



The Hon. AJ (Tony) Meagher SC

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Practice Profile

The Hon. A J Meagher acts as an independent arbitrator in Australia and internationally.

He offers a wealth of experience, having served as a judge on the New South Wales Court of Appeal for 13 years. His distinguished career also includes extensive practice at the Sydney Bar as one of Australia's leading commercial silks.

At the time of his retirement in early August 2024 he was the senior puisne judge on the Court of Appeal. During his term on that Court, he also sat on the New South Wales Court of Criminal Appeal.

In his practice as a barrister and as a judge on the court he was involved in the arguing or determination of many commercial causes extending over a broad range of subjects.

Areas of practice

- Insurance and reinsurance
- Maritime, shipping and aviation
- International trade
- Professional negligence (auditors, insurance brokers, lawyers)
- General contract law
- Banking and finance
- Corporations and competition law
- Equitable and restitutionary claims

He was appointed as an International Judge of the Singapore International Commercial Court on 5 January 2025 for an initial period of two years.

ADR Appointments

He accepts appointments within these and related areas of practice as a sole arbitrator or party appointed co-arbitrator or as a chairman, in arbitrations conducted under the LCIA or ICC rules as well as in ad hoc arbitrations or arbitrations conducted under the auspices of other international institutions. He is a member of the LCIA and of ICC Australia.

Education

University of New South Wales

Bachelor of Commerce & Bachelor of Laws (1972-76)

University of London (London School of Economics)

Master of Laws (1979-80)

Experience

Judge of Appeal of the Supreme Court of New South Wales

Appointed 10 August 2011

Retired 12 August 2024

Barrister

Admitted to New South Wales Bar in February 1982

Appointed Senior Counsel in October 1995

Solicitor

Minter Simpson – Sydney (1977-82)

Beaumont & Son (aviation law) – London (1979-80)

Other positions

Director of Sydney Symphony Orchestra from April 2014 to present

Judicial career

Some cases decided

Insurance

The Law Society of New South Wales v Attorney General of New South Wales; ABC Insurance Pty Ltd v The Law Society of New South Wales [2024] NSWCA 90 (INSURANCE – professional indemnity insurance – legal practitioners’ “approved insurance policy” for purposes of s 210 of Legal Profession Uniform Law (NSW) – whether s 95(2) of Legal Profession Uniform Law Application Act 2014 (NSW) confers power on Attorney General to approve insurer under policy – whether, for purposes of s 210(1)(a), s 95 is a “legislative arrangement for the approval or selection of insurers”)

Resolution Life Australasia Ltd v NM Superannuation Pty Ltd [2023] NSWCA 138 (INSURANCE – life insurance contract made between life insurer and trustee of superannuation fund in respect of portfolio of fund members – where payment of monthly premiums by trustee a condition precedent to the continuation of cover – nature of equitable and statutory obligations of trustee to act in best interests of members of fund)

P & S Kauter Investments Pty Ltd v Arch Underwriting at Lloyd’s Ltd (2021) 105 NSWLR 110; [2021] NSWCA 136 (INSURANCE – “claims made and notified” policy proper construction of Insurance Contracts Act 1984 (Cth), s 40(3))

HO/ Global Specialty SE v Wonkana No 3 Pty Ltd (2020) 104 NSWLR 634; [2020] NSWCA 296 (INSURANCE – business interruption exclusion – whether cover extended to loss caused by COVID-19 pandemic – joint judgment)

Globe Church Incorporated v Allianz Australia Insurance Ltd (2019) 99 NSWLR 470; [2019] NSWCA 27 (INSURANCE – dissenting judgment on when time runs for the purposes of an indemnity against damage to property – policy of indemnity insurance time of accrual of cause of action for breach)

Stealth Enterprises Pty Ltd t/as The Gentlemen’s Club v Calliden Insurance Limited [2017] NSWCA 71 (INSURANCE – property and liability insurance over premises used as brothel – where fact that director and manager were members of bikie gang not disclosed to insurer – Insurance Contracts Act 1984 (Cth), s 28(3) – whether reasonable person in the circumstances could be expected to know that membership relevant to insurer’s decision to underwrite risk)

Allianz Australia Insurance Ltd v Bluescope Steel Ltd (2014) 87 NSWLR 332; [2014] NSWCA 276 (INSURANCE – whether insurer liable to indemnify insured under workers compensation policy in respect of liability resulting from settlement of dust diseases claim – Insurance Contracts Act 1984 (Cth), s 18(1))

