



PENELOPE ABDIEL

Barrister

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SUMMARY

Penelope primarily practices in financial services and corporations law, competition and consumer law, regulatory proceedings by ACCC and ASIC and general commercial matters. She has appeared before the Full Federal Court, the Federal Court of Australia, the Federal Circuit Court, and regularly appears in all courts of New South Wales.

Prior to commencing practice in Australia, Penelope practiced as a litigation attorney in the U.S. for four years, predominantly in competition and securities matters, including as counsel in final hearings. Penelope was trial counsel and conducted a cross-examination, in a federal antitrust trial alleging cartel conduct among banks, in the U.S. District Court for the Southern District of New York (*In re Bank Arbitration Antitrust Litigation (Ross v Am. Express, Bank of America et al)*, 35 F. Supp. 3d 407 (S.D.N.Y. 2014)).

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

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 *Oxford Companion to Australian Politics* (2007)

PUBLICATIONS & VOLUNTEER WORK ‘Section 1041A: Market manipulation and the sole and dominant purpose test, revisited’, NSW Bar Association Journal, Bar News, Spring 2018.

Penelope regularly represents asylum seeker applicants, *pro bono*, in their applications for judicial review under the *Migration Act 1958* (Cth)

NOTABLE CASES (ONGOING AND CONCLUDED)

Financial Services & Corporations Act Matters

<i>ASIC v Select AFSL Pty Ltd & Ors</i> , Federal Court of Australia (ongoing)	Civil penalty proceedings for unconscionable / misleading and deceptive conduct	<i>Led by Naomi Sharp SC and Gillian Walker</i>
<i>Financial Services Royal Commission</i> (2018)	For 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>
<i>Shearwood (Trustee) re Allied Resources Partners Pty Ltd</i> [2017] FCA 1451	Shareholder oppression and winding up – for defendants	<i>Led by Christopher Withers</i>
<i>In the matter of CC Builders (Aust) Pty Ltd</i> , NSW SC No 2019/267954 (settled)	Winding up for insolvency – for applicant	<i>Unled</i>

Consumer Matters and Class Actions

<i>ACCC v Retail Food Group Ltd & Ors</i> , Federal Court of Australia (ongoing)	Civil penalty proceedings for unconscionable / misleading and deceptive conduct – for ACCC	<i>Led by Kevin Andronos SC</i>
<i>Bilijana Capic v Ford Motor Company of Australia</i> , Federal Court of Australia	Class action – for applicant	<i>Led by Ian Pike SC, Fiona Roughley</i>
<i>ACCC v Volkswagen Australia Group Pty Ltd & Ors</i> , Federal Court of Australia (ongoing)	Consumer – for ACCC	<i>Led by Jeremy Kirk SC, Naomi Sharp SC, Radhika Withana</i>
<i>Ceramic Fuel Cells Limited (in liq.) v McGraw-Hill Financial Inc Proceedings</i> , Federal Court of Australia	Class action – for applicants (interlocutory only)	<i>Led by Noel Hutley SC and Christopher Withers</i>

<i>Collier v Telstra & Anor</i> , Federal Circuit Court of Australia	Vexatious litigant – defendant (interlocutory only)	<i>Unled</i>
<i>Oztech Pty Limited v Public Trustee of Queensland</i> , Federal Court of Australia	Class action – for applicants (interlocutory only)	<i>Led by Christopher Withers</i>
General Commercial, Equity and Common Law Matters		
<i>HYLCJV and Celsus Pty Limited</i> , ACICA Case 2018-119	Dispute over construction of new Royal Adelaide Hospital – for the claimant	<i>Led by Elliot Hyde</i>
<i>Destination Caravans Pty Ltd & Ors v Recreational Vehicle Concepts Pty Ltd</i> , Federal Court of Australia (ongoing)	Misleading and deceptive conduct – for defendants	<i>Led by Jonathon Redwood</i>
<i>Comlin Holdings Pty Ltd v Metlej Developments Pty Ltd</i> [2018] NSWSC 761	Partnership, contract, estoppel – for defendants	<i>Led by Robert Newlinds SC, Leo Gor</i>
<i>Patrick Wong and Anor v Willem Van Vlymen and Others</i> [2018] NSWSC 312	Hearing on the working out of orders – for defendant	<i>Led by Robert Newlinds SC and Darrell Barnett</i>
<i>Beroa Australia Pty Ltd v WR Carpenter No 1 Pty Ltd, General Electric Capital Corporation</i> , NSW Supreme Court (ongoing)	Unconscionable conduct; rectification – for the defendants	<i>Led by Tim Breakspear</i>
<i>BrisConnections Finance Pty Limited & Ors v Arup Pty Limited</i> , Federal Court of Australia (settled mid-hearing)	Misleading and deceptive conduct	<i>Led by Noel Hutley SC, Ian Pike SC and Amy Munro</i>
<i>Mindchamps Preschool (Worldwide) Pty Ltd v M&W Zaki Pty Limited ATF the Zaki Group Trust</i> (ongoing)	Misleading & deceptive conduct – for defendants	<i>Led by Anne Horvath; (unled interlocutory motion)</i>
<i>Ogar Denkha by his tutor Georgees Denkha v S.W. Sydney Local Health District</i> , District Court of NSW, final hearing (successful)	Negligence – for the defendant	<i>Led by Anne Horvath</i>
<i>Banis v Banis</i> , NSW Supreme Court (ongoing)	Breach of contract, constructive trust – for the defendant	<i>Unled</i>
<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 (successful)	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 – final hearing (successful)	Breach of contract, debt – for the defendant	<i>Unled</i>

