



PENELOPE ABDIEL
Barrister

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SUMMARY

Penelope accepts briefs in all areas of law, but practises principally in general commercial litigation, regulatory proceedings and public law matters. Penelope regularly appears in all Federal Courts of Australia and all NSW courts.

ADMISSIONS & QUALIFICATIONS

Australia

New South Wales Bar (2016); ACT Supreme Court (2009)

United States

New York State Bar (2010)

California State Bar (2010)

United States District Courts (Southern District of NY, Central District of California, Northern District of California, Eastern District of Wisconsin); 11th Circuit Court of Appeals

Bachelor of Laws and GDLP, Australian National University, 2008

Student Editor, ANU Law Review

Recipient of collegiate Senior Residential Scholarship, 2008

Bachelor of Arts (first Class Honours); Diploma of Modern Languages, (Indonesian), 2005

EXPERIENCE

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| 2017 – Present | Barrister, Banco Chambers |
| 2014 – 2016 | Senior Associate (litigation), Quinn Emanuel Urquhart & Sullivan, Sydney |
| 2010 – 2013 | Associate (Competition & Antitrust Litigation), Scott + Scott LLP, New York, USA |
| 2008 | Paralegal, DLA Piper, Canberra |
| 2007 | Summer Clerk, Commonwealth Attorney General's Department, Canberra |
| 2006 – 2007 | Executive Research Assistant to the Director, Australian Institute of Criminology |
| 2005 - 2006 | Research Assistant to Prof. Brian Galligan, writing and editing the <i>Oxford Companion to Australian Politics</i> (2007) |

NOTABLE CASES (ONGOING AND CONCLUDED)

Inquiries and Regulatory Proceedings

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| Review of The Star Pty Ltd by NSW Liquor and Gaming (2022) | Junior Counsel Assisting | <i>Led by Naomi Sharp SC</i> |
| <i>ASIC v Select AFSL Pty Ltd</i> , [2022] FCA 785; <i>ASIC v Select AFSL Pty Ltd (No 2)</i> [2022] 162 ACSR 1; <i>ASIC v Select AFSL Pty Ltd (No 3)</i> [2023] FCA 723; <i>Howden v ASIC (No 3)</i> [2023] FCA 907 | Civil penalty proceedings for unconscionable and misleading and deceptive conduct | <i>Led by Naomi Sharp SC and Gillian Walker</i> |
| <i>ACCC v Retail Food Group Limited</i> [2022] FCA 961 | Civil penalty proceedings for unconscionable and misleading and deceptive conduct | <i>Led by Kevin Andronos SC</i> |
| <i>ACCC v Volkswagen Aktiengesellschaft</i> [2019] FCA 2166 | Civil penalty proceedings for false representations | <i>Led by Jeremy Kirk SC and Naomi Sharp SC</i> |
| <i>Financial Services Royal Commission</i> (2018) | Westpac Bank and BT Financial Group | <i>Led by John Sheahan SC, Penelope Neskovic QC</i> |
| <i>Poidevin and Australian Securities and Investments Commission</i> [2018] AATA 124 | Banning orders re section 1041A market manipulation allegations – for applicant | <i>Led by John Sheahan SC, Geoffrey Kennett SC</i> |
| <i>Google LLC v Weeks</i> [2018] FCCA 3150 | Trademark dispute – for ASIC (for final relief) | <i>Unled</i> |

Public Law Matters

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| <i>Australian National Imams Council Limited v ACMA</i> [2021] FCA 210; <i>Australian National Imams Council Limited v ACMA</i> [2022] FCA 913; <i>Australian National Imams Council Limited v ACMA (No 3)</i> [2023] FCA 835 | Judicial review – for Australian Communications and Media Authority | <i>Unled (interlocutory); Led by James Emmett SC (final hearing)</i> |
| <i>TYKL v National Disability Insurance Agency</i> [2021] AATA 135 | Merits review of NDIS decision – for NDIA | <i>Unled</i> |
| <i>CYZ18 & Ors v Minister for Immigration & Anor</i> [2019] FCCA 2975 | Judicial review of immigration decision – for applicant, <i>pro bono</i> | <i>Unled</i> |
| <i>Minister for Immigration and Border Protection v CLV16</i> [2018] FCAFC 80 | Judicial review of immigration decision – for applicant, <i>pro bono</i> | <i>Led by Cameron Moore SC</i> |
| <i>DTF16 v Minister for Immigration and Border Protection & Ors</i> [2018] FCCA 2999 | Judicial review of immigration decision – for applicant, <i>pro bono</i> | <i>Unled</i> |
| <i>B&E Poultry & Ors v Chief Commissioner of State Revenue</i> , NSW Supreme Court (settled) | For the Crown | <i>Led by Rabelle Seiden SC, Tiffany Wong</i> |
| <i>Millennium Hi-Tech Group Pty Ltd v Chief Commissioner of State Revenue</i> , NSW Supreme Court (settled) | For the Crown | <i>Led by Tiffany Wong</i> |

Minister for Immigration and Border Protection v CLV16 [2018] FCAFC 80 Judicial review of immigration decision – for applicant, *pro bono* Led by Cameron Moore SC

