

ANDREW COLEMAN SC
BARRISTER
BANCO CHAMBERS



Admissions

Barrister: 1996 (appointed Senior Counsel in 2010)
Solicitor: 1987 (NSW), 1992 (England & Wales)

Qualifications & Appointments

BA, University of NSW (1985)
LLB, University of NSW (1987)
Approved Arbitrator, NSW Bar Association
Senior Member (Part-Time) NSW Civil and Administrative Tribunal (NCAT), Appeal Panel, Occupational and Consumer and Commercial Divisions
Major, Australian Army Legal Corps (Res)
Hon. Secretary North Bondi RSL Sub-Branch
Chair, NRL Player Agent Accreditation Board

Areas of Practice

Commercial law
Common law
Corporations law

Equity
Insolvency
Insurance

Inquests, Commissions & inquiries
Sports law

Listings

Recommended insolvency and reconstruction Senior Counsel (Doyle's Guide 2017, 2018, NSW)
Recommended insolvency and reconstruction Senior Counsel (Doyle's Guide 2016, Australia)

Profile

Andrew practises in a broad range of areas and appears in all Courts and Tribunals in NSW and most of the Federal Courts and Tribunals.

Andrew acts for liquidators, administrators and other insolvency practitioners in corporations matters. He has also acted for corporations and directors in these types of matters. Those matters have ranged from public examinations, statutory demand matters through to more complex litigious matters including breach of directors' duties, uncommercial transactions, and preference claims. He also appears for creditors and debtors in bankruptcy matters.

Andrew is also regularly briefed in common law matters, general commercial and equity cases, inquests and inquiries, ADR, and sports law. Andrew has been briefed to appear for

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the Chief Commissioner of Victoria Police in the Royal Commission into the Management of Police Informants.

Recent work

A summary of Andrew's recent and notable work is below. A detailed list of appearances is available on request.

Corporations matters

Andrew has appeared in numerous matters involving the assessment of the conduct of financial advisers, both investigatory and disciplinary matters and proceedings involving allegations of negligence. His recent and notable work includes the following:

- Appearing for the applicants in the Federal Court in *Corowa Shire Council & Ors v LGFS Pty Ltd & Ors*. This was the first case in which a ratings agency, here Standard & Poors, had been held liable to persons relying on its rating of a financial product. The case involved causes of action in negligence, breach of fiduciary duty, misleading and deceptive conduct and other relief and cross claims under the Corporations Act, the ASIC Act and the apportionment legislation in NSW. The matter was the subject of an appeal to the Full Court of the Federal Court of Australia. The appeal was unanimously dismissed.
- Appearing for the applicant in representative proceeding in the Federal Court of Australia. The matter involves issues surrounding the rating of a synthetic collateralised debt obligation (SCDO's), similar to the issues raised in the *Corowa Shire Council* matter. The matter has resolved.
- Briefed as senior counsel for a respondent to a large representative proceeding in the Federal Court of Australia (*Gray v Cash Converters Intl. Ltd. & Ors*). The matter ran through several interlocutory steps and was settled in 2015.
- Appearing as junior counsel for the applicants in the matter of *Wingecarribee Shire Council & ors v Lehman Bros (Aust) Pty Ltd (in liq) & Ors*. Successfully appeared before the Full Court of the Federal Court in having the Deed of Company Arrangement set aside. The decision was successfully defended in the High Court of Australia.
- Appearing as senior counsel in a complex class action in the Supreme Court of NSW for the plaintiff involving claim against the trustee of a debenture issuer seeking to recover damages for losses suffered by the debenture holders consequent on the failure of the issuer (*Creighton v Australian Executor Trustees Ltd*).
- Appearing as senior counsel for a financial advisor business as plaintiff in a claim against directors of an entity alleging breach of directors' duty resulting in loss of

investment commissions to the advisor. A claim is also being made against the insurer of the directors.

Common law & insurance

Throughout his career Andrew has advised and appeared in a diversity of common law and insurance cases. His recent and notable work includes the following

- Appearing in a long running insurance dispute in the District Court of NSW. The matter involved issues of policy construction, non-disclosure, estoppel, misrepresentation and breach of the duty of good faith. The matter subsequently went to the NSW Court of Appeal.
- Appearing for the plaintiffs seeking to recover indemnity under a directors and officers insurance policy arising from his attendance at an ICAC inquiry: *Poole v Chubb Insurance Company of Australia Pty Ltd*.
- Appearing for Law Cover in claims against solicitors in both the Supreme Court of New South Wales and the District Court of New South Wales
- Appearing for syndicates of "top up" insurers in professional liability matters, including a recent case in Western Australia and the Court of Appeal of Western Australia involving the affairs of the late Lang Hancock (*The Hancock Family Memorial Foundation Ltd v Fieldhouse*).

