised our client regarding a guarantor dispute when a loan was guaranteed on the basis of certain facts by a large financial institution,
- acted in a partnership dispute where a business was sold and we obtained an urgent Supreme Court injunction to preventing the sale from proceeding,
- resolved a dispute between shareholders where 1 of the shareholders had advised Australian Securities & Investments Commission ("**ASIC**") that the shares of another shareholder should be transferred because "he owes me money", without proper authorisation, and
- devised effective strategies to resolve a trustee dispute property developers involving several trusts and corporate trustees, as well as substantial land assets.



Debts



Are you owed money?

Have you been requested to make a payment you believe is unlawful?

Cash flow is a critical element to managing a successful business. The loss of funds or wrongful demand can have dire consequences on individuals.

When debts are owing or wrongfully demanded from you, a quick resolution to the issue is required to ensure there is no interruption to your business operations or lifestyle.

Our experienced litigation lawyers have considerable experience representing clients from a wide range of industries to recover debts or defend wrongful requests for payment, from minor debts through to large and complex debt situations that result in proceedings in the Supreme Court of Queensland or Federal Court of Australia.

We will stand up for your right to maintain your financial status and defend any wrongful demands fiercely.

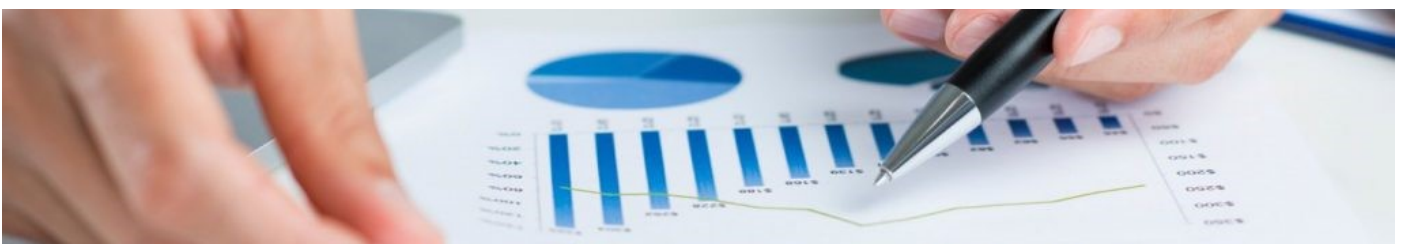
Case Examples

- acting for a company director where one of the employees (who happened to be a relative) had mysteriously spent large sums of money on the company credit card, which stopped once she heard from us,
- acting for a landlord who had leased commercial premises where rent was significantly in arrears, and the tenants had disappeared overseas, who returned to find that their keys no longer worked and their business was gone,
- acting for a franchisor against an ex-franchisee who had disappeared leaving a debt, until we obtained a court order freezing their bank account,
- acting for the purchaser of a business who had done so using vendor finance and where the vendor had obtained a court judgement against our client for non-payment of the debt – we obtained an instalment order allowing our client to repay the debt over time and not put its numerous employees out of work.

Are you being requested to make a payment when the goods or services they provided or claim to have provided where:

1. Not provided at all?
2. You have already paid?
3. Of poor quality and required replacement?
4. Not what you ordered?
5. An agreement was reached concerning payment and the agreement has not been honoured?

Take control. Get results.



Defamation

Defamation is defined as *"false and derogatory statements about another person published in the press, electronic media or by word of mouth, without any justification recognised by law"*.

When people say or write defamatory comments about you substantial damage can be caused.

So what do you do to fight back and protect your reputation?

You should:

- keep detailed records of what happened e.g. when, where and who prepared the defamatory content,
- obtain copies of all materials the content has been distributed on i.e screenshots of social media posts, comments and messages, audio recordings, printed versions of websites,
- contact our experienced litigation lawyers to identify strategies to combat the defamatory behaviour .

We can also assist you to strongly defend the allegations of defamatory conduct and stand up for your rights.

