

ANDREW BYRNE

Called to Bar in **May 2015**

Solicitor at Allens from 2003 to 2015

A. Summary

My primary areas of practice are equity, trade practices, corporations law, insurance and reinsurance, property law, tax and administrative law. I regularly act for corporations, regulators (Commissioner of Taxation and Chief Commissioner of State Revenue), insurers and individuals as applicants and respondents.

I regularly appear, led and unled, in proceedings in the Federal Court and Supreme Court of NSW (including appeals to the Full Court and Court of Appeal) as well as tribunals (NCAT, ACAT, NSW Racing Appeal Panel) and lower courts (NSW and Victoria).

B. Education

University of Sydney (1998-2000), Bachelor of Laws (First Class Honours)

Allens Clerkship

Walter Reid Prize

University of NSW (1994-96), Bachelor of Commerce (Finance, Accounting)

Accenture Scholarship

World Universities Debating Championships (Cork, Ireland; Cape Town, SA)

St. Ignatius College, Riverview (1988-93)

NSW Schools Representative Debating Team

C. Work highlights - Bar

Commercial & Equity

- *Commonwealth Bank v Clapham & Anor; Byron Bay Holdings Pty Ltd v Commonwealth Bank* [2015] NSWSC 1714 (led; misrepresentation, unconscionable conduct, Contracts Review Act)
- *Nextgen & Anor ats IBM*, Supreme Court of NSW, 2016/373440 (led; breach of contract and misleading or deceptive conduct claims related to Australia's 2016 eCensus site)
- *Chubb & Liberty ats AET & IOOF*, Supreme Court of NSW, 2015/171592 (led; excess insurance cross-claims in representative proceedings related to collapse of Provident Capital)
- *Blue Visions v Aspire & Ors* [2017] NSWSC 255, NSW Court of Appeal (reserved) (led; fiduciary duties, breach of contract, misrepresentation, deceit)
- *Sharpe v Grobbel* [2017] NSWSC 2; [2017] NSWSC 1065 (led; formation and breach of contract; Corporations Act ss 236 & 237, derivative actions)
- *Goldus ats Courela Minerals*, Supreme Court of NSW, 2014/287079 (led; Corporations Act ss 236 & 237, derivative actions)
- *Rufford & Ors ats Saints Management*, Supreme Court of NSW, 2015/149051 (unled; misrepresentation, unconscionable conduct, Contracts Review Act, estoppel)

- *TAFE Commission v Cordoba*, Supreme Court of NSW, 2015/264987 (led; freezing order, monies had and received, unjust enrichment)
- *Rizzo v Rizzo*, Supreme Court of NSW, Case 2014/190820 (led; resulting trusts, common intention constructive trusts, estoppel)
- *Issa v Cambridge Law & Anor*, Supreme Court of NSW, Court of Appeal, 2015/349485 (led; advocate's immunity, fiduciary duties)

Tax

- *Commissioner of Taxation v Anatax & Ors*, Federal Court, NSD304/2016 (unled; Conveyancing Act s 37A, restitution, constructive and resulting trusts)
- *Commissioner of Taxation v Nadim & Anor*, Federal Court, NSD1620/2015 (led; freezing order, Conveyancing Act s 37A, constructive and resulting trusts)
- *Commissioner of Taxation v Ornelas & Ors*, Federal Court, NSD304/2016 (led; freezing order, Conveyancing Act s 37A, constructive and resulting trusts)
- *Chief Commissioner of State Revenue at Bellbird Ridge*, Supreme Court of NSW, 2014/363026 (led; land tax, primary production exemption)

Administrative Law

- *Smith v Australian Prudential Regulation Authority* [2017] FCA 807 (led; Insurance Act, s 26; revocation of disqualification order made by APRA related to HIH insolvency)
- *Aulakh at Minister for Immigration & Border Protection*, Full Court, Federal Court, VID376/2017 (unled; Migration Act, protection visas; jurisdictional error, legal unreasonableness, procedural fairness)
- *DAO16 v Minister for Immigration & Border Protection*, Full Court, Federal Court, NSD584/2017 (unled; Migration Act, protection visas; jurisdictional error, legal unreasonableness, procedural fairness)
- *Amoorthum v Minister for Immigration & Border Protection* [2016] FCA 277 (unled; Migration Act, s 501 "character test"; jurisdictional error, legal unreasonableness, procedural fairness)
- *Mitchell v Racing NSW*, Racing Appeal Panel of NSW (unled; 2017 appeal of stewards' decision concerning conduct of Australian Turf Club employee; jurisdiction under Rules of Racing).

D. Work highlights - Allens

Commercial & Equity

- *Macquarie Bank & Ors at ASIC & Ors*, 2010-13, Supreme Court of NSW & Federal Court (misrepresentation, unconscionable conduct and contract claims related to collapse of Storm Financial)
- *News Limited & Ors at Seven Network & C7*, 2004-06, Federal Court (trade practices and confidential information claims related to News limited acquisition of AFL rights)

Tax

- ASX50 infrastructure group v ATO, 2009-14, settled before proceedings commenced (TAA 1997 s 974-80, distributions within stapled structures)
- ASX50 investment bank v ATO, 2011-12, settled before proceedings commenced (ITAA 1936, Part IVA, complex multi-jurisdictional transactions)

Insurance

- *Lloyd's Syndicates ats NSW SICOR*, 2007-11, Supreme Court of NSW, Court of Appeal & High Court (Special Leave application) (reinsurance claims relating to GIO structured settlements, late notification)
- *General Reinsurance ats HH*, 2004-09, arbitration, Supreme Court of NSW & Court of Appeal (various "trade credit" and professional indemnity reinsurance claims)

4 January 2018



A J Byrne