

Samuel Murray

Professional Details

Admitted to Bar: May 2021
Admitted to Practice: December 2017
Chambers: Eleven Wentworth Chambers
 Level 11, 174–180 Phillip Street
 Sydney NSW 2000
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Selected Cases

<i>Hancock Prospecting Pty Ltd v DFD Rhodes Pty Ltd [No 2] [2023] WASCA 108</i> (Quinlan CJ, Beech and Vaughan JJA)	Appeal: Whether implied ' <i>Harman</i> ' undertaking had been breached; whether nunc pro tunc order was procedurally fair and legally valid in light of <i>Commercial Arbitration Acts</i>	Led by Christian Bova SC and Daniel Farinha (for 1 st and 2 nd appellants)
<i>Attorney General for New South Wales v FJG [2023] NSWCA 34</i> (Bell CJ, Ward P, Beech-Jones JA)	Public Law: Referral on question of law concerning construction and validity of <i>Births Deaths Marriage Registration Act</i> (NSW) in respect of transgender Australians and the <i>Marriage Act</i> (Cth)	Led by Perry Herzfeld SC (for applicant)
<i>Stellar Vision Operations Pty Ltd v Hills Health Solutions Pty Ltd [2023] NSWCA 102</i> (Bell CJ, Hammerschlag CJ in Eq and Adamson JA)	Contract and Equity: Appeal regarding claims of breach of contract and breach of fiduciary duty in a disputed joint venture	Led by Christian Bova SC and Jonathan Burnett (for appellant)
<i>FKP Commercial Developments Pty Limited v Zurich Australian Insurance Limited (No 2) [2023] FCA 582</i> (Jackman J)	Insurance: Determination of separate question concerning construction of extension clause in insurance policy	Led by Justin Williams SC (for applicant)
<i>Private Commercial Arbitration</i> (before the Hon Mr Wayne Martin AC KC, the Hon Dr Kevin Lindgren AM KC and Dr Michael Hwang SC, previously subject of Federal Court Proceedings, reserved)	Equity: Commercial arbitration regarding allegations of breach of trust and breach of contract trusts concerning ownership of mining tenements and shares in privately held company	Led by P Brereton SC, Christian Bova SC, <i>et al</i> (for defendants)
<i>Raffy Nominees Pty Ltd v nib Holdings Ltd & Ors [2023] NSWSC 715</i> (Ball J)	Equity: Claims of breach of director's duty against nominee director joint venture vehicle in respect of costs incurred by joint venture; claim for indemnity costs following discontinuance	Led by James Hutton SC (for 3 rd defendant)
<i>Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 17) [2023] WASC 72</i> (Smith J)	Procedure: Hearing of application regarding whether implied ' <i>Harman</i> ' undertaking had been breached or superseded by discovery order	Led by Christian Bova SC and Daniel Farinha (for 1 st)

<i>Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [No 18] [2023] WASC 82</i> (Smith J)	Procedure: Hearing of application regarding claims of abuse of process in respect of discovery	and 2 nd defendant) Led by Christian Bova SC (for 1 st and 2 nd defendant)
<i>Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [No 19] [2023] WASC 114</i> (Smith J)	Procedure: Hearing of discovery application by categories, concerning appropriate test for discoverability	Led by Christian Bova SC (for 1 st and 2 nd defendant)
<i>Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [No 21] [2023] WASC 169</i> (Smith J)	Procedure: Hearing of application to use documents subject to implied 'Harman' undertaking	Led by Christian Bova SC (for 1 st and 2 nd defendant)
<i>Max Perry Gillies v State of New South Wales</i> (Court of Appeal of NSW, 2022/159771, 2023, appeal allowed by consent)	Appeal: Setting aside of summary judgment arising from defective pleadings	Led by Perry Herzfeld SC (for appellant)
<i>Catlin Australia Pty Ltd v Diamond World Jewellers Pty Ltd [2022] NSWCA 282</i> (Leeming, White and Mitchelmore JJA)	Insurance: Appeal in respect of claim for breach of insurer's obligation of utmost good faith;	Led by John Kelly SC (for respondent)
<i>Walker v Members Equity Bank Ltd [2022] FCAFC 184</i> (Wigney, Lee and Abraham JJ)	Crime: Appeal from determination of separate question regarding statutory construction of ASIC Act regarding operation of limitation periods	Led by Tim Game SC and Sarah Keating (for respondent)
<i>Nashco Pty Ltd v Yang [2022] NSWCA 137</i> (Leeming, Brereton and Mitchelmore JJA)	Private Law: Construction and enforceability of assigned guarantee in respect of assigned debt	Led by Angus Macauley (for respondent)
<i>O'Connor & Ors v Griffis [2022] NSWSC 197</i> (Henry J)	Property: Application to extend caveat in respect of a property concerning a trust created under a will	Unled (for plaintiffs)
<i>FKP Commercial Developments Pty Ltd v Zurich Australian Insurance Ltd [2022] FCA 862</i> (Jagot J)	Insurance: Separate questions concerning construction of insuring clause and advancement clause in a professional indemnity insurance policy	Led by Justin Williams SC (for applicant)
<i>Sinclair v Camnet Finance Pty Ltd [2022] NSWCATAP 32</i> (Senior Member G Curtin SC, Senior Member D Fairlie)	Contract: Appeal arising out attempt to set aside personal guarantee, including on basis of application of National Credit Code	Unled (for defendant)
<i>Registrar of Births, Deaths and Marriages v FJG & FJH; Attorney General of New South Wales as Intervenor [2022] NSWCATAP 270</i> (Armstrong J, President, Principal Member Suthers)	Procedure: Referral of question to Supreme Court, concerning statutory construction and constitutional issues	Led by Perry Herzfeld (for intervenor)
<i>Yang Bai v Watson Elite Pty Ltd [2022] NSWSC 318</i> (Darke J)	Property: Final hearing regarding indefeasibility of title and the effect of the equity of redemption	Led by Angus Macauley (for defendant)

