

SINCLAIR GRAY
12 WENTWORTH SELBORNE CHAMBERS

Admissions

2006: Barrister at New South Wales Bar and High Court of Australia

1998: Solicitor of Supreme Court of New South Wales

Areas of Practice

Banking and Finance

Equity and trusts

Building and construction

Insurance

Competition and Consumer Law

Product and professional liability

Corporations law

Sports Law

Short Professional Biography

Sinclair was called to the Bar in 2006. He is an experienced commercial barrister with a broad commercial practice appearing regularly in trials in superior and appellate courts throughout Australia, as well as commercial arbitrations and liquidator's examinations. Sinclair has acted unled for parties in proceedings before the High Court of Australia.

For the last 4 years Sinclair has been recommended as a junior counsel in professional indemnity by *Doyle's Guide to the Legal Profession*.

He is regularly briefed by top tier firms and government bodies in a range of matters including insurance, corporations law, banking and finance, construction law and professional liability.

Sinclair also appears regularly at inquiries, Royal Commissions and inquests, having acted for parties in the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and the Royal Commission into Aged Care Quality. Sinclair also appears in tribunal matters for the AFL Sydney.

Sinclair has a Masters in Law (Commercial and Corporate Law) from the University of NSW, and undergraduate degrees in Arts and Law from the University of Tasmania.

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Cases

Selected cases, commissions and inquiries in which Sinclair has appeared include:

Appeals

Deep Investments Pty Ltd v Robinson [2019] HCATrans 162 (misleading and deceptive conduct; mortgage broker; fiduciary duty)

Margo Young v Brian Keith Hones & Ors [2015] HCASL 73 (professional negligence; engineer; advocate's and witness immunity)

Young v Hones & Ors [2017] HCASL 27 (professional negligence; engineer; advocate's and witness immunity)

Young v Hughes Trueman Pty Ltd [2018] HCASL 242 (bankruptcy; sequestration orders)

Atkins and Hunt [2017] FamCAFC 79; (2017) 318 FLR 307 (corporations law; piercing corporate veil)

Atkins and Hunt [2020] FamCAFC 252; (2020) 61 Fam LR 238; (corporations law; piercing corporate veil in family law context)

FBHS (Aust) Pty Ltd v Stone Homes Pty Ltd [2014] NSWCA 312 (Trade and commerce; Restraint of trade; Contractual restraint of trade; Contract Construction)

Hoa Anh Thi Le v Rawson [2009] NSWCA 332 (Torts; causation repair of rental premises)

Mine Subsidence Board v Australia Gas Light Co [2007] NSWCA 100 (2007) 152 LGERA 73 (Energy and Resources; Statutes Interpretation)

Jacobs Group (Australia) Pty Ltd v Commonwealth of Australia [2020] VSC 127 (arbitration; building and construction; statutory interpretation; contract)

Robinson v Deep Investments Pty Ltd [2018] FCAFC 232; 364 ALR 305 (misleading and deceptive conduct; mortgage broker; fiduciary duty)

Seiwa Australia Pty Ltd v Beard [2009] NSWCA 240; (2009) 75 NSWLR 74 (agency; authority; partners; Contract; partnerships and joint ventures)

Stuart v Rabobank Australia Ltd [2019] FCA 343 (banking and finance; contract; breach of contract; misleading or deceptive conduct)

Young v Hones [2014] NSWCA 337 (professional negligence; engineer; advocate's and witness immunity)

Young v Hones (No 2) [2014] NSWCA 338 (professional negligence; engineer; advocate's and witness immunity)

Young v Hughes Trueman Pty Ltd (No 3) [2018] FCA 531 (bankruptcy and insolvency) (see also *Young v Hughes Trueman Pty Ltd (No 2)* [2017] FCA 87 (adjournment); *Young v Hughes Trueman Pty Ltd (No 4)* [2017] FCA 456 (third party costs application); *Young v Hughes Trueman Pty Ltd (No 2)* [2017] FCA 616 (stay application); *Young v Hughes Trueman Pty Ltd (No 3)* [2017] FCA 235 (stay application); *Young v Hughes Trueman Pty Ltd (No 5)* [2017] FCA 690 (recusal application)

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Young v Hughes Trueman Pty Ltd [2016] FCA 1176 (appeal of sequestration order)

Commissions and Inquests

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2019) (appearing for ANZ Limited)

Royal Commission into Aged Care Quality and Safety (2019) (appearing for various parties)

Inquest into the death of Rebecca Maher (2017) (representing the interests of a various medical professionals)

First Instance Decisions

AIRS Re Pty Ltd v Treatt t/as Haines Norton [2017] NSWSC 1100 (contract; auditor and broker)

Attorney General (NSW) v Rahman [2014] NSWSC 42 (vexatious litigation)

Bechini v IUS Pty Limited (ABN 93 003 359 279 (In Liquidation)) [2019] NSWSC 427 (building and construction: negligent building work; insurance; professional negligence)

Blue Visions Management Pty Ltd v Chidiac [2017] NSWSC 255 (building and construction: project management services; misleading and deceptive conduct; Fiduciaries; Duty; Breach)

Central Queensland Development Corp Pty Ltd (Formerly Bluechip Development Corp Gladstone) Pty Ltd v BMT & Assoc Pty Ltd (No 2) [2020] NSWSC 1249 (professional negligence; quantity surveyor)

