

NICHOLAS JAMES CONDYLLIS

Barrister | 12th Floor Wentworth Selborne Chambers

Level 12, 180 Phillip Street, Sydney NSW 2000 | T: 02 80296273 | E: ncondylis@12thfloor.com.au

PRACTICE AREAS

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| • Appellate | • Corporations |
| • Banking & Finance | • Employment |
| • Bankruptcy & Insolvency | • Equity & Trusts |
| • Commercial | • Real Property |
| • Commissions of Inquiry | • Wills & Estates |

EDUCATION

University of Oxford, Bachelor of Civil Law (2017)

- Distinction Grade (First Class)
- Peter Cameron Sydney-Oxford Scholarship
- Clifford Chance Prize in Principles of Civil Procedure (shared)
- Subjects: Commercial Remedies; Restitution of Unjust Enrichment; Principles of Civil Procedure; Law and Society in Medieval England

University of Sydney, Bachelor of Arts (2013) / Bachelor of Laws (2015)

- First Class Honours in Law
- University of Sydney Academic Merit Prize (2014, 2012)
- Pitt Cobbett Prize for Constitutional Law (2013)
- CA Hardwick Prize for Constitutional Law (2013)
- Andrew M Clayton Memorial Prize for Legal Profession and Constitutional Law (2013)

PROFESSIONAL

- Barrister, 12th Floor Wentworth Selborne Chambers (May 2018 – Present)
- Tipstaff, Hon. Justice P A Bergin CJ in Eq, Supreme Court of New South Wales (2016)
- Lawyer, Banking & Finance, Allens (2015)
- Paralegal, Allens (2013 – 2015)

PUBLICATIONS

- Nicholas Condylis, 'Debating the Nature and Ambit of the Commonwealth's Non-statutory Executive Power' (2015) 39 *Melbourne University Law Review* 385
- Nicholas Condylis, 'Loss of Superannuation Pension as Compensable Loss in Personal Injury Cases: *Amaca Pty Ltd v Latz*' (2018) 15 *Australian Civil Liability Newsletter* 46
- Nicholas Condylis, Peter Gerangelos and Samuel Murray, 'Inherent Executive Power in Ireland – Lessons for Australia' (2019) 6 *Journal of International & Comparative Law* 1

SELECTED CASES AND MATTERS

Commissions of Inquiry

Counsel Assisting the NSW Casino Review of The Star conducted by Adam Bell SC (Sep. 2021 – Aug. 2022) (Led by N Sharp SC with C Conde and P Abdiel)

Counsel Assisting the NSW Casino Inquiry into Crown Resorts conducted by the Honourable P A Bergin SC (Aug. 2020 – Jan. 2021) (Led by A Bell SC and N Sharp SC with S Aspinall)

Appellate

High Court of Australia

Gujarat NRE India Pty Ltd v Wollongong Coal Limited [2019] HCATrans 226 (Kiefel CJ and Keane J) – Special leave application concerning a guarantor’s waiver of its right of indemnity in a multi-party deed (Led by J T Gleeson SC with A Macauley)

Federal Court of Australia

Construction, Forestry, Maritime, Mining and Energy Union v DP World Sydney Ltd [2019] FCAFC 99 (Rares J, Jagot J and Bromwich J) – Successfully resisting challenge of the Full Bench of Fair Work Commission’s decision to refuse protected industrial action (Led by Y Shariff)

Olson v Keefe [2019] FCA 339 (Lee J) – Successfully resisting leave application to appeal orders striking out and summarily dismissing aspects of claim (Led by Y Shariff)

NSW Court of Appeal

Burwood Council & Anor v Lorenzato [2021] NSWCA 321 (Basten JA, Macfarlan JA and Brereton JA) – Successfully acting for vendor/appellant in appeal relating to requisitions provided during real property transaction (Led by S White SC with J Trebeck)

Ludwig v Jeffrey (No 4) [2021] NSWCA 256 (Meagher JA, Brereton JA and Emmett AJA) – Appeal regarding a trustee’s entitlement to his indemnification from trust assets (Led by J E F Brown)