Prepaid Services Pty Ltd v Atradius Credit Insurance NV [2013] NSWCA 252; (2013) 302 ALR 732 (INSURANCE – application of Insurance Contracts Act 1984 (Cth), s 54(1) – whether insurer entitled to refuse indemnity because insured supplied buyer other than under contract containing specified credit terms)

Equity

Huang v 18 Woodville Holding Pty Ltd; Tao v 18 Woodville Holding Pty Ltd (2023) 110 NSWLR 613; [2023] NSWCA 15 (LAND LAW- Torrens title – whether equitable interests of purchasers under contracts for sale constitute estates or interests forming exception to indefeasible title of registered mortgagee)

Q v E Co [2020] NSWCA 220; (2020) 383 ALR 469 (ESTOPPEL – proprietary estoppel by encouragement – relevance of countervailing benefits received by plaintiffs – formulation of relief where it involved an “acceleration” of the encouraged expectation)

Gunasegaram v Blue Visions Management Pty Ltd; Same v Chidiac [2018] NSWCA 179 (EQUITY - duciary duties - whether senior employee acted in position of conflict by in principle agreement that contract be novated to associated company)

Gerace v Auzhair Supplies Pty Ltd (2014) 87 NSWLR 435; [2014] NSWCA 181 (EQUITY – whether application by analogy of limitation period to equitable claim could be prevented by application of doctrine of laches)

DHJPM Pty Ltd v Blackthorn Resources Ltd (formerly called AIM Resources Ltd) (2011) 83 NSWLR 728; [2011] NSWCA 348 (ESTOPPEL – whether estoppel could arise from one party’s expectation that negotiations would be successful in bringing about a contract)

Contract

United Resource Management Pty Ltd v Par Recycling Services Pty Ltd [2023] NSWCA 236 (CONTRACT – implied contracts – agreement made to terminate automatically on termination of other agreement – whether implied agreement continuing after termination of other agreement and, if so, whether it was terminable on reasonable notice)

Woodhouse v Woodhouse [2022] NSWCA 240 (CONTRACT – whether evidence established existence of oral loan agreement on terms pleaded)

Inghams Enterprises Pty Limited v Hannigan [2020] NSWCA 82; (2020) 379 ALR 196 (ARBITRATION – construction and interpretation of multi-tiered dispute resolution clause)

Anthony Wayne Elkerton and Ronald John Dean Willcocks in their capacity as Administrators of South Head & District Synagogue (Sydney) (In Liquidation) (Controllers Appointed) v Rabbi Benzion Milecki [2018] NSWCA 141 (CONTRACT – whether principle of Orthodox Jewish law providing Rabbi with life tenure expressly incorporated, or implied, as a term of contract with company)

Restitution

Sims v Commonwealth of Australia (2022) 109 NSWLR 546; [2022] NSWCA 194 (LIMITATION OF ACTIONS – restitutionary claim made under Auckland Harbour Board principle – whether claim in “quasi contract” for purpose of fixing limitation period)

Hills Industries Ltd v Australian Financial Services and Leasing Pty Ltd [2012] NSWCA 380; (2012) 295 ALR 147 (RESTITUTION – defence of change of position – where third party fraudulently caused claimant to pay moneys to Hills in purported discharge of debts owed by that third party to Hills – where Hills then gave up opportunity to enforce or secure payment of debts – whether retention of moneys by Hills inequitable)

Shipping and aviation

Royal Caribbean Cruises Ltd v Rawlings (2022) 107 NSWLR 51; [2022] NSWCA 4 (TORTS – scope of powers of the captain of a vessel, including to detain a passenger where suspected offence)

Singapore Airlines Cargo Pte Ltd v Principle International Pty Ltd (2017) 95 NSWLR 737; [2017] NSWCA 216 (CARRIAGE BY AIR – carriers’ liability for damage to cargo meaning of “event” and “defective package” in Art 18 of 1999 Montreal Convention relating to International Carriage by Air)

Miscellaneous

Aidzan Pty Ltd (in liq) v K. & A. Laird (N.S.W) Pty Ltd (in liq) [2024] NSWCA 185 (CORPORATE ATTRIBUTION – when company “first discovers” facts for purposes of s 47(1)(e) of Limitation Act 1969 (NSW) in context of claim against its director for breaches of fiduciary duty – consideration of “fraud exception” to attribution)