Deep Investments Pty Ltd v Casey [2018] FCA 603; 125 ACSR 564 (misleading and deceptive conduct; mortgage broker; fiduciary duty)

Downer EDI Rail Pty Ltd v John Holland Pty Ltd; John Holland Pty Ltd v QBE Insurance (Australia) Ltd (No 5); Kellogg Brown & Root Pty Ltd v John Holland Pty Ltd (No 4) [2018] NSWSC 326 (building and construction: contract; breach of contract; defective design)

Icon Co (NSW) Pty Ltd v Australia Avenue Developments Pty Ltd [2020] NSWSC 178 (building and construction; contracts; performance bond)

Halkett v APG & Co Pty Ltd [2023] NSWSC (contract; interpretation of Equity Holders Agreement)

LM Investment Management Ltd (in Liq) (Recs Apptd) v BMT & Assoc Pty Ltd [2015] NSWSC 1902 (building and construction; quantity surveyor's negligence; banking and finance)

Mobis Parts Australia Pty Ltd v XL Insurance Company SE (No 7) [2017] NSWSC 1321 (property damage and business interruption policy claim)

Nalos v Watpac Construction [2012] NSWSC 1371 (building and construction; engineering design and construction services)

Nichols Constructions Pty Ltd v Elphick [2015] NSWSC 940 (contract; breach of construction loan)

Owners - Strata Plan 68372 v Allianz Australia Insurance Ltd [2012] NSWSC 691 (building and construction; building defects; geotechnical engineer)

Seiwa Australia Pty Ltd v Seeto Financial Pty Ltd [2008] NSWSC 1260 (partnerships and joint

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ventures; accounts; partnership dissolved; recoverability)

Secure Funding Pty Ltd v Coughlin [2009] NSWSC 384; (2009) 74 NSWLR 687 (mortgages and securities; possession)

Snowden v Australian Mortgage Assist Pty Ltd [2019] NSWSC 1799 (misleading and deceptive conduct; mortgage broker; fiduciary duty)

Stramit Corp Pty Ltd v Stone Homes Pty Ltd [2014] NSWSC 340 (contract; restraint of trade; breach)

Tight v Guo [2020] NSWSC 1560 (property; possession)

Tonna v Mendonca [2019] NSWSC 1849 (contract; privity; trusts; trust property; fiduciary duty)

Young v Hones (No 2) [2013] NSWSC 1429 (professional negligence; engineers; advocates immunity); (see also *Young v Hones* [2013] NSWSC 580)

Young v King (No 8) [2015] NSWLEC 187; *Young v King (No 9)* [2016] NSWLEC 4; *Young v King (No 10)* [2016] NSWLEC 70; *Young v King (No 11)* [2017] NSWLEC 34 (professional negligence; engineering; advocates immunity; third party cost orders against legal practitioners)

Wang v Rong [2014] NSWSC 1419 (partnerships and joint ventures; rights and duties)

Selected matters

In addition to the above matters, Sinclair has also acted in the following matters.

Acting for the developers in proceedings brought by it against the builder in the Supreme Court of New South Wales concerning defects in the Opal Tower. Led by Peter Braham SC. Instructed by HWL Ebsworth, Sydney.

Acting for the developers in class action proceedings brought against them in the Supreme Court of New South Wales concerning defects in the Opal Tower. Led by Peter Braham SC. Instructed by HWL Ebsworth, Sydney.

Acting for John Holland Pty Ltd and CPB Contractors Pty Ltd in proceedings in the Supreme Court of New South Wales concerning road and rail infrastructure in New South Wales. Led by Peter Braham SC. Instructed by HWL Ebsworth, Sydney.

Acting for CPB Contractors Pty Ltd in proceedings in the Supreme Court of Western Australia concerning road and rail infrastructure in New South Wales. Instructed by Corrs Chambers Westgarth, Perth.

Acting for the operators of a shipping terminal at Port Botany in proceedings in the Supreme Court of New South Wales concerning defects in the pavement. Led by Alec Leopold SC. Instructed by Schweikert Harris Lawyers.

Acting for a construction firm in proceedings brought against it in the Supreme Court of New South Wales by a developer concerning alleged building defects in a multi dwelling large land development on the Northern Beaches of Sydney. Instructed by Henry Davis York, Sydney.

Advising a building and construction firm in respect of a claim brought by an Owners Corporation concerning alleged defective cladding. Instructed by Vincent Young, Construction, Project and Property Lawyers.

Acting for an Owners Corporation in an arbitration commenced by it against a national building

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and construction firm in respect of alleged defective aluminium cladding due to issues concerning combustion. Instructed by Osbornes Lawyers.

Acting for Helcon Contracting Australia Pty Ltd in two arbitrations concerning the engineering works performed in a residential building. Instructed by Kennedy's Australia, Sydney.

Acting for insurers in proceedings brought by LCT-MRE Nominees Pty Ltd in the Equity Division in the Supreme Court of New South Wales concerning defects in the Lane Cove Tunnel. Instructed by Clyde & Co, Sydney.

Acting for Albany Capital Investors Pty Ltd in proceedings in the NSW Court of Appeal concerning allegations that a former employee took away a funds management business from her employer with the knowing assistance of various parties. Instructed by Kennedys Law, Sydney.

Acting for Societe Generale in proceedings in the Federal Court of Australia concerning the involvement in the misappropriation of \$400 million by Forum Finance and its directors. Instructed by Ashurst, Sydney.

Liability is limited by a scheme approved under Professional Standards Legislation

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