Case Examples

- defending allegations that a business with multimillion dollar turnover was insolvent and unable to pay its debts,
- representing an accountant where allegations of professional incompetence.
- acting on matters involving allegations of sexual misconduct in the workplace,
- acting for a television personality concerning lies told about them resulting in threats made to them and their family,
- corruption allegations against government officials, including a police officer and a mayor in South-East Queensland,
- nasty rumours of workplace incompetence, designed to result in the sacking or demotion of the target,
- acting for clients about whom allegations of paedophilia had been made,
- acting for a guru who allegedly ran a cult operation.



Employment Law



As a party to an employment contract you have an agreement with your employer or your employees governing how your employment is intended to proceed.

If the working relationship is not going as planned or ends for any reason, there may be options available to you.

Our litigation lawyers have assisted clients with a range of employment situation, including clients:

- arriving at work and being assaulted,
- calling in sick and having their employment terminated,
- who have had their employment wrongfully terminated,
- being accused of sexually assaulting employers, employees and work colleagues,
- allegedly underpaying staff,
- whose previous employees have left and established a business in competition, and
- being sued by their employer.

Case Examples

- representing the store manager of a leading Australian retailer who had been told not to come back to work,
- acting for a senior employee of a major Australian bank who was being pressured to resign,
- acting for an employee who was in a dispute about hundreds of thousands of dollars which the employee had paid themselves pursuant to an employment contract,
- advising a board of directors where an employee had paid themselves a large amount of money that the employee was not entitled to,
- acting for clients who have been underpaid by their employer,
- drafting employment contracts for employers,
- acting where discrimination is alleged to have occurred, and
- advising employers and employees about all aspects of the working relationship.

Have you engaged a builder, building inspector or other contractor to build your home?

Did things not turn out as expected?

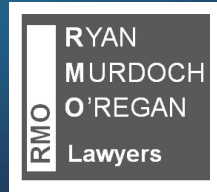
Is the build is completely different from what you ordered, leaks or deteriorates?

We can assist you to get what you paid for.

Our experienced team will strongly defend your position and work to resolve the dispute in a cost-effective manner.



Franchise Disputes



The Franchising Code ("**Code**") provides options for franchisees and franchisors to resolve disputes as soon as practically possible and in a cost-effective manner.

There are formal dispute resolution requirements that must be undertaken to resolve a dispute within the Code, yet the Code does not hinder your rights to take legal action immediately.

You need to see us when:

As a franchisee:

- your franchisor is not doing what they promised,
- it becomes clear that you were led up the garden path with unrealistic revenue forecasts and you are faced with paying huge franchising fees, or
- the franchise you thought you were buying is not what you have received.

If you are a franchisor and you want to enforce your franchise agreement against a franchisee.

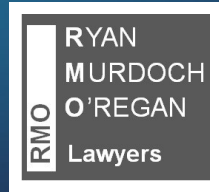
Our experienced litigation lawyers have the knowledge and experience to help you through the process. We take the time to explain the legalities regarding the Code and develop strategies to avoid costly litigation. If court action is required, we provide strong representation.

Case Examples

- acting for franchisors against franchisees who haven't paid their franchise fees,
- advising franchisees about their rights regarding restraints after the franchise agreement ended,
- advising franchisees about terminating a franchise agreement where the franchisor had not complied with the disclosure requirements of the Code,
- advising as to whether a franchisor has complied with its marketing obligations, and the effect of non-compliance on the rights of the franchisee to cancel the franchising agreement,
- protecting the rights of a franchisor against unlawful action by the franchisee,
- enforcing franchising agreements against non-compliant franchisees.



Insurance Disputes



Insurance law can be categorised, broadly speaking, into three categories:

- the business of insurance,
- the content of insurance policies, and
- claim handling.

Have you made a claim on your insurance policy but your claim has been denied? Has your insurance company told you that you are not covered for the type of accident or damage that has happened?

Has your insurer denied liability to a third party for a claim that you are facing?