<i>Aust-One Investment Pty Ltd v New World Investments Pty Ltd</i> [2022] NSWSC 137 (Robb J)	Property: Final hearing regarding the enforceability of positive covenants	Led by Angus Macauley (for plaintiff)
<i>Sinclair v Camnet Finance Pty Ltd (No 2)</i> [2022] NSWCATAP 154 (Senior Member G Curtin SC, Senior Member D Fairlie)	Practice and Procedure: Whether amount in dispute exceeded statutory minimum to warrant order for costs	Unled (for defendant)
<i>Georgina Rinehart v John Hancock</i> (Supreme Court of Western Australia, ARB 1 of 2022, 10 February 2022, unreported)	Procedure: Application to issue subpoenas	Led by T O'Brien (for applicant)
<i>Walker v Members Equity Bank Ltd</i> [2021] FCA 1554 (Mortimer J)	Crime: Determination of separate question on statutory construction of ASIC Act regarding operation of limitation periods	Led by Tim Game SC and S Keating (for defendant)
<i>Apple Inc & Anor v Epic Games, Inc & Anor</i> (High Court Special Leave Application, S113/2021, 2 December 2021)	Private International Law: Special leave application regarding effect of exclusive forum clause	Led by S Free SC, C Bannan and Z Hillman (for applicants)
<i>Secretary, Department of Education v Early Childhood Education Australia Pty Ltd</i> [2021] NSWCATAP 397 (S Westgarth, Deputy President G Furness SC, Senior Member)	Administrative review: Appeal regarding family day care licensing scheme, involving questions of statutory construction	Led by Nicholas Condylis (for respondent)
<i>Grand Metal Pty Ltd v Nashco Pty Ltd</i> [2021] NSWSC 1005 (Stevenson J)	Contract: Final hearing regarding assignability and scope of guarantee	Led by Angus Macauley (for cross-defendants)
<i>International Management Group of America Pty Ltd v Media Niugini Ltd t/as EMTV (No 2)</i> [2021] NSWSC 919 (Stevenson J)	Procedure: Application to set aside notice to produce	Led by Tom O'Brien (for plaintiff)
<i>AusDiagnostics Pty Ltd v Louise Chow</i> (No. 2021/00055693, Supreme Court, Registrar Jones, unreported, 16 September 2021)	Breach of confidential information: Application to set aside subpoena where documents did not concern a pleaded issue	Unled (for applicant)
<i>Camnet Finance Pty Ltd v Kheir Lawyers Pty Ltd</i> (No. 2021/00146827, Local Court, Magistrate Keir, unreported, 27 October 2021)	Contract: Claim for debt under liquidated damages clause; whether or not constituted penalty	Unled (for plaintiff)

Selected Ongoing Matters

<i>Grocon Group Holdings Pty Ltd & Ors v Infrastructure NSW</i> (Supreme Court of NSW, No.2020/37937, set down for hearing)	Private Law: Proceedings against INSW regarding the development of Central Barangaroo including allegations of breach of contract and misleading or deceptive conduct, seeking damages of approximately \$250 million.	Led by Darrell Barnett (for defendant)
<i>Richard McGlone v Minister for Immigration, Citizenship and</i>	Migration/Constitutional Law: Merits review of Minister's decision not to revoke decision to cancel visa on basis of	Unled (for respondent)

