



Matt Karam

NEW/CHAMBERS

LLB with First Class Honours, Bachelor of Commerce
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Admitted to the legal profession	2003
Admitted as a barrister in NZ	2007
Admitted as a barrister in NSW	2014
Also entitled to practise in	All Australian jurisdictions (Commonwealth, State and Territory); New Zealand. Admitted to appear in Republic of Vanuatu

Principal areas of practice

Appellate	Equity and Trusts
Commercial law	Insolvency – corporate and personal
Contracts	Insurance Law
Corporations	Professional Liability
Defamation and Media	Sports Law

Previous professional experience

2007-2014: barrister at Southern Cross Chambers, Auckland.
Appellate, commercial, corporations, insolvency, defamation, sport.

2005-2007: associate at Dibbs Barker, Sydney.
Banking, commercial, corporations, insolvency.

Publications

- *Perils and pitfalls in the winding up insolvent trading trusts* – Presentation to Australian Restructuring Insolvency & Turnaround Association, Canberra, May 2018.
- *Warrants to liquidators to seize property removed prior to liquidation* (2015) 23 *Insol* LJ 45.
- *Appointment of Provisional Liquidators* (2006) 16 *JBFLP* 259.
- *Company charges under section 267 of the Corporations Act 2001* (2006) 17 *JBFLP* 1.

Professional memberships

New South Wales Bar Association
Australian Bar Association
ACT Bar Association
New Zealand Law Society
Commercial Law Association of Australia
Communications and Media Law Association
Australian and New Zealand Sports Law Association

Selected recent and reported cases

Appellate

- **McLennan v Meyer Vandenberg** [2020] ACTCA 35 (Burns and Mossop JJ and Robinson AJ). Led by M J Walsh SC. Counsel for successful respondent on appeal relating to extent of damages awarded in professional negligence action.
- **Findex Group Ltd v McKay** [2019] NSWCA 93 (Basten JA, Sackville AJA, Emmett AJA). Led by E A Cheeseman SC. Counsel for successful respondent on appeal from primary judgment relating to the use of documents seized pursuant to a search order.
- **Li v Wu** [2019] ACTCA 14 (Elkaim, Loukas-Karlsson and Rangiah JJ). Unled. Counsel for successful respondent on appeal from primary judgment permitting the respondent to bring a non-statutory derivative proceeding in the name of a company in liquidation.
- **Mujkic Family Company Pty Ltd v Clarke & Gee Pty Ltd** [2018] TASFC 4 (Blow CJ, Brett J and Marshall AJ). Unled. Counsel for appellant in successful appeal permitting a company formerly in liquidation to bring a claim for professional negligence against the former solicitors of its shareholders in carrying out instructions to terminate the winding up of the company under s 482 of the *Corporations Act 2001* (Cth) (Act).
- **ACN 052 469 164 Pty Ltd (in liq) v Newham** [2018] VUCA 30 (Court of Appeal of Republic of Vanuatu: Mansfield, Saksak, Aru, Wiltens JJ). Unled. Counsel for appellant in successful appeal to Vanuatu Court of Appeal relating to use of funds subject to a freezing order.
- **Wu v Li** [2017] FCA 500 (Rares J). Unled. Successful appeal from making of sequestration order where creditor's petition had expired under section 52(4) of the *Bankruptcy Act 1966* (Cth) and trial judge had incorrectly applied the slip rule to retrospectively extend its operation. Costs judgment: **Wu v Li (No 2)** [2017] FCA 501.
- **Sydney Recycling Park Pty Ltd v Cardinal Group Pty Ltd (in liq)** (2016) 93 NSWLR 251; (2016) 341 ALR 313; (2016) 315 FLR 276; (2016) 118 ACSR 15; [2016] NSWCA 329 (Bathurst CJ, Beazley P, Ward & Payne JJA, Bergin CJ in Eq). Led by M K Condon SC. Counsel for successful respondent on appeal against Supreme Court decision permitting leave to amend voidable transaction proceeding under s 588FF of the Act to include additional transactions after expiry of 3-year period from relation-back day.
- **Teat v Willcocks** [2014] 3 NZLR 129 (CA). Led by R B Stewart QC. Counsel for appellant in leading NZ Court of Appeal case regarding the necessity for consideration to support binding variations of contract.
- **Skids Programme Management Ltd v McNeill** [2013] 1 NZLR 1; (2012) 98 IPR 324. Unled. Counsel for successful appellant in leading NZ Court of Appeal case addressing restraint of trade provisions in franchise agreements, breach of confidence, and additional damages for flagrant breach of copyright.
- **Field v R (SC)** [2012] 3 NZLR 1. Led by H A Cull QC. Counsel for appellant in leading New Zealand authority regarding interpretation of provisions relating to bribery and corruption of Members of Parliament and Ministers of the Crown contained in Part VI of *Crimes Act 1961* (NZ).