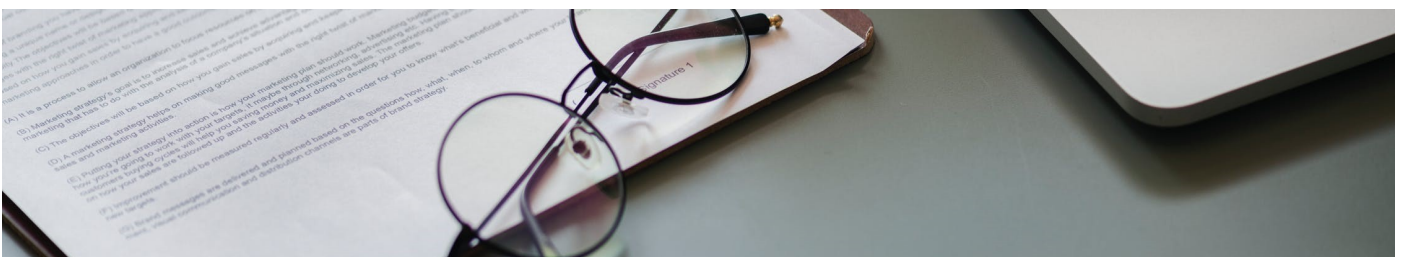
Are you experiencing inordinate delay from your insurance company while they assess your claim?

There are a range of issues that may arise, including:

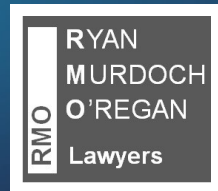
- disclosure issues,
- rejection of indemnity due to claim misrepresentation,
- insurance broker or agent negligence,
- insurance provider is avoiding complying with their contractual obligations, and
- rejection of claim due to alleged acts or omissions on your behalf.

Case Examples

- asserting claims against solicitors (as represented by insurers) for millions of dollars for professional negligence,
- providing advice on whether damage caused to a boat was covered under an insurance policy,
- obtaining a claim for fire damage to commercial premises,
- advising on the rejection of indemnity due to non-disclosure,
- claiming against the other party's insurer,
- lodging claims against lawyers for filing insurance law proceedings in the wrong court, and
- advising on whether an admission of fault after a motor collision is a bar to recovery.



Planning & Environmental Disputes



Are protected species in your trees preventing you from developing? Have you just purchased an old petrol station and looking to build? Is there a monstrosity going up next door which you feel powerless to stop? Have you been fined for environmental damage? Did you allegedly store dangerous material illegally?

We provide strong representation for all planning and environmental disputes, from litigation, and investigations to court action.

You need to seek legal advice from our experienced litigation lawyers when:

- your plans are knocked back and not approved,
- the council is not cooperative,
- developments threaten to encroach upon your rights, or
- you have been accused of unlawful damage to the environment.

You should see us promptly to eliminate potential costs and maximise potential profits.

Strict time limits apply in planning and environment matters so you may well be in a situation where time does equal money. Further, a situation that may have been resolved through negotiation may be beyond changing if you don't see us promptly.

Case Examples

- an unwanted development was being built next to our client's property with no reference to our client's wishes – until we court action,
- advising clients on unexpected local council charges,
- our client was charged with significant environmental damage, even though approval had been given by council,
- advising a client concerning development on contaminated lands,
- advising developers concerning land resumptions,
- our client stored dangerous materials without a permit including several semi-trailers and building material, and
- a builder allegedly dumped water into the local creeks, causing damage, despite the unusually heavy rain falling from the sky and complying with all requirements concerning drainage.



Property Disputes



If you are involved in a dispute concerning property, it is imperative you obtain legal advice from our experienced litigation lawyers as property disputes often involve significant monetary value.

By taking no action, or waiting until the last minute, may result in economic disaster. You need our expert guidance so you can make the right decisions and ensure you obtain the best possible result.

Our commercial litigation team regularly handles property disputes from questions concerning boundaries right up to ownership disputes where millions of dollars of property is involved.

Not only do we have an experienced Property & Development Team that works with our litigators to assist you, we also work with some of the best property law barristers, property valuers and other expert witnesses.

To ensure you obtain the best possible result, we develop effective strategies that will resolve your dispute.

With proven experience negotiating with other parties to reach an agreement, we have successfully represented property developers, property owners and tenants and resolved their property disputes.

Where court action is necessary, we are masters of litigation and provide the best representation for our clients. Regardless of the type of property dispute, we can assist you.