Andrew also has experience in appearing for Commonwealth Government Departments and agencies in large, high profile litigation. He has acted for the Commonwealth in claims brought against it by servicemen and servicewomen from all branches of the ADF, including appearing for the Commonwealth over a number of years in the HMAS Melbourne and HMAS Voyager litigation.

Trade practices

Andrew has appeared in several comparative advertising cases for a large international pharmaceutical company in the Federal Court both as counsel for applicant and respondent. His most recent case, *GlaxoSmithKline Australia Pty Ltd v Reckitt Benckiser (Australia) Pty Ltd* is reserved.

Andrew is acted for Dominos Pizza in a dispute with Precision Tracking Pty Ltd in relation to the intellectual property rights of its pizza delivery tracking system. The case, presently before the Federal Court, involves patent, confidential information and Australian Consumer law issues

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Inquests, Commissions and Inquiries

Andrew accepts briefs to appear in Royal Commissions, inquests in inquiries and has experience appearing for a diversity of interests. His recent and notable work includes:

- Appearing for the Sydney Cricket Ground Trust at the inquest into the death of Philip Hughes.
- Appearing for statutory authorities such as Roads and Maritime Services (NSW) (formerly the Roads and Traffic Authority) in Coronial inquests.
- Appearing in many coronial inquests, both in NSW and interstate, in respect to aviation matters where he has appeared for Air Services Australia and the Civil Aviation Safety Authority.
- Appearing at ICAC for persons giving evidence at public and private hearings
- Appearing in the Victorian Royal Commission into the management of Police Informants

Alternative Dispute Resolution

Andrew has recently appeared in a private arbitration involving two high profile bodies. The matter involved construction of the relevant contractual documents between the parties.

Andrew is qualified as NSW Bar approved Arbitrator. He has also been retained to act as mediator in a diversity of commercial disputes.

Andrew also accepts briefs to make expert determinations, most recently in respect to a significant lease dispute between the Commonwealth of Australia (as Tenant) and another entity (as Landlord) in respect to a Departmental office building in Canberra.

Employment Law

Andrew is acting for a large inter-dealing broking firm in a dispute with a competitor about the recruitment and retention of brokers. The parties are involved in three sets of proceedings in the Commercial List of the NSW Supreme Court. The proceedings involve restraints of trade, contractual construction and allegations of breach of statutory and fiduciary duties.

Sports law

Andrew is extensively experienced in sports law and is a member of the Australian Sports Lawyers Association. He has appeared in state and federal courts, as well as domestic tribunals, in matters relating to rugby league and soccer. His recent and notable work includes:

- Appearing at the NRL Anti-Doping Tribunal in 2016 for the hearing as to the penalty to be imposed on two Cronulla players. He acted *pro bono* for an up and coming NRL player in the NSWRL Anti-doping tribunal in 2019.
- Appointed by the Rugby League Professionals' Association as senior counsel for players from an NRL club to provide advice to them in respect to the ongoing investigation by the Australian Sports Anti-Doping Authority (ASADA) into drugs in rugby league in 2013.
- Appearing for an A-League football club in an arbitration relating to a dispute between it, a player and his manager.
- Acting for NRL players in respect to contractual disputes and at the NRL judiciary.

In 2016 Andrew was appointed as a member of the Football Federation Australia Football Independent Banning Appeals Committee (FIBAC). FIBAC hears and determines appeals by spectators who have been the subject of banning notices preventing them from attending FFA matches or having involvement with football generally.

In 2017 Andrew was appointed to the National Basketball League's Tribunal and sits as a single member and also as a member of the full member tribunal as required.

In 2019 Andrew was appointed the Chair of the NRL Player Agent Accreditation Board.

Other

Andrew has been a member of the Australian Army Legal Corps (AALC) since 2016 when he was commissioned as a major. He advises his chain of command, provides legal advice to serving members and appears at commissions of inquiry or in disciplinary matters.

Andrew is a member of the North Bondi RSL Sub-Branch and was appointed Hon. Secretary of the sub-branch in 2018. The sub-branch acts to assist veterans and serving ADF members.

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Andrew is a Senior Member (Part-Time) of the NSW Civil and Administrative Tribunal (NCAT), having been appointed in 2014. Andrew sits mostly on the Appeal Panel of the Tribunal and is assigned to the Consumer and Commercial Division and the Occupational Division.

Previous employment history

- Clayton Utz, Solicitors, Sydney 1987-1990
- Freehill Hollingdale & Page, Solicitors, Sydney 1990-1991
- Linklaters & Paines, Solicitors, London 1991-1993
- Freehill Hollingdale & Page, Solicitors, Sydney 1993-1996