

## JAMES PHILLIP BRAITHWAITE

jbraithwaite@12thfloor.com.au | +61 2 8029 6225

James was admitted as a solicitor in 2011 and called to the Bar in 2019. He accepts briefs in most areas of law, including commercial, regulatory, competition and consumer, property, building and construction, employment, and insurance.

James appears in superior and inferior courts both led and unled.

James was previously a Senior Associate at Herbert Smith Freehills. He worked on numerous large-scale and high-profile cases, including for clients such as National Australia Bank, Tabcorp, and Apple.



James holds a Bachelor of Laws (First Class Honours) and a Bachelor of Social Science (With Distinction) from the University of Western Sydney. He received numerous academic prizes and scholarships, including the University Medal in Law.

### Academic qualifications

*Bachelor of Laws (First Class Honours)*  
University of Western Sydney (2006 – 2010)

*Bachelor of Social Science (With Distinction)*  
University of Western Sydney

*Criminology (Commonwealth Scholarship)*  
Keele University (United Kingdom)

*Post-Conflict Policing (Commonwealth Scholarship)*  
University of Maribor (Slovenia)

### Academic prizes and scholarships

University Medal in Law (2011)

Razeen and Carolyn Sappideen Award for Excellence in Law (2010)

Academic Excellence Scholarship (2006 – 2010)

Commonwealth Governance and Security Scholarship (2008)

Fragomen Worldwide Award in Administrative Law (2008)

Best Average Mark for a Local Student in B Soc Sci / LLB (2006, 2007)

LexisNexis Introduction to Law Prize (2006)

### Areas of practice

Commercial

Regulatory

Insurance

Banking and finance

Building and construction

Competition and consumer

Corporations

Contract

Real property

Employment

AML/CTF

---

**Recent cases**

<b><i>ASIC v National Australia Bank Limited</i> [2021] FCA 1013</b>	Civil penalty proceedings for contraventions of the Corporations Act and ASIC Act in relation to ongoing fee arrangements and fee disclosure statements.
Federal Court of Australia	Led by D Thomas SC, T Phillips, M Ellicott and with A Ilic
<b><i>The Highlands on a Plate Pty Ltd v Rolo Pty Ltd</i> [2021] NSWSC 1072</b>	Claim regarding validity of exercise of option by lessee to renew retail lease; application of COVID-19 Regulation and NSW Energy Retail Law; relief under ss 133E and 133F of the Conveyancing Act.
Supreme Court of NSW	Unled
<b><i>Kuksal v Lumi Finance Pty Ltd</i> [2021] NSWSC 1430</b>	Application to dismiss appeal as incompetent; key issue whether judgment below was interlocutory or final.
Supreme Court of NSW	Unled
<b><i>Saravinovska v Saravinovski</i> [2020] NSWSC 1232</b>	Application for costs in respect of proceedings dismissed without a hearing on the merits.
Supreme Court of NSW	Unled
<b><i>Andrew Wheeler &amp; Ors t/a PricewaterhouseCoopers v Aoyin Group Limited</i> [2021] NSWSC 363</b>	Application for production of documents; waiver of legal professional privilege.
Supreme Court of NSW	With R Pietriche
<b><i>City Hill Co (Hawaii) Ltd &amp; Anor v Lorenzo &amp; Ors</i> (NSD1839/2019) – ongoing</b>	Claim for fraudulent misrepresentation, misleading or deceptive conduct, breach of contract and other causes of action arising from several investments including a cryptocurrency trading bot.
Federal Court of Australia	Led by Y Shariff SC then D Studdy SC
<b><i>Lendlease Building Contractors Pty Ltd &amp; Anor v Insurance Australia Limited &amp; Ors</i> (2017/287985) – ongoing</b>	Claim against insurers (for cover and rectification) and insurance broker (for breach of contract and negligence) arising from alleged breaches of professional duty during the construction of a prison. Claim against insurers settled.
Supreme Court of NSW	Led by T Mehigan SC, T Kane and with C Robertson

<b><i>Left Bank Investments Pty Ltd v Ngunya Jarjum Aboriginal Corporation (2019) 19 BPR 39,687; [2019] NSWSC 1352</i></b>	Claim regarding agreement for new term of lease, involving questions of contractual formation, actual and ostensible authority, and estoppel.
Supreme Court of NSW	Led by A Harding
<b><i>Left Bank Investments Pty Ltd v Ngunya Jarjum Aboriginal Corporation [2020] NSWCA 144</i></b>	Appeal from decision above, relating principally to issues of actual and ostensible authority.
NSW Court of Appeal	Led by A Harding
<b><i>Turnell v Wickham Hill Holdings Pty Ltd (SYG1170 of 2021)</i></b>	Claim in respect of employee entitlements and pecuniary penalties under the Fair Work Act. Settled following a mediation.
Federal Circuit and Family Court of Australia	Unled
<b><i>Miles Felstead Realty Pty Limited v Blundell (2021/00279915)</i></b>	Claim for breach of various post-employment restraints.
District Court of NSW	Unled
<b><i>Paolucci v Makedyn Pty Ltd [2021] NSWCA 215</i></b>	Appeal from decision refusing to grant partial specific performance of building contract and damages for breach of contract, involving questions of contractual interpretation and availability of equitable remedies.
NSW Court of Appeal	Led by A Harding SC
<b><i>J W Lanfranchi Pty Ltd v Cahill &amp; Anor (2019/306272)</i></b>	Claim for breach of joint venture agreement relating to property development; claim for declaratory relief in relation to equitable mortgage. Settled at mediation.
Supreme Court of NSW	Led by C Bannan
<b><i>In the Matter of Red River Resources Limited (NSD232/2021)</i></b>	Application for relief under s 1322 of the Corporations Act regarding validity of appointment of company auditor and cleansing notices.
Federal Court of Australia	Led by D Studdy SC
<b><i>Re Warrego Energy Ltd [2020] FCA 1368</i></b>	Application for relief under s 1322 of the Corporations Act regarding validity of cleansing notices.
Federal Court of Australia	Led by D Lloyd then L Gyles SC

---

<b><i>Quinn v Stevens</i> [2021] NSWLEC 1361</b>	Claim regarding building encroachment and vertical extension of cross-easement for support of a common party wall. Settled at conciliation conference.
Land and Environment Court of NSW	With B Goodyear

---

<b><i>Sheng v Qin</i> (2020/123687)</b>	Application to dismiss proceedings for want of jurisdiction.
Local Court of NSW	Unled