Corporations and insolvency

- **Free v Ma** [2020] FCA 226 (Abraham J). Unled. Counsel for liquidator in successfully obtaining leave pursuant to s 58(3) of the *Bankruptcy Act 1966* (Cth) to commence proceedings in respect of provable debts in a bankrupt estate.
- **Dobrinski v Shepard (Trustee); in the matter of Slade (No 2)** [2020] FCA 197 (Flick J). Unled. Counsel for respondent bankruptcy trustee in successfully resisting claims of breach of duty by trustee in bankruptcy after 3-day trial.
- **In the matter of Cartwright Transport Pty Ltd** [2019] NSWSC 1367 (Gleeson JA). Unled. Successful application for winding up orders on just and equitable ground pursuant to s 461(1)(k) of the Act.
- **The President's Club Limited v Palmer Coolum Resort Pty Ltd** [2019] QSC 209 (Wilson J). Led by P J Dunning QC. Counsel for respondent in successfully opposing transfer of proceeding from Queensland Supreme Court to Federal Court pursuant to s 1337H of the Act and s 5 of the *Jurisdiction of Courts (Cross-vesting) Act 1987* (Cth).
- **Findex Australia Pty Ltd v McKay** [2019] FCA 335 (Stewart J). Unled. Application under s 500(2) of the Act for leave to proceed with a claim against company in voluntary liquidation.
- **In the matter of Tresdar Pty Ltd** [2019] NSWSC 179 (Rees J). Led by P S Braham SC. Successful application for delivery up of transfer of shares and related relief on finding of fraud and breach of trust by defendant director/shareholder after 4-day trial. Costs judgment (indemnity costs awarded): **Re Tresdar Pty Ltd (No 2)** [2019] NSWSC 544.
- **In the matter of Jagim Developments Pty Ltd** [2019] FCA (23 January 2019, Perry J). Unled. Successful application for urgent appointment of liquidators on just and equitable ground pursuant to s 461(1)(k) of the Act.
- **Palmer Leisure Coolum Pty Ltd v Magistrates Court of Queensland** [2019] QSC 8 (Ryan J). Led by Dr C Ward SC. Counsel for respondent on challenge to continuation of criminal prosecutions brought under s 631(1) of the Act. Under appeal.
- **Hayes, In the matter of Denham Constructions Pty Ltd (in liq)** [2018] FCA 2025 (Gleeson J). Unled. Counsel for liquidator on application for orders relating to attendance by proposed examinee of liquidator's public examination under s 596B of the Act.
- **In the matter of Forge Outcomes Pty Ltd** [2018] NSWSC (11 October 2018, Black J). Unled. Successful application for freezing orders relating to funds to be imminently transferred out of the jurisdiction.
- **Wu v Li** (2018) 181 ACTR 48; [2018] ACTSC 224 (McWilliam AsJ). Unled. Counsel for plaintiff on successful application pursuant to inherent jurisdiction of Court for leave to bring derivative proceeding by shareholder where company in liquidation.
- **In the matter of Legal Practice Management Group Pty Ltd** (2018) 125 ACSR 513; [2018] NSWSC 527 (Black J). Led by N C Hutley SC. Successful application for leave to bring derivative proceedings pursuant to s 237 of the Act and related claims.
- **In the matter of NTLV Pty Ltd (in liq)** [2018] FCA 1000 (Perram J). Unled. Successful application for termination of winding up of a corporate trustee under s 482(1) of the Act and discharge of receivers appointed over trust assets.
- **In the matter of NR Wollie Creek Pty Ltd** [2018] NSWSC (27 March 2018, Black J). Led by P S Braham SC. Urgent application for appointment of provisional liquidators of development company under s 472 of the Act.
- **In the matter of Legal Practice Management Group Pty Ltd & Ors** [2017] NSWSC 1500 (Black J). Led by NC Hutley SC. Successful application for interim leave to bring derivative proceedings pursuant to s 237 of the Act to preserve limitation period.
- **In the matter of DH International Pty Ltd (in liq); Challis v Hoffmann** (2017) 121 ACSR 585; [2017] NSWSC 870 (Gleeson JA). Led by P S Braham SC. Successful application for leave to bring derivative action relating to breach of directors' duties in Court's inherent jurisdiction.