Multicultural Affairs (AAT, 2022/5360, ongoing)	character test; whether principle from <i>Love v Cth</i> applies.	
Halil v NSW Land and Housing Corporation (Supreme Court of NSW, No 2023/149749, set down for hearing)	Appeal: Application to set aside decision dismissing plaintiff's claim in NCAT	Unled (for respondent)
VE Property Pty Ltd v Sydney Water Corporation (Supreme Court of NSW, 2022/00386830, preliminary discovery ordered, proceedings remain on foot)	Preliminary Discovery Application: Claims of negligence, misleading or deceptive conduct and misfeasance in public office in respect of compulsory acquisition of land by statutory corporation	Led by Stephen Free SC (for applicant)
Dialogue Consulting Pty Ltd v Instagram Inc (Federal Court, VID 369 of 2019, ongoing)	Private Law: Claims of breach of contract, estoppel, breaches of Australian Consumer Law against Meta Inc (Facebook), involving questions of interpretation and application of US law	Led by Conor Bannan and Naomi Oreb (for defendants)
Savisyar v Ayoub (NSW Supreme Court, 2021/351032, ongoing)	Private Law: Claim for misappropriation of assets from joint venture	Led by David Pritchard SC (for defendant)
Woolworths Group Ltd v Patties Foods Pty Ltd (NSW Supreme Court, 2020/160992, ongoing)	Contract: Claim for breach of warranties in respect of supply of contaminated berries, seeking \$12 million in damages.	Led by P Herzfeld SC (for defendant)
Super Sub's Pty Lts v Westside Petroleum Holdings Pty Ltd (NSW Supreme Court, 2021/227801) (ongoing)	Contract: Claim in contract arising out of repudiation of a lease and collateral contracts, as well as estoppel and misleading or deceptive conduct	Led by David Pritchard SC (for plaintiff)
Owners – Strata Plan No 90832 & Anor v Dyldam Developments Pty Ltd & Anor (Supreme Court of NSW, 2018/174519, ongoing)	Construction: Claim under Home Building Act for defects in development	Unled (for plaintiff)

Education

University of Oxford 2018 - 2019

Bachelor of Civil Law (BCL) (Dist)

Law Faculty Prize for Best Performance in 'Commercial Remedies'
Clifford Chance Prize for Best Performance in 'Principles of Civil Procedure' (shared)
Lincoln College Examination Award for Distinguished Performance
Banking and Financial Services Law Association Scholarship
Hannah Fullerton Scholarship
Supperstone in Law Scholarship

University of Sydney 2011 - 2015

Bachelor of Arts (BA) / Bachelor of Laws (LLB) (Hon I)

Best Performance in Final Year of Undergraduate Law (2015)
First Five First Class Honours Candidates for LLB (2015)
Finalist, Convocation Medal for Undergraduate Achievement (2017)
University of Sydney Academic Merit Prize (2011, 2012, 2013, 2015)

Professional Experience prior to the Bar

Corrs Chambers Westgarth

2017 - 2021

Senior Associate, Commercial Litigation

Cases included:

Stellar Vision Operations Pty Ltd v Hills Health Solutions Pty Ltd
[2022] NSWSC 144

Grocon Group Holdings Pty Limited v Infrastructure NSW [2020]
NSWSC 1194

Rinehart v Hancock Prospecting Pty Ltd (2019) 267 CLR 514

TX Australia Pty Ltd v Network Ten Pty Ltd [2018] NSWSC 559

In the matter of TEN Network Holdings Limited [2017] NSWSC 1247

Court of Appeal of New South Wales

2016

Tipstaff to the Hon. Justice Ronald Sackville AO QC

Tipstaff to the Hon. Justice Arthur Emmett AO QC

Major Awards and Achievements

Lawyers Weekly

2023

30 under 30 Awards 'Barrister' – Finalist

NSW Young Lawyers

2018

NSW Young Lawyer of the Year

Philip C Jessup International Law Moot Court Competition

2015

World Champion & National Champion

Publications

Samuel Murray, 'Experts' in Adrian Zuckerman et al, *Zuckerman on Civil Procedure: Principles of Practice* (Sweet and Maxwell, 4th ed, 2021)

Nicholas Condylis, Samuel Murray, and Peter Gerangelos, 'Inherent Executive Power in Ireland – Lessons for Australia' (2019) 6 *Journal of International and Comparative Law* 1-27

Samuel Murray, 'Brexit means Brexit, but what does it mean for International Trade Law?' (Paper presented at 'Lincoln Leads', Lincoln College, Oxford, January 2019)

Samuel Murray, 'Foreign transparency scheme consistent with implied freedom - LibertyWorks Inc v Commonwealth of Australia [2021] HCA 18' (BarNews, Winter 2021)

Samuel Murray, *Legislation and Regulation in Australia: Children and young people with disability in primary and secondary education settings* (Research Report, Disability Royal Commission, July 2021)

Samuel Murray, 'The Public Interest, Representative Government and the "Legitimate Ends" of Restricting Political Speech' (2017) 43 *Monash University Law Review* 1-34

James Whittaker, Colin Lockhart, Timothy Bunker, and Samuel Murray 'Australia' in J Carter (ed), *The International Arbitration Review* (Law Business Research, 8th ed, 2017)

Samuel Murray, 'Liquidator's application for determination of questions regarding rights of contribution' (2017) 235 *Corporate Law Bulletin* 6.7

Mark Wilks, David Anthony, and Samuel Murray, 'When is a bailment a PPS Lease under the PPSA?' (2017) 33.10 *Australian Banking & Finance Law Bulletin*

Samuel Murray, *Oxford Reports on International Law in Domestic Courts* (Oxford University Press): 'The Queen v Alqudsi' (2017); 'Casey v Alcock' (2014); 'Thor Shipping A/S v The Ship 'Al Duhail'' (2013); 'The Queen v Disun' (2013).