

PENELOPE ABDIEL

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Summary

Penelope's primary practice areas are general commercial litigation, financial services law, corporations' law, competition and consumer law, public law and equity. 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 antitrust matters, including as counsel in final hearings.

Admissions

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

Academics and Qualifications

Bachelor of Laws and GDLP, Australian National University, 2008 (*Student Editor, ANU Law Review; recipient of collegiate Senior Residential Scholarship in 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 and Antitrust Litigation), Scott + Scott LLP, NYC |
| 2008 | Paralegal, DLA Piper, Canberra, ACT |
| 2007 | Summer Clerk, Attorney-General's Department, Commonwealth Government, Canberra ACT |
| 2006-2007 | Executive Research Assistant to the Director, Australian Institute of Criminology |
| 2005-2006 | Research Assistant to Prof. Brian Galligan, editing the <i>Oxford Companion to Australian Politics</i> (2007) |

Publications and Volunteer Work

- 'Section 1041A: Market manipulation and the sole and dominant purpose test, revisited', NSW Bar Association Journal, *Bar News*, Spring 2018.
- Regularly briefed by Refugee and Advisory Casework Service for asylum seeker applicants.

Notable Cases (ongoing and concluded)

Corporations Act and Financial Services Matters

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| ASIC investigation into two AFSL holders regarding matters arising from the Financial Services Royal Commission (ongoing) | For ASIC – investigations, preparing civil penalty proceedings, conducting s. 19 examinations | <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) in the matter of Allied Resources Partners Pty Ltd</i> [2017] FCA 1451 | Shareholder oppression and winding up – for defendants | <i>Led by Christopher Withers</i> |

Consumer Matters and Class Actions

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| <i>Bilijana Capic v Ford Motor Company of Australia</i> , Federal Court of Australia (ongoing) | 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 – for defendant (interlocutory only) | <i>Unled</i> |

General Commercial, Equity and Common Law Matters

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| <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> |
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| <i>Patrick Wong and Anor v Willem Van Vlymen and Others</i> [2018] NSWSC 312 | Hearing on the working out of orders following a judgment for specific performance – for defendant | <i>Led by Robert Newlinds SC and Darrell Barnett</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</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>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> |
| <i>Face & Body Clinic Australia Pty Ltd v Leigh Turtle</i> , Local Court of NSW – final hearing (settled pre-judgment) | Breach of contract, misleading and deceptive conduct – for the defendant | <i>Unled</i> |

Construction and Infrastructure

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| <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> |

Public Law Matters

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| <i>B&E Poultry & Ors v Chief Commissioner of State Revenue</i> , NSW Supreme Court (settled) | Payroll tax – for the Crown | <i>Led by Rashelle Seiden SC, Tiffany Wong</i> |
| <i>Millennium Hi-Tech Group Pty Ltd v Chief Commissioner of State Revenue</i> , NSW Supreme Court (settled) | Payroll tax – 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

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 (Ross et al v. American Express Co; Ross et al v. Bank of America), United States District Court (SDNY) – final hearing

Competition Law / antitrust, 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), United States 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)

Competition law / antitrust, horizontal price fixing of out-of-network services

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

In re: Aetna UCR Litigation, United States District Court (DNJ) (settled)

In re Cigna UCR Litigation, United States District Court (DNJ) (settled)

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

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

Scott + Scott LLP (depositions, interlocutory motions)

In re: Skelaxin (Metaxalone) Antitrust Litigation, United States District Court (E.D.Tenn)

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

Competition / antitrust, 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)