- ***In the matter of Alford; Fuller Jr v Alford*** (2017) 252 FCR 168; [2017] FCA 782 (Perry J). Unled. Counsel for successful applicant in leading case relating to requirements for bankruptcy notices and creditors' petitions under *Bankruptcy Act 1966* (Cth).
- ***Dimarti v Dimarti; In the matter of Naro Investments Pty Ltd*** [2016] NSWSC 1887 (White J). Unled. Counsel for applicant in obtaining rectification of share register pursuant to section 175 of the Act, damages and related orders after 3-day trial.
- ***Victory Projects Pty Ltd v AAA Self Storage Pty Ltd*** [2016] NSWSC 1758 (Black J). Led by P S Braham SC. Counsel for defendants in successfully resisting claim of oppression under ss 232-233 and derivative action under s 237 of the Act.
- ***In the Matter of J A Westaway Pty Ltd*** [2016] NSWSC 868 (Black J). Unled. Counsel for applicant in successful application for personal costs award against liquidator on unreasonable conduct grounds.
- ***In the matter of Therma Truck Pty Ltd*** [2016] NSWSC 266 (Black J). Unled. Successfully opposing application for appointment of provisional liquidator under s 472(2) of the Act.
- ***In the matter of Cardinal Group Pty Ltd (in liq)*** (2015) 110 ACSR 175; [2015] NSWSC 1761 (Black J). Unled. Counsel for liquidator on successful application for leave to amend voidable transaction proceeding under s 588FF of the Act to include additional transactions despite expiry of 3-year period after relation-back day.
- ***In the matter of Metal Storm Pty Ltd (subject to Deed of Company Arrangement)*** [2015] NSWSC 1699 (Black J). Unled. Counsel for Court-appointed receivers on successful application for specified remuneration without reference to Registrar's assessment.
- ***In the matter of J A Westaway Pty Ltd (in liq)*** [2015] NSWSC (9 October 2015, Black J). Unled. Counsel for plaintiff on successful injunction application to restrain final meeting of creditors convened by liquidator pursuant to s 509 of the Act.
- ***In the matter of Metal Storm Pty Ltd (subject to Deed of Company Arrangement)*** [2015] NSWSC 1698 (Black J). Unled. Counsel for receivers on successful application for approval of asset sale agreement brought pursuant to s 424 of the Act.
- ***In the matter of Ikon Group Ltd*** (2015) 107 ACSR 146; [2015] NSWSC 980 (Brereton J). Led by M K Condon SC. Counsel for plaintiff on applications for various interlocutory and final relief relating to Australian arm of multi-national group of foreign exchange companies.
- ***In the matter of Steel Tigers Pty Ltd (in liq)*** [2014] NSWSC 1748 (Black J). Unled. Counsel for liquidator on successful application for issue of warrant pursuant to s 530C of the Act to seize property removed from company shortly prior to liquidation and preservation of property orders pursuant to r 25.3 UCPR (NSW).