Glover v Kaji Australia Limited [2020] NSWCA 222 (Bathurst CJ, Macfarlan JA and White JA) – Successfully opposing appeal concerning a fraudulent conspiracy case dismissed by primary judge (Led by D Lloyd)

James v Australian and New Zealand Banking Group Limited v James [2020] NSWCA 101 (Basten JA, Emmett AJA and Simpson AJA) – Appeal concerning guarantor’s application to set aside a consent judgment based on misleading and deceptive conduct of creditor (Led by D Pritchard SC)

Robinson v Robinson [2020] NSWCA 4; 102 NSWLR 1 (Meagher JA, Ward JA and Gleeson JA) – Appeal concerning primary judge’s approval under s 95 of the *Succession Act 2006* (NSW) (Led by J E F Brown)

Whall v Stamp [2019] NSWCA 163 (Basten JA, Leeming JA and Payne JA) – Successful appeal on the basis of a denial of procedural fairness in a final hearing determining a life estate in a property (Led by J E F Brown)

Olsen v Mentink [2019] NSWCA 279 (Leeming JA) – Summons seeking to limit the time in which appellate had to appeal orders after filing Notice of Intention to Appeal (Led by J E F Brown)

ACT Court of Appeal

Higgins v Australian Capital Territory [2020] ACTCA 56 (Mossop J, Stewart J and Loukas-Karlson J) – Acting for the Territory opposing appeal where primary judge had summarily dismissed claims for injunctive and declaratory relief (Led by V Thomas)

NCAT Appeal Panel

Secretary, Department of Education v Early Childhood Education Australia Pty Ltd [2021] NSWCATAP 397 (Deputy President S Westgarth and Senior Member G Furness SC) – Appeal regarding whether Tribunal erred in setting aside Secretary’s cancellation of family day care service’s approval licence (Leading S Murray)

Secretary, NSW Department of Education v Gabriel’s Family Day Care Pty Ltd [2021] NSWCATAP 263 (Senior Member P Durack SC and Senior Member Dr J Lucy) – Appeal regarding whether Tribunal erred in setting aside Secretary’s cancellation of family day care service’s approval licence (Unled)

Equity, Commercial and Corporations

Sargent v Sargent [2023] NSWSC 1063 (Kunc J) – Acting for executor regarding privilege claims and the operation of section 121(1) of the *Evidence Act 1995* (NSW) (Led by D Liebhold)

Australian Securities and Investments Commission v Valvo [2023] FCA 895 (Cheeseman J) – Application on behalf of ASIC for suppression order over certain materials previously relied upon in support of application for asset preservation and travel restraint orders (Unled)

Olson v Keefe (No 5) [2023] FCA 127 (Goodman J) – Successful security for costs application (Led by Y Shariff SC)

Harriette & Co Pty Ltd v Platine Property Development Pty Ltd (No 2) [2022] NSWSC 1611 (Walton J) – Appearing in extension application regarding interim injunction and contested questions of balance of convenience (Led by J Jaffray)

Harriette & Co Pty Ltd v Platine Property Development Pty Ltd [2022] NSWSC 1536 (Chen J) – Appearing for defendants seeking interim injunction raising triable issues regarding penalties doctrine and unregistered mortgage memorandum (Led by J Jaffray)

In the matter of K. & A. Laird (N.S.W.) Pty Ltd (in liq) [2022] NSWSC (unreported, 8 November 2022, Black J) – Successfully striking out statement of cross-claim on basis of knowing recipient suffering no loss if required to disgorge trust property and therefore having no right of indemnity (see also costs judgment: [2022] NSWSC 1786) (Led by A Harding SC)

Nicols as trustee of the bankrupt estate of Manietta v Manietta, in the matter of Manietta [2022] FCA 39 (Cheeseman J) – Acted for the respondents seeking the discharge of freezing orders and opposing fresh freezing orders (see also costs judgment: [2022] FCA 142) (Led by S White SC)

