

TIMOTHY BOYLE

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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* [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; whether declaratory relief hypothetical or appropriate
- *ACICA Arbitration* (led by Ian Pike SC and Tim Breakspear SC, with Joshua Bridgett; instructed by Molino Cahill) – infrastructure project disputes
- *ACICA Arbitration* (led by Jeremy Giles SC, with William Marshall; instructed by Pinsent Masons) – rail infrastructure project disputes
- *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
- *Carsal and Associates Pty Ltd t/a Triggerpoint Natural Health Centre v Crozier* [2024] NSWSC 26 (unled; instructed by Carroll & O’Dea) – restraint of trade; validity of restraint; 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
- *ICC Arbitration* (Singapore seat) (led by Richard McHugh SC, Tim Breakspear SC and Adam Rollnik, with Grace Keesing; instructed by Squire Patton Boggs) – AUD\$500 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
- *In the matter of Heartland Group Pty Ltd* [2024] NSWSC 875 (led by Michael Izzo SC; instructed by McCabes) – corporations law; validity of appointments; whether shareholder wrongly excluded from voting; whether relief available under s 1322 of *Corporations Act 2001* (Cth) in circumstances
- *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)
- *Martinus Rail Pty Ltd v Qube RE Services (No 2) Pty Ltd* [2023] NSWSC 1550 (led by Tim Breakspear SC; instructed by King & Wood Mallesons) – commercial arbitration; interim measures; injuncting call on bank guarantees; whether right to call on bank guarantees voided by s 34 of *Building and Construction Industry Security of Payment Act 1999* (NSW)
- *Martinus Rail Pty Ltd v Qube RE Services (No 2) Pty Ltd* [2025] NSWCA 49; [2024] NSWSC 1483; [2024] NSWSC 1223 (led by Jeremy Giles SC, with J Bridgett; instructed by King & Wood Mallesons) – building and construction; adjudications under *Building and Construction Industry Security of Payment Act 1999* (NSW) awarding some \$70 million; review of adjudicator’s determinations for jurisdictional error; application to stay enforcement of judgment debts premised on adjudications due to risks of inability to repay

- *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
- *Rose v Manno Kingsway Pty Ltd* [2025] NSWCA 23; *Manno Kingsway Pty Ltd as trustee for the Manno Kingsway Unit Trust v Rose* [2024] NSWSC 1065 (unled; instructed by Dentons) – contracts; dispute about a loan where monies advanced before formal documentation executed; past consideration; estoppel
- *Synergy Scaffolding Holdings Pty Ltd v Goodman Funds Management Australia Limited* [2023] NSWSC 538 (led by Michael Izzo SC; instructed by Clayton Utz) – relief against forfeiture; whether sublessees should have relief; repudiation of head lease
- *Toma v Taylor Square TT Pty Ltd* [2024] NSWCA 304 (led by Richard Scruby SC; instructed by Arnold Bloch Leibler) – equity; specific performance of guarantee
- *Whisson v Subaru (Aust) Pty Ltd* (see, e.g., [2020] NSWCA 66; (2020) 101 NSWLR 890) (led by Matthew Darke SC and James Sheller SC; instructed by Clayton Utz) – class action; product liability claims

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; [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
- *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
- *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

- *Toma v Fair Work Commission* [2023] FCA 1163; [2022] FCA 1261 (unled; instructed by AGS) – attempt to pursue racial discrimination action against Fair Work Commission

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)