Berejiklian v Independent Commission Against Corruption [2024] NSWCA 177 (ADMINISTRATIVE LAW – judicial review by former Premier of New South Wales of “serious corrupt conduct” findings of ICAC, on various grounds)

Lam v R [2024] NSWCCA 6 (CRIME – historical sexual offending – Whether a female capable of committing the offence of indecent assault upon a male person under the now repealed s 81 of Crimes Act 1900 (NSW) being one of the “unnatural” offences)

Queensland Bulk Water Supply Authority t/as Seqwater v Rodriguez & Sons Pty Ltd [2021] NSWCA 206; (2021) 393 ALR 162 (TORTS – representative proceedings in relation to Queensland floods – definition of “public authority” and applicable scope of duty of care)

Ahern v Aon Risk Services Australia Ltd [2021] NSWCA 166 (ADMINISTRATIVE LAW - judicial review of orders of District Court dismissing appeal on question of law from costs assessment review panel – whether jurisdictional error in determining adequacy of reasons of review panel – scope of the “record” and whether error on face of the record sufficient to ground relief)

Fairfax Media Publications Pty Ltd v Voller (2020) 105 NSWLR 83; [2020] NSWCA 102 (DEFAMATION – whether person who maintains public social media page can be held liable as a publisher in respect of posts by third parties on his or her page)

Wigmans v AMP Ltd (2019) 103 NSWLR 543; [2019] NSWCA 243 (CLASS ACTIONS – where multiple cross-stay applications brought in respect of open class actions against common defendant – principles for determining which proceeding is “most suitable vehicle”)

Lazarus v Independent Commission Against Corruption [2019] NSWCA 100; (2019) 367 ALR 274 (ADMINISTRATIVE LAW - judicial review of orders of District Court on appeals from local court against conviction and sentence – whether jurisdictional error)

Morgan v District Court of New South Wales (2017) 94 NSWLR 463; [2017] NSWCA 105 (ADMINISTRATIVE LAW - leading case on jurisdictional error by inferior courts)

McPhillamy v R [2017] NSWCCA 130 (CRIME – sexual offences – whether tendency evidence concerning sexual interest possessed significant probative value – dissenting judgment upheld in *McPhillamy v R* [2018] HCA 52; (2018) 361 ALR 13)

Allianz Australia Insurance Ltd v Pomfret (2015) 88 NSWLR 192; [2015] NSWCA 4 (WORKERS COMPENSATION – construction of “disease” in s 151AB(1)(a) of Workers Compensation Act 1987 (NSW) – connection between period of exposure and harm or injury alleged to have been caused by occupational disease)

Grace v Grace (2014) 85 NSWLR 688; [2014] NSWCA 86 (COURTS – operation of cross-vesting system for appeal – a matter is characterised as “arising under” specified federal law if the relevant right or duty owes its existence to the federal law or depends upon the federal law for its enforcement)

Marshall v Fleming [2014] NSWCA 64 (CIVIL PROCEDURE- appeal against referral of questions of law to member of New York Panel, of Referees – effect of Memorandum of Understanding between Chief Justice of New South Wales and Chief Judge of the State of New York)

Sneddon v State of New South Wales [2012] NSWCA 351 (TORT – whether State vicariously liable for conduct of member of parliament causing psychiatric harm to appellant- when is a member for parliament acting “in the service of the Crown” for purposes of s 8(1) of Law Reform (Vicarious Liability) Act 1983 (NSW))

CUR 24 v Director of Public Prosecution (2012) 83 NSWLR 385; [2012] NSWCA 65 (APPREHENDED BIAS – application of fair-minded bystander test where judge alleged to have made out-of-court statements to solicitor of accused at social function concerning a class of criminal behaviour relating to charges against accused)

Publications and Speaking Engagements

28 April 2017 – “The Insurance Contracts Act - good faith, contracting out and refusing claims”

Kenneth Sutton Inaugural Insurance Lecture.

19 October 2017 – “Insurance and the Courts”

Asia Pacific Insurance Conference (Singapore), Keynote Speech

4 December 2019 – “Getting the meaning right - The Correct Approach to interpreting Insurance Contracts’

Australian Insurance Law Association