

NICHOLAS CAREY

Juris Doctor (Distinction) University of New South Wales

Bachelor of Music (Honours Class 1) Sydney Conservatorium of Music, University of Sydney

T +61 2 9151 2034

F +61 2 9233 1850

E carey@newchambers.com.au

in www.linkedin.com/in/nicholasjamescarey

Admitted to the legal profession
2020

Admitted as a barrister in NSW
2024

Also entitled to practise in
All Australian jurisdictions (Commonwealth,
State and Territory)

Nicholas maintains a broad practice in commercial and public law. Prior to being called to the Bar, he was an associate to the Hon Justice Michelle Gordon AC of the High Court of Australia, an associate to the Hon Justice Michael Lee of the Federal Court of Australia, and a solicitor at Herbert Smith Freehills.

Since coming to the Bar, Nicholas' experience has included financial services regulatory proceedings, corporate insolvency, contract, real property, criminal appeals, and judicial review and merits review proceedings. He has acted for individuals, insolvency practitioners, small businesses and large corporates in a variety of sectors, as well as for regulators and government agencies.

Nicholas appears led at first instance and on appeal in a number of superior and appellate courts, principally in the Federal Court of Australia and Supreme Court of New South Wales. He has also appeared unled in interlocutory hearings in the Federal Court and Supreme Court of New South Wales, in multi-day liquidators' examinations in the Federal Court, and in final hearings in the Local Court of New South Wales and the Victorian Civil and Administrative Tribunal.

Nicholas graduated with a Juris Doctor (Distinction) from the University of New South Wales.

Before studying law, Nicholas worked for a coffee trading company as a green coffee buyer and operations manager. Prior to that, he was a professional clarinetist and clarinet teacher. He also holds a Bachelor of Music (Performance) with First Class Honours from the Sydney Conservatorium of Music.

PROFESSIONAL EXPERIENCE

2023 – 2024: Solicitor, Herbert Smith Freehills

2022 – 2023: Senior Associate to the Hon Justice Michelle Gordon AC, High Court of Australia

2021: Solicitor, Herbert Smith Freehills

2020 – 2021: Associate to the Hon Justice Michael Lee, Federal Court of Australia

PROFESSIONAL MEMBERSHIPS

- New South Wales Bar Association
- Australian Bar Association

PUBLICATIONS

2021: Nicholas Carey, 'Presumptions upon Presumptions: Problems with the Threshold of Materiality' (2021) 44(2) *University of New South Wales Law Journal* 548.

SELECTED CASES

As Counsel

Australian Securities and Investments Commission v Macquarie Securities (Australia) Ltd (2025/00184008) – (Ongoing), Supreme Court of New South Wales, civil penalty proceedings in connection with misreporting of short sales and regulatory data, for ASIC. Led by Luke Livingston SC and Amy Reid.

Fogg v Schneeberger (NSD954/2025) – (Ongoing), Federal Court of Australia, shareholder oppression, for individual respondents. Led by Ben Katekar SC.

Commonwealth Bank of Australia v Qassrani (2024/00398628) – (Ongoing), Supreme Court of New South Wales, possession of land, for CBA. Unled.

Blackbird First Mortgage Corporation Pty Ltd v Anderson (2022/160026) – (Ongoing), Supreme Court of New South Wales, contract, commercial loans, guarantees and indemnities, for Blackbird. Unled.

Blackbird First Mortgage Corporation Pty Ltd v CAM Engineering and Construction Pty Ltd [2025] NSWSC 1146 – Possession of land, loan agreement, mortgage, guarantee, leave to file cross-claim against plaintiff and defendant companies' receivers out of time, for Blackbird. Unled.

Liquidators' examinations (September 2025) – Federal Court of Australia, multi-day liquidators' examinations in relation to examinable affairs of group of civil contractor companies, for liquidators. Unled.

M.&S. Investments Pty Ltd v Affordable Demolitions and Excavations Pty Ltd [2025] NSWCCA 148 – New South Wales Court of Criminal Appeal, leave to appeal decision to stay private prosecutions commenced under *Protection of the Environment Operations Act 1997* (NSW) as abuse of process, application of *Legal Profession Uniform Conduct (Barristers) Rules 2015* (NSW), r 101(e), for Carbone Respondents. Led by Arjun Chhabra.

National Disability Insurance Agency v Darby (2024/5571) – Administrative Review Tribunal, merits review, access to National Disability Insurance Scheme, for NDIA. Unled (dismissed for non-appearance).

Albarran, in his capacity as liquidator of State Road Constructions (in liquidation) v Ferrazzano (No 3) [2025] FCA 1026 – Costs, variation of costs orders made following *inter partes* return hearing of *ex parte* freezing orders, for Liquidators. Unled.

***Albarran in his capacity as liquidator of State Road Constructions (in liquidation) v Ferrazzano* [2025] FCA 730** – *inter partes* return hearing of *ex parte* freezing and ancillary orders in relation to misappropriation of \$5.2 million in company assets, delivery up of company property, for Liquidators. Unled.

