

## TIMOTHY BOYLE

Eleven Wentworth  
180 Phillip St, Sydney, NSW 2000  
(02) 8231 5061  
boyle@elevenwentworth.com

### PROFESSIONAL

Barrister, Eleven Wentworth (2020 - )

Barrister, Tenth Floor Chambers (2016 - 2020)

Associate to the Hon Justice Perram, Federal Court of Australia (2015 - 2016)

Solicitor, Herbert Smith Freehills (2012 - 2014)

Commercial List Researcher, Supreme Court of New South Wales (2011 - 2012)

### EDUCATION

Bachelor of Civil Law, Magdalen College, University of Oxford (2014)

- Advanced Property and Trusts; Conflict of Laws; International Dispute Settlement; Restitution of Unjust Enrichment

Bachelor of Laws (First Class Honours), University of Newcastle (2010)

- University Medal; Evatt Medal (awarded to the top-ranked law graduate)

Bachelor of Commerce (Finance), University of Newcastle (2008)

### SELECTED MATTERS:

#### Commercial:

- *Acciona Industrial Australia Pty Ltd v Kwinana WTE Project Co Pty Ltd* [2021] NSWSC 1527 (led by Tim Breakspear SC; instructed by King & Wood Mallesons) - construction dispute about energy project; application for stay pending compliance with contractual dispute resolution procedure; application under cross-vesting legislation to transfer proceeding to Western Australia
- *Acciona Industrial Australia Pty Ltd v Kwinana WTE Project Co Pty Ltd* [2022] WASC 380 (led by Bret Walker SC; instructed by King & Wood Mallesons) - construction dispute about energy project; force majeure provisions and interaction with COVID-19 measures; declaratory relief claimed; whether declarations hypothetical or appropriate
- *ACICA Arbitration* (Sydney seat) (led by Ian Pike SC and Tim Breakspear SC, with Joshua Bridgett; instructed by Molino Cahill) - infrastructure project disputes
- *Anderson v Canaccord Genuity Financial Limited* [2020] NSWSC 1852; [2022] NSWCA 168 (unled against silk; instructed by Clayton Utz) - security for costs
- *Australian Competition and Consumer Commission v Fuji Xerox Australia Pty Ltd* [2021] FCA 153; (2021) 150 ACSR 165 (led by Stephen Free SC; instructed by Corrs) - unfair contract terms; summary dismissal; whether only hypothetical or theoretical question subject of proceeding
- *Australian Rugby League Commission Ltd v New South Wales Rugby League Ltd* [2022] NSWCA 226 (led by Adam Casselden SC; instructed by Advocatus Lawyers) - contractual construction; whether breach of contract established due to issues in election of board

- *Brett Cattle Company v Minister for Agriculture, Fisheries and Forestry & Anor* [2020] FCA 732; (2020) 274 FCR 337 (led by Noel Hutley SC, Stephen Free and Christopher Withers; instructed by Minter Ellison) – class action; misfeasance in public office
- *Carna Group Pty Ltd v The Griffin Coal Mining Company (No 6)* [2021] FCA 1214 (led by Ian Pike SC; instructed by McNally & Co) – breach of contract; proper measure of damages
- *Habrok (Dalgaranga) Pty Ltd v Gascoyne Resources Ltd* [2020] FCA 1395; (2020) 149 ACSR 1 (led by Bret Walker SC and Elizabeth Boros, with Ella Delany; instructed by Arnold Bloch Leibler) – corporations law; application to set aside DOCA; alleged prior involvement of administrators and lack of disclosure to creditors
- *ICC Arbitration (Singapore seat)* (led by Ian Pike SC, Tim Breakspear and Sebastian Hartford Davis; instructed by DLA Piper) – AUD\$300 million ICC arbitration in relation to a large LNG project
- *In the matter of Global Advanced Metals Pty Ltd* [2019] NSWSC 1804; (2019) 141 ACSR 222 (led by Ian Pike SC and Alan Shearer; instructed by Allen & Overy) – corporations law; statutory derivative action; whether shareholder should be given leave to bring case for breach of directors duties
- *LCA Marrickville Pty Limited v Swiss Re International SE* [2022] FCAFC 17; *Swiss Re International Se v LCA Marrickville Pty Ltd (Second COVID-19 insurance test cases)* [2021] FCA 1206 (led by Ian Pike SC; instructed by Dentons) – insurance; business interruption issues arising from COVID-19
- *Manny v Rose* [2022] NSWSC 1671 (unled against silk; instructed by Dentons) – contracts; dispute as to whether proceedings settled or compromised; *Masters v Cameron* categories and s 73 of the *Civil Procedure Act 2005* (NSW)
- *Nyunt v First Property Holdings Pte Ltd* [2022] NSWCA 249; *First Property Holdings Pte Ltd v Nyunt* [2019] NSWSC 249 (led by Charles Colquhoun; instructed by Holman Fenwick Willan) – private international law; registration of foreign judgments
- *O'Connor v O'Connor* [2022] NSWCA 97; [2021] NSWSC 1056 (led by David Studdy SC; instructed by Webb Henderson) – equity; fiduciary duties; alleged oral agreement in relation to shares
- *Whisson v Subaru (Aust) Pty Ltd* (see, e.g., [2020] NSWCA 66; (2020) 101 NSWLR 890) – class action; product liability claims (led by Matthew Darke SC and James Sheller SC; instructed by Clayton Utz)

