

PHILIP DURACK SC

BARRISTER

CURRICULUM VITAE

PRACTICE

Philip Durack SC undertakes both trial and appellate work in a range of areas and jurisdictions throughout Australia.

Main practice areas include:

- Administrative law
- Commercial and corporate law
- Insurance law
- Insolvency
- Professional liability
- Property law
- Trade practices

EDUCATION

1974-1978 University of Western Australia

- B. Juris (Hons)
- LLB (Hons)

1979-1981 Magdalen College, Oxford University

- Bachelor of Civil Law

PROFESSIONAL EXPERIENCE

Litigation Solicitor:

- 1982 Dwyer, Durack & Dunphy, Perth
- 1983-1985 Freshfields, London
- 1986-1987 Baker and McKenzie, Hong Kong
- 1987-1990 Allen Allen & Hemsley, Sydney
- 1988 Elected Senior Associate, Allens

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Barrister:

Feb 1991	Admission to the Sydney Bar
1991	Readership, 11 th Floor, Wentworth Chambers
1992 to date	Member, 11 th Floor, Wentworth Chambers
Sept 2004	Appointment as Senior Counsel in the State of New South Wales

OTHER POSITIONS

2014	Appointed Senior Member (part time) of NSW Civil and Administrative Tribunal (NCAT) – member of Appeal Panel and Occupational Division (Legal List)
2012	Chairman, Eleventh Floor Wentworth Chambers
Currently	Deputy Chairman, Finance of Counsels Chambers Limited
Feb 2006	Appointed Director, Counsels Chambers Limited

INTERESTS & ACHIEVEMENTS

Frank Edward Parsons Memorial Prize (most outstanding law graduate UWA), 1978

First grade cricket, Western Australia, 1976-1978, 1981-1982

First class cricket, Oxford University

1st XI Oxford University hockey

Director, Mosman Cricket Club 2001-7

Member, NSW Golf Club, WACA, SCG, Sydney Swans and Western Sydney Wanderers

Surfing

EXAMPLES OF CASES IN WHICH HAVE APPEARED

Radhika Oswal v ANZ Bank & Ors eg. [2015] FCA 49, [2013] VSCA 156, [2011] FCAFC 117, [2011] FCA 424, [2011] VSC 434 – duress, unconscionable conduct, equity, *Barnes v Addy* liability - actions in the Supreme Court of Victoria and the Federal Court related to receivership and sale of shares in ammonia plant.

Radhika Oswal v Yara Australia & Ors [2013] WASCA 187, [2011] 86 ACSR 1, [2011] WASC 255 – contract, corporations law, concerning management participation rights of shareholders.

Global Medical Solutions Australia Pty Ltd v Axiom Molecular, Zuellig Group Inc & Ors [2012] NSWSC 1262; [2012] NSWSC 1517; [2013] NSWSC 86; [2013] NSWSC 665; [2013] NSWSC 1433 – breach of fiduciary duty, conspiracy to injure, corporate law contraventions in relation to wrongful diversion of business opportunities and use of confidential information.

China Bros. v Smith [No. 3] [2014] WASC 29 - *Quistclose* trust issue.

Public Transport Ticketing Corporation v ITSL and ERG Limited eg. [2009] NSWSC 54, [2010] NSWSC 120, [2010] NSWSC 607 – breach of contract - claims arising out of the termination of the TCard contract for the supply of a smartcard ticketing system for Sydney.

Special Commission of Inquiry into the Electricity Transactions –directors’ duties in respect of sale of electricity generation trading rights in December 2010.

Robbins v The Royal Bank of Scotland eg. [2010] NSWSC 39 – bailment/conversion, claim for return of shares allegedly held by RBS.

ASIC v Rich & Silbermann eg. [2009] NSWSC 1456, [2009] 75 ACSR 1 –civil penalty proceedings arising out of the collapse of One.Tel – corporate law contraventions/directors’ duties.