Face & Body Clinic Australia Pty Ltd v Leigh Turtle,
Local Court of NSW – final hearing (settled pre-
judgment)

Breach of contract, misleading and
deceptive conduct – for the defendant

Unled

Public Law matters

TYKL v National Disability Insurance Agency [2021]
AATA 135

Merits review of NDIS decision – for
NDIA

Unled

CYZ18 & Ors v Minister for Immigration & Anor
[2019] FCCA 2975 (successful)

Judicial review of immigration decision
– for applicant, *pro bono*

Unled

CYHY and NDIA, Administrative Appeals Tribunal,
2019/6569

Merits review of NDIS decision – for
NDIA

Unled

Uren and NDIA, Administrative Appeals Tribunal,
2019/3144

Merits review of NDIS decision – for
NDIA

Unled

*B&E Poultry & Ors v Chief Commissioner of State
Revenue*, NSW Supreme Court (settled)

Payroll tax – for the Crown

*Led by Rashelle Seiden
SC, Tiffany Wong*

*Millennium Hi-Tech Group Pty Ltd v Chief
Commissioner of State Revenue*, NSW Supreme
Court (settled)

Payroll tax – for the Crown

Led by Tiffany Wong

*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*

*DTF16 v Minister for Immigration and Border
Protection & Ors* [2018] FCCA 2999

Judicial review of immigration decision
– for applicant, *pro bono*

Unled

US Matters

In re Bank Arbitration Antitrust Litigation, U.S.
District Court (SDNY) – final hearing

Competition law, horizontal fixing of
card agreement terms

Scott + Scott LLP (trial
team; cross-examined
witness)

Novak v Gray, 469 F. App'x 811 (11th Cir. 2012), U.S.
District Court (M.D. Fla) – final hearing and successful
jury verdict; successful on appeal

Partnership dispute, breach of contract

Scott + Scott LLP
(second-chaired jury
trial, examination in
chief)

*In re WellPoint, Inc. Out-of-Network "UCR" Rates
Litigation*, United States District Court (C.D.Cal); *In re:
Aetna UCR Litigation*, United States District Court
(DNJ) (settled); *In re Cigna UCR Litigation*, U.S.
District Court (DNJ) (settled)

Competition law, horizontal price fixing
for out-of-network services

Scott + Scott LLP
(second-chaired and
appeared in
interlocutory motions,
conducted depositions)

Mylan Pharmaceuticals, Inc. v. Warner Chilcott Public Limited Company, U.S. District Court (E.D.Pa) (settled)

Competition law, “pay-for-delay” generic pharmaceutical products and product-hopping of branded pharmaceuticals

Scott + Scott LLP
(depositions, interlocutory motions)

Fond Du Lac Bumper Exchange, Inc v Jui Li Enter Co., U.S. District Court, (E.D. Wi.)

Competition, international aftermarket sheet metal price-fixing cartel

Scott + Scott LLP
(discovery)

Blessing v. Sirius XM Radio Inc., 756 F. Supp. 2d 445 (S.D.N.Y. 2010)

Competition / antitrust, monopolisation of the satellite-radio market

Scott + Scott LLP
(discovery)