#### **Public and Administrative Law:**

- *Bauwens v The Territory Coroner* [2022] NTSC 92 (unled against silk; instructed by McNally & Co) – penalty privilege; coronial inquiry into a death; whether privilege available or abrogated
- *Bolink Holdings Limited & Ors v Oriental Limited & Ors* [2021] WSSC 53 (Supreme Court of Samoa) (led by Jeremy Kirk SC; instructed by AGS) – proceedings brought against Commissioner of Taxation seeking to pre-empt Australian taxation processes; foreign state immunity; abuse of process; forum non conveniens
- *DEF v Trappett* [2017] NSWCA 163; *DEF v Trappett* [2016] NSWSC 1698 (led by Richard Lancaster SC; instructed by Unsworth Legal) – judicial review of Church disciplinary

proceeding; judicial intervention in affairs of private domestic bodies; basis of jurisdiction

- *Elimatta Pty Ltd v Read* [2021] NSWLEC 75 (led by Stephen Free SC; instructed by Kamy Saeedi Law) – Class 4 proceedings; judicial review of decision to grant development consent; operation of local environment plan; statutory construction
- *Insurance Australia Limited t/as NRMA Insurance v Warren* [2019] NSWSC 1126 (unled against silk; instructed by Carroll & O’Dea) – judicial review of decisions of medical assessor and State Insurance Regulatory Authority; adequacy of reasons; procedural fairness; construction of Permanent Impairment Guidelines
- *Lazarus v Independent Commission Against Corruption* [2017] NSWCA 37; (2017) 94 NSWLR 36 (led by Stephen Free; instructed by CSO) – judicial review of decision of District Court; statutory construction; whether retrospective legislation contravened Ch III of the Constitution
- *James McDonald v Racing New South Wales* [2017] NSWSC 1511 (led by Bret Walker SC; instructed by Unsworth Legal) – judicial review of Racing NSW disciplinary proceeding; proper construction of rules of racing
- *Millers Point Community Assoc. Incorporated v Property NSW* [2017] NSWLEC 92; (2017) 224 LGERA 407 (led by Stephen Free; instructed by CSO) – Class 4 proceedings; judicial review of decision not to heritage list building; statutory construction
- *North Parramatta Residents’ Action Group v Infrastructure New South Wales (No 2)* [2021] NSWCA 146; [2021] NSWLEC 60 (led by Richard Lancaster SC; instructed by King & Wood Mallesons) – Class 4 proceedings; judicial review of decision to grant development consent; sufficiency of Environmental Impact Statement and compliance with Secretary’s Environmental Assessment Requirements; statutory construction
- *Robbie v Strasburger Enterprises Pty Ltd t/as Quix Food Stores & Ors* [2017] NSWSC 363 (unled; instructed by Moray & Agnew) – judicial review of decision of Workers Compensation Commission; construction of workers compensation guidelines

## ADMISSIONS

New South Wales Bar (May 2016)

Supreme Court of New South Wales (April 2012)

High Court of Australia and Federal Court of Australia (April 2012)