Assoum v Barrett [2021] NSWDC 641 (Dicker SC DCJ) – Successfully acted for executor of estate in an action to recover an unpaid debt (Unled)

Shant Safarian v Australian Institute of Company Directors [2021] FWC 4909 (Commissioner Johns) – Successfully acted for employer in defending an unfair dismissal claim on the basis of a genuine redundancy (Unled)

Richardson v Richardson [2021] NSWSC 353 (Ward CJ in Eq) – Successfully acted for the plaintiffs in claim concerning a beneficiary/former executor's occupation of estate property in breach of executorial duties (Unled)

Shelteo Pty Ltd v Australia and New Zealand Banking Group Limited [2021] NSWSC 224 (Cavanagh J) – Acted for corporate plaintiff opposing security for costs application and seeking reduction of the quantum of security so by the defendants (Unled)

Eldsure Pty Ltd v Sheridan Legal Pty Ltd [2020] NSWSC 1616 (Kunc J) – Successfully acted for judgment creditor seeking to have judgment debtor's funds in Court garnished (Unled)

Mariconte v Nobarani [2020] FCA 1485 (Markovic J) – Acted for creditor defending a bankruptcy notice in circumstances where debtor alleged the bankruptcy notice should be set aside for abuse of process (Unled)

Alexiou v Alexiou [2020] NSWSC 748 (White J) – Successfully acted for an executor defending proceedings for the executor's removal as trustee over estate assets and an interim order restraining sale of a property (Unled)

James v Australian and New Zealand Banking Group Limited (No 2) [2020] FCA 663 (Jagot J) – Acted for applicant seeking to set aside bankruptcy notice on the ground of a misstatement under s 41(5) of the *Bankruptcy Act 1966* (Cth) (Unled)

Australian and New Zealand Banking Group Limited v James (No 3) [2019] NSWSC 832 (Ball J) – Acted for guarantor who had consented to judgment but seeking to set aside that judgment to allow claim or set-off to be brought against creditor under s 420A of the *Corporations Act 2001* (Cth) (Led by D Pritchard SC with J Baird)

Hossain v Unity Grammar College Ltd and Ors [2019] NSWSC 1313 (Campbell J) – Acted for insurer in relation to a personal injury claim concerning gas explosion at a school and issues concerning cross-claims between tortfeasors (Led by M Fordham SC)

Boart Longyear Limited, in the matter of Boart Longyear Limited [2019] FCA 62 (Farrell J) – Acted for ASIC intervening in a hearing concerning a scheme of arrangement and the proper interpretation of s 411 of the *Corporations Act 2001* (Cth) (Led by Y Shariff)

Pulitano v Pulitano [2019] NSWSC 1688 (Henry J) – Successful family provision claim where there was estrangement between the plaintiff and the deceased (NSW) (Led by J E F Brown)

Barletta v Saitaa [2019] NSWSC 1624 (Ward CJ in Eq) – Successfully acted in application for disclosure of Centrelink records and issues concerning *Harman* undertaking (Unled)

Kannisto v Kannisto (No 2) [2019] NSWSC 950 (Davies J) – Application for approval of settlement under s 76 of the *Civil Procedure Act 2005* (NSW) (Unled)

Patricia Norman by her tutor Peter Joseph Norman v Norman [2019] NSWSC 551 (Bellew J) – Claim for possession and related application for stay of possession orders (Unled)

Olson v Keefe (No 3) [2018] FCA 2001 (Bromwich J) – Successfully opposing leave to amend statement of claim (see successful indemnity costs application: [2019] FCA 691) (led by Y Shariff)

CPPIB Credit Investments v Ren [2018] NSWSC 1568; 19 BPR 38,989 (McDougall J) – Successfully acted for vendor in defending application for return of deposit under sale contract (Led by N Beaumont SC)

Stamp v Whall [2018] NSWSC 1811 (Lindsay J) – Acted for individual seeking life estate in a property based on promissory estoppel (Unled) (Successfully overturned on appeal: *Whall v Stamp* [2019] NSWCA 163)