***Albarran in his capacity as administrator of State Road Constructions (Administrators Appointed) v Ferrazzano (No 2)* [2025] FCA 837** – *ex parte* application, freezing and ancillary orders and search and seizure warrants in relation to misappropriation of \$6.6 million in company assets, for Liquidators. Unled.

***Chamoun v A&J Trading International Pty Ltd* (Victorian Civil and Administrative Tribunal BP209/2023, 9 April 2025, unpublished)** – home building dispute, claims under *Australian Consumer Law*, for homeowner. Unled.

***Keenan, in the matter of Prospero Markets Pty Ltd (In liq)* [2025] FCA 390** – application for directions under s 90-15 of the *Insolvency Practice Schedule (Corporations)* and judicial advice under s 63 of the *Trustee Act 1925* (NSW), for Court-appointed contradictor. Led by Emma Beechey.

***Robert Low Builder Pty Ltd v Pegus* (Local Court of NSW 2023/00210021, 22 November 2024, unpublished)** – home building dispute, contract, quantum meruit, claims under *Home Building Act 1989* (NSW) and *Design and Building Practitioners Act 2020* (NSW), for homeowners. Unled.

***JBS Australia Pty Ltd v SafeWork NSW* [2024] NSWCCA 209** – New South Wales Court of Criminal Appeal, work health and safety, appeal against conviction under s 32 of the *Work Health and Safety Act 2011* (NSW) and sentence, for JBS Australia Pty Ltd. Led by Arthur Moses SC and Phillip Sharp.

***In the matter of Balamara Resources Ltd* [2024] NSWSC 1309** – Corporations, winding up, just and equitable ground, for shareholder Bright Agile Pty Ltd. Led by Emma Beechey.

***Evangelakos v UPG 318 Pty Ltd* [2024] NSWSC 1179** – Equity, specific performance, sale of land, guarantee and indemnity, for Mr and Mrs Evangelakos. Led by Anthony McInerney SC and Miles Condon SC.

***Kisun v New Zealand* [2024] FCAFC 118** – Full Federal Court Appeal, extradition, appeal against order for extradition to New Zealand under s 34(2) of the *Extradition Act 1988* (Cth), for Mr Kisun. Led by James Sheller SC.

***CEO of AUSTRAC v SkyCity Adelaide Pty Ltd* [2024] FCA 664** – Corporations, regulatory proceeding, agreed contraventions of and civil penalties under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), for AUSTRAC. Led by Catherine Gleeson SC and Daniel Tynan.

As a solicitor

***Australasian Centre for Corporate Responsibility v Santos Ltd* (NSD858/2021)** – misleading and deceptive conduct, climate change, claims of “greenwashing” market disclosures in relation to natural gas, hydrogen and greenhouse gas emission reduction targets, for Santos.

***Jubilee Australia Research Centre Ltd v Export Finance and Insurance Corporation* (NSD724/2023)** – alleged contraventions of annual reporting requirements under *Environment*

Protection and Biodiversity Conservation Act 1999 (Cth), for Northern Australia Infrastructure Facility (‘NAIF’) and current and former Chairs of NAIF Board.

Australian Securities and Investments Commission v AMP Superannuation Ltd (VID280/2021) – financial services, civil penalty proceeding in relation to fee-for-no-service conduct, for AMP entities. Subsequently decided as *Australian Securities and Investments Commission v AMP Superannuation Limited* (2023) 168 ACSR 206.

Kayler Thomson v Colonial First State Investments Ltd (VID1313/2018 see, eg, (2021) 153 ACSR 663 – joint interest privilege) – financial services, class action, claims of breach of superannuation trustee duties, for Colonial, Avanteos and Commonwealth Bank of Australia.

Australian Securities and Investments Commission v Westpac Banking Corporation (NSD386/2021) – financial services, insider trading, unconscionable conduct, acting for current and former employee witnesses of an Australian bank. Subsequently decided as *Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing)* [2024] FCA 52.

Australian Licensed Aircraft Engineers Association v Qantas Airways Ltd (2022) 314 IR 231 – industrial law, Full Court of the Federal Court appeal, challenge to stand down provisions invoked due to COVID, for Qantas and Jetstar.

Advising global technology company in administrative law regulatory dispute concerning development of online industry codes and standards under the *Online Safety Act 2021* (Cth).

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Appellate	Contracts	Shareholder class actions
Banking and Financial Services	Corporations and Securities	Superannuation
Bankruptcy and Insolvency	Environment and Planning	Trade Practices
Class Actions	Insurance and Reinsurance	
Competition and Consumer	Real Property	

EQUITY

Appellate	Property	Trusts
-----------	----------	--------

COMMON LAW

Appellate	Insurance and Reinsurance	Medical Negligence
Class Actions	Defamation	Product Liability

Professional Indemnity

Professional Liability

INQUESTS AND INQUIRIES

Commissions of Inquiry

PUBLIC AND ADMINISTRATIVE LAW

Appellate

Judicial Review and Administrative Law

Public Law

Constitutional Law

CRIMINAL

Appellate

Proceeds of Crime

White Collar and corporate crime

Fraud