Case Examples

- disputes where several millions of dollars of property are at stake,
- acting for tenants whose lease had been terminated and who had been evicted, who wished to re-establish their interests in property,
- acting for property owners who asserted that an easement had been extinguished,
- a refurbished apartment development had just been completed and apartment owners moved in – and immediately had to collectively fork out \$1 million due to leaks in the roof,
- disputes between family members concerning contributions to property, and
- acting for a property developer where a purchaser did not complete the sale and could not be found.

Property disputes are dispute where there is a disagreement, hostility or misinterpretation regarding a property-related transaction.

Do you have a dispute regarding a property purchase or sale?

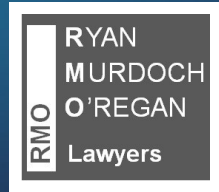
Are you experiencing issues with boundaries and subdivision?

Do you require advice on building and construction disputes?

We can assist you with all types of property disputes.



Our Proven Experience



Commercial litigation matters are very diverse.

Our experienced litigation lawyers have considerable experience representing clients to resolve their disputes.

To further demonstrate our expertise in this complex area of law, we have outlined additional examples of our proven experience.

Case Examples

- successfully recovering debts owed or rejecting alleged debts that are not owed,
- obtaining urgent court orders freezing the bank accounts of parties where it is suspected that funds would be removed from those bank accounts and placed out of reach of our clients,
- advising the president of a peak national sporting association who had just been kicked out by the association members,
- acting for a property developer where an unsightly, decrepit and highly visible building was next door to one of his developments,
- advising an importer of counterfeit luxury products,
- acting in commercial disputes against:
 - banks and financiers at all levels, including major Australian banks,
 - governments at all levels, including local, state and commonwealth,
 - insurance companies,
 - high net worth individuals, and
 - large companies of any kind, including major building companies, multinational corporations, publicly listed companies (both Australian and foreign) and superannuation funds.
- resolving disputes involving companies, trusts or partnerships,
- obtaining an injunction to ensure that a foreign call centre mentioned GST inclusive prices to potential Australian clients, and
- successfully recovering debts owed or rejecting alleged debts that are not owed.



What Our Clients Had To Say



"Excellent service. The advice provided saw the claim against me discontinued. BT"

"Asked the right questions and scenarios to understand my needs. The process worked well and any clarifications I needed along the way were addressed in a timely manner. CW"

"My meeting was excellent and I'm confident and happy to have support mechanisms in place and employment matters properly structured. RC"

"Initial face to face consultation was fantastic, very thorough during the consult and you gave very valuable advice and legal information. Because of the advice in that consult we stood up to the other party immediately with the correct information and they paid the total of their debt to us within two months. As a result...we were so confident and managed to get the other party to pay up without having to take it further. From the receptionist at the front desk through to completion, we could not fault the service or legal advice. TM"

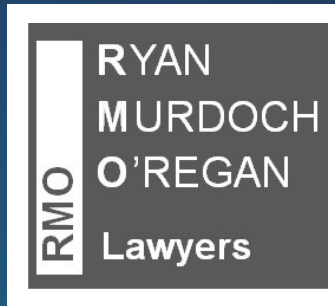
"Thank you again for being so understanding and giving me your very beneficial advice. Although stressful, you did make a horrible situation, somewhat tolerable. Thank you again. MS"

"I cannot begin to tell you how happy this email has made us, further, there are not enough wonderful and adequate words to describe our appreciation of the Commercial Litigation Team! JM"

"Invest in the best – RMO Lawyers recently got my family and company through a very tough period and delivered an incredible result. The team put us at ease from the start and allowed us to concentrate on our lives and business. A very happy client that will be spreading the word! 10/10. CT"

We were very grateful of the path and simplicity chosen to bring our situation under control within seven days and putting a stop to ongoing fees and charges by not picking up goods. After the very first meeting and from day one their expertise in constructing a very direct message and not getting into the fluff was brilliant. Love your work and don't know why we put up with it for so long. We thank you for your team work. NC"





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*Individual liability limited by a scheme approved under professional standards legislation.
This is general advice only.
You should seek specific advice for your particular circumstances.*