Class Actions and Corporations Act Matters

Atlas Holdings Pty Limited (Trustee), in the matter of Allied Resource Partners Pty Ltd v Allied Resource Partners Pty Ltd [2017] FCA 923; *Shearwood (Trustee), in re Allied Resource Partners Pty Ltd v Allied Resource Partners Pty Ltd* [2017] FCA 1451 Shareholder Oppression Led by Christopher Withers

Collier v Telstra & Anor, Collier v Telstra Corporation Ltd [2017] FCCA 615 (28 March 2017) Vexatious litigant – defendant (interlocutory only) Unled

Ceramic Fuel Cells Limited (in liq.) v McGraw-Hill Financial Inc Proceedings, Federal Court of Australia Class action – for applicants (interlocutory only) Led by Noel Hutley SC and Christopher Withers

In the matter of CC Builders (Aust) Pty Ltd, NSW SC No 2019/267954 (settled) Winding up for insolvency Unled

Bilijana Capic v Ford Motor Company of Australia, Federal Court of Australia Class action – for applicant Led by Ian Pike SC, Fiona Roughley

General Commercial, Construction, Equity and Common Law Matters

HYLCJV and Celsus Pty Limited, ACICA Case 2018-119 Dispute over construction of new Royal Adelaide Hospital – for the claimant Led by Elliot Hyde SC

Maoneng Australia Pty Ltd v Sunraysia Solar Project Pty Limited (2021) Contractual dispute - Expert Determination Led by Christopher Withers SC

Comlin Holdings Pty Ltd v Metlej Developments Pty Ltd [2018] NSWSC 761 Partnership, contract, estoppel – for defendants Led by Robert Newlinds SC

Patrick Wong and Anor v Willem Van Vlymen and Others [2018] NSWSC 312 Hearing on the working out of orders – for defendant Led by Robert Newlinds SC and Darrell Barnett

Beroa Australia Pty Ltd v WR Carpenter No 1 Pty Ltd, General Electric Capital Corporation, NSW Supreme Court Unconscionable conduct; rectification – for the defendants Led by Tim Breakspear

BrisConnections Finance Pty Limited & Ors v Arup Pty Limited, Federal Court of Australia (settled mid-hearing) Misleading and deceptive conduct Led by Noel Hutley SC, Ian Pike SC and Amy Munro

Mindchamps Preschool (Worldwide) Pty Ltd v M&W Zaki Pty Limited ATF the Zaki Group Trust Misleading & deceptive conduct – for defendants Led by Anne Horvath

Ogar Denkha by his tutor Georgees Denkha v S.W. Sydney Local Health District, Negligence – for the defendant Led by Anne Horvath

Banis v Banis, NSW Supreme Court (settled) Breach of contract, constructive trust – for the defendant Unled

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| <i>Burton v Prior (No 2)</i> [2019] NSWSC 1431 | Constructive trust– Costs – for the defendant | <i>Unled</i> |
| <i>Kerry Albert Pty Ltd t/as Kerry Albert & Co v Fuller (No 2)</i> [2018] NSWDC 383 | Contract, penalty, application to re-open summary judgment – for the defendant | <i>Unled</i> |
| <i>Clearview Financial Advice Pty Ltd v Colin Linke</i> , Local Court of NSW | Breach of contract, debt – for the defendant | <i>Unled</i> |
| <i>Face & Body Clinic Australia Pty Ltd v Leigh Turtle</i> , Local Court of NSW | Breach of contract, misleading and deceptive conduct – for the defendant | <i>Unled</i> |

US Matters

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| <i>In re Bank Arbitration Antitrust Litigation</i> , U.S. District Court (SDNY) – final hearing | Competition law, horizontal fixing of card agreement terms | <i>Scott + Scott LLP</i> (trial team; cross-examined witness) |
| <i>Novak v Gray</i> , 469 F. App'x 811 (11 th Cir. 2012), U.S. District Court (M.D. Fla) – final hearing and successful jury verdict; successful on appeal | Partnership dispute, breach of contract | <i>Scott + Scott LLP</i> (second-chaired jury trial, examination in chief) |
| <i>In re WellPoint, Inc. Out-of-Network "UCR" Rates Litigation</i> , United States District Court (C.D.Cal); <i>In re: Aetna UCR Litigation</i> , United States District Court (DNJ) (settled); <i>In re Cigna UCR Litigation</i> , U.S. District Court (DNJ) (settled) | Competition law, horizontal price fixing for out-of-network services | <i>Scott + Scott LLP</i> (second-chaired and appeared in interlocutory motions, conducted depositions) |
| <i>Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company</i> , U.S. District Court (E.D.Pa) (settled) | Competition law, “pay-for-delay” generic pharmaceutical products and product-hopping of branded pharmaceuticals | <i>Scott + Scott LLP</i> (depositions, interlocutory motions) |
| <i>Fond Du Lac Bumper Exchange, Inc v Jui Li Enter Co.</i> , U.S. District Court, (E.D. Wi.) | Competition, international aftermarket sheet metal price-fixing cartel | <i>Scott + Scott LLP</i> |
| <i>Blessing v. Sirius XM Radio Inc.</i> , 756 F. Supp. 2d 445 (S.D.N.Y. 2010) | Competition / antitrust, monopolisation of the satellite-radio market | <i>Scott + Scott LLP</i> |