Commercial / General

- ***Findex Group Ltd v McKay*** [2019] FCA 2129 (Stewart J). Unled. Counsel for respondent in successfully resisting claim for breach of restraint of trade provision in shareholders agreement after 5-day trial.
- ***Cohen v Double Bay Bowling Club*** [2019] NSWSC 1625 (Henry J). Unled. Counsel for co-respondent in successfully resisting application for orders that respondents were guilty of criminal contempt.
- ***Young v Racing NSW & Ors*** [2019] NSWDC 662 (Gibson DCJ). Unled. Counsel for co-respondent in successfully seeking summary dismissal of defamation proceedings.
- ***Findex Group Ltd v iiNet Ltd*** [2019] NSWSC 1198 (Ward CJ in Eq). Unled. Counsel for successful respondent on application for release of *Harman* undertaking relating to use of documents seized under search orders.
- ***Dobrinski v Shepard (Trustee); In the matter of Slade*** [2019] FCA 843 (Flick J). Unled. Counsel for respondent on application under rule 9.63 of the *Federal Court Rules 2011* (Cth) for the appointment of litigation representative.
- ***Kavanagh v Racing NSW*** [2019] NSWSC 40 (Fagan J). Unled. Counsel for plaintiff on successful review of decision of Racing Appeals Tribunal obtaining orders quashing decision that the plaintiff horse trainer was liable for administering cobalt for the purpose of affecting performance in a race and penalties imposed for various alleged cobalt administration breaches.
- ***McLennan v Clapham*** [2019] ACTSC 1 (McWilliam AsJ). Unled. Counsel for defendant law firm in successfully resisting claim in negligence for over \$1.8m (37k awarded) after 3-day trial and establishing that damages for distress and disappointment are not available for negligence claims in the ACT unless the plaintiff can establish that they suffer from a recognised psychiatric illness.
- ***Findex Group Ltd v iiNet Ltd*** [2018] NSWSC 1567 (Ward CJ in Eq). Led by A J Sullivan QC. Counsel for successful respondent on application relating to use of documents seized under search orders.
- ***Australian Conservation Services Pty Ltd v Liladel Holdings Pty Ltd (No 2)*** [2017] ACTSC 170 (Mossop J). Unled. Successful application for order for costs payable on solicitor-client basis and to be payable by director of plaintiff in his personal capacity on a joint and several basis.
- ***Maviglia Investments Pty Ltd v BKSL Investments Pty Ltd (in liq)*** [2017] NSWSC 490 (Slattery J). Unled. Counsel for successful respondent in resisting application for relief against forfeiture and restraint of mortgagee sale.
- ***Australian Conservation Services Pty Ltd v Liladel Holdings Pty Ltd*** (2017) 12 ACTLR 124; (2017) 319 FLR 401; [2017] ACTSC 162 (Mossop J). Unled. Successful opposition to application seeking declarations that appointment of trustee was invalid.
- ***Flexfleet Pty Ltd v Total Group Pty Ltd*** [2017] NSWSC (28/4/17, Slattery J). Unled. Successful application for urgent freezing orders to quarantine proceeds of sale.
- ***Jones v University of Canberra*** (2016) 311 FLR 1; [2016] ACTSC 78; [2016] ACTSC 99 (Refshauge J). Unled. Counsel for board of directors of ACT Brumbies in dispute with former CEO including in relation to application to dissolve injunction obtained under *Public Interest Disclosures Act 2012* (ACT).
- ***Hussey v Ramsay Healthcare Australia Pty Ltd*** [2015] NSWSC 1769 (McCallum J). Unled. Defamation – imputations – particulars of aggravated damages.
- ***Slater v Blomfield*** [2014] 3 NZLR 835 (HC). Unled. Counsel for respondent on interlocutory appeal in defamation action concerning the issue of whether bloggers are entitled to the protection afforded to journalists from disclosing identities of sources pursuant to s 68 *Evidence Act 2006* (NZ) (precursor to s 126 *Evidence Act 1995* (Cth) & s 126J *Evidence Act 1995* (NSW)).