

### **Experience as an expert witness**

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Since 1988 I have acted as an expert witness in proceedings on a large variety of matters and in several jurisdictions. In a few of these proceedings I appeared in court; in the others, the majority, my involvement has ranged from providing verbal advice to written reports and sworn affidavits. In all matters, my involvement has related to statistical or probabilistic evidence.

I appeared in person in the following proceedings:

1. In 1996 I gave evidence about a mathematical formula in a hearing in the Federal Court. The formula was contained in the Health Insurance (Pathology – Licensed Collection Centres) Determination No. 6.
2. In 1998 I gave evidence about sampling and sample surveys in a trade practices case, involving a claim of batteries lasting “up to 4 times longer”. I gave evidence on the quality of surveys carried out. The matter was No. NG 1205 of 1998, NSW District Registry, EVEREADY AUSTRALIA PTY LIMITED (Applicant) and GILLETTE AUSTRALIA PTY LIMITED (Respondent).
3. In 2002 I gave evidence on the quality of surveys, on a so-called “[roping-in](#)” case, before the Australian Industrial Relations Commission:  
Shop, Distributive and Allied Employees Association and \$2 and Under and Others (C1998/75644). A search on my name, “Gordon”, indicates the reliance the Tribunal placed on my evidence.
4. I appeared in the Supreme Court of Victoria to give evidence about the implications of rounding in measurement, in a case involving the measurement of blood alcohol concentration of a driver.
5. In 2014 I appeared in the Federal Court to give evidence regarding estimates of the number of breaches of the Credit Act, in a Proceeding brought by ASIC against The Cash Store, a short-term lender. [The judgment](#) imposed a penalty of \$19M against the defendant; see paragraphs 9 and 10 for the reliance placed on my evidence.
6. In 2017 I appeared in the Federal Court to give evidence in a class action taken by Shine Lawyers on behalf of women alleging that they suffered loss regarding the use of mesh and tape implants, for prolapse and urinary incontinence. [The judgment](#) found that the respondents were negligent. It was delivered in late 2019. Justice Katzmann cited my written and oral evidence many times and commented that “Professor Gordon struck me as a scrupulously honest and thoughtful witness who endeavoured at all times to provide measured responses to the questions asked of him, both in writing and orally”.
7. In 2024 I appeared in the Federal Court to give evidence in a class action taken by Slater and Gordon Lawyers on behalf of women alleging that they suffered loss in relation to the use of the permanent contraceptive device “Essure”.
8. In 2024 I appeared in the Federal Court to give evidence in a class action taken by Maurice Blackburn Lawyers on behalf of people who have been diagnosed with non-Hodgkin’s lymphoma and alleged that this was caused by exposure to Roundup or Monsanto-branded products that contain glyphosate.

Some notable proceedings in which I provided evidence but did not appear in person include the following:

1. PR002003, Australian Industrial Relations Commission. The "[Safety Net Review, 2003](#)". A search on my name, "Gordon", indicates the reliance the Tribunal placed on my evidence. Note para 131 in particular.
2. I assisted the ACCC in an action against Powerballwin.com.au Pty Ltd, which involved advising the Federal Court about randomness, probability and the predictability or otherwise of lotteries, and Powerball in particular. The defendant was found to have engaged in false or misleading conduct. [See paragraphs 24 to 26.](#)

See also the [ACCC's media release](#).

3. I assisted Maurice Blackburn Lawyers in a class action against the National Australia Bank (NAB). NAB shareholders alleged that they suffered loss as a result of NAB's conduct regarding collateralised debt obligations. NAB agreed to pay AUD\$115 million in settlement of the proceedings. My evidence on sampling was important in challenging the evidence of a US economist who gave evidence on behalf of NAB.
4. I was engaged by Maurice Blackburn Lawyers to provide statistical assistance in a class action on behalf of those who suffered injury, loss or damage as a result of the Kilmore East - Kinglake Black Saturday bushfire of 7 February 2009. My work was critical in critiquing the evidence of an engineer who gave testimony on behalf of SP AusNet regarding wind speeds. I also assisted with other aspects of the defendants' case.
5. I have assisted Maddens Lawyers and Maurice Blackburn Lawyers with several bushfire class actions, mainly by estimating the overall quantum of loss from an appropriately chosen random sample.
6. I assisted Maurice Blackburn Lawyers in the class action on behalf of those who suffered loss as a result of the 2011 flood in Brisbane, arising from release of water from the Wivenhoe Dam. I designed and analysed a survey that was used to estimate the total losses, and the estimate was used in the final determination of the case.
7. I was engaged by Arnold Bloch Leibler to assist them with an application by young African men against Victoria Police, involving allegations of racial discrimination and racial profiling. The case was settled after the proceedings commenced. My role in analysis of police records was reported [in the media](#).

My involvement and its significance was also mentioned in an [Age editorial](#).

The nature of other matters in which I have been consulted as an expert witness include: fraud, medical over-servicing, sampling for faulty goods, IVF-related matters, contamination due to pesticide spraying, unfair dismissal, copyright, commercial valuations, trade practices, product recalls, voter fraud, medical devices, noise.