Aberdeen Group v Bluestone Property Services Pty Ltd; Brown v Hodgkinson [2009] 14 BPR 27,133, [2009] NSWCA 386, [2009] NSWSC 262 – whether contract made for buy-out of interests in property developments.

Abigroup Contractors Pty Ltd v ABB Services Pty Ltd [2004] NSWCA 181 – whether contract existed for the building of the roof of the Superdome for the Olympic games.

ASIC v Adler, Williams & Fodera eg. (2003) 46 ACSR 504; (2002) 41 ACSR 72; (2002) 42 ACSR 80 – civil penalty proceedings concerning misuse of HIH funds -corporate law contraventions/directors’ duties.

Spira v Commonwealth Bank of Australia [2003] 57 NSWLR 544 (NSWCA); [2002] 174 FLR 274 (first instance) – claim for unconscionable conduct.

Dorajay Pty Ltd v Aristocrat Leisure Limited [2004] FCA 634 - strike-out application of class action by shareholders against Aristocrat.

Optus Networks Pty Ltd v Leighton Contractors Pty Ltd [2002] NSWSC 327 – professional negligence, breach of contract in relation to fire suppression system.

Highlands Pacific v Orogen Minerals eg. [2002] FCA 1104 - joint venture dispute.

Maronis Holdings v Nippon Credit Australia and Others [2001] 38 ACSR 404 – solicitor negligence.

Qantas Airways and other airlines v Sydney Airports Corporation – contract/estoppel concerning aeronautical charges at Sydney airport.

Eric Newham Holdings v Waste Management Service NSW - termination of contract to operate major waste service disposal in Sydney.

POS Media Online Ltd v Queensland Investment Corporation [2001] FCA 809 - contract/estoppel in relation to installation of advertising screens in shopping centres.

Harrison v Schipp [2001] NSWCA 13 - breach of fiduciary duty and unconscionable conduct between joint venture partners.

Westpac v Tazone [2000] NSWCA 77; [1999] ATPR 46-195, [2000] 9 BPR 17,287 - rectification of a lease and unconscionable conduct.

Arrowfield v Coolmore Stud – contract/injunction - whether the stallion, Danehill , would travel to NSW for the breeding season.

Stewart v Woolnough [2000] NSWCA 7 - valuation under contractual provision.

Edge Technology v Lite-On Technology [2000] 34 ACSR 301 – statutory demand in winding-up proceedings.

Middle East Trading v Nemes [2000] NSWSC 632 – solicitor’s negligence.

King v Mortimer & Ors – directors’ duties - Federal Court proceedings in 2000 arising out of AMP’s takeover offer for GIO.

Southern Equities Corporation Limited v Arthur Anderson – auditor’s negligence.

Telstra Corporation v AAPT [1999] NSWSC 853 - injunctive and corrective advertising relief in relation to misleading and deceptive conduct.

Lexcray Pty Ltd v Northern Territory of Australia [1999] NTSC 91 – contract/estoppel - implementation of the brucellosis and tuberculosis eradication scheme.

Qantas Airways v Mascot Galvanising (Holdings) Pty Ltd 17/12/1998, BC 9806749 – contamination of land.

Allens Group Ltd v Arena Meetings Conventions & Exhibitions Pty Ltd (1997) 8 BPR 15, 623 – contract - booking for New Year’s Eve turn of the century celebrations.

Breen v Williams eg. [1996] 186 CLR 1 – fiduciary duties/contract concerning patient’s rights in respect of medical records.

Allstate Life Insurance v ANZ Banking Group Ltd eg. [1996] 142 ALR 412 – misleading and deceptive conduct in inducement of breach of contract - claim by junk bond holders against various banks arising out of the collapse of the Linter Group.

Fenwick v Jeffries Industries Ltd [1995] 13 ACLC 1334 - sharemarket manipulation/corporations law contraventions.

Equiticorp Finance v Bank of New Zealand [1993] 32 NSWLR 50 – participation in breach of directors’ duties - collapse of the Equiticorp group of companies.

Trade Practices Commission v Gillette - contravention of section 50 of the Trade Practices Act.