



## Philip Santucci

**NEW/CHAMBERS**

BCL (Oxon), LLB (UTS), BA (Syd)

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Admitted to the legal profession	2010
Admitted as a barrister in NSW	2016
Also entitled to practise in	All Australian jurisdictions (Commonwealth, State and Territory)

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### Principal areas of practice

Administrative and Constitutional Law	Corporations and Securities
Arbitration	Equity
Commercial law	Insolvency
Competition and Consumer	Insurance and reinsurance
Conflict of Laws	International Law

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### Previous professional experience

Philip accepts briefs in a wide range of areas across commercial and public law. Before coming to the bar, Philip was a solicitor at Freshfields in London and Paris where he worked on international arbitrations including investor-state disputes. After obtaining a masters from the University of Oxford, he returned to work in Sydney as a senior associate at a boutique litigation practice.

### Professional profiles

<https://au.linkedin.com/in/philipsantucci>

- **General Commercial**

- *Berry v Innovia Security Pty Ltd (formerly Securrency)* [2017] FCA 1546, led by C S Ward SC termination of agency agreement for introduction of polymer banknotes in Nigeria, misleading and deceptive conduct, fraud, estoppel, evidence taken in London under Foreign Evidence Act 1994 (Cth)
  - *CCL(formerly Securrency) v Berry* [2019] FCAFC 81 appeal led by C S Ward SC
  - *Berry v CCL* [2019] HCATrans 204 led by J T Gleeson SC on successful special leave application.
- *Saab Aircraft Leasing v QBE* (2016) 93 NSWLR 166 (NSWCA) led by D L Williams SC, C S Ward SC, section 45 of the Insurance Contracts Act.
  - [2017] HCATrans 057 unsuccessful special leave application
- *Advice for a telecommunications company*, led by G Rich SC wrongful termination
- *Transaction Network Services v Optus* (NSWSC) led by I Pike SC trespass claim, telecommunications network.

- **Insolvency/Corporations Act**

- *In the matter of Community Work* (NSWSC) led by A G Bell SC, E Beechey voidable transactions, breach of directors duties.
- *In the matter of Community Work* (FCA) 7 days of liquidator's examinations of former directors of a charity (unled).
- *In the matter of DX Solutions* (FCA) led by A Leopold SC injunction application to restrain breach of director's duties, misuse of confidential information, intense work pleading case for abridged timetable.
- *In the matter of ACN 152 546 453 Pty Ltd (formerly Hemisphere Technologies Pty Ltd)* (in liq) [2018] NSWSC 1224 acting for special purpose liquidator, approval of funding deed. Unled liquidator's examinations including examination of general liquidators (unled).
  - [2020] NSWSC 270 application to expand SPL's powers and extend time for bringing of claims under s588FF (unled)
- *In the matter of Epic Entertainment (in liquidation)* (NSWSC) 3 days of liquidator's examinations of directors of collapsed tour operator for Nelly, Lupe Fiasco (unled)
- *Re Impress Colour Pty Ltd* (NSWSC) oppression suit (unled)
- *In the matter of Denham Constructions* [2016] NSWSC 948, and 1426 led by B Katekar insolvency, application to substitute a creditor and wind-up
- *Lavenburg Pty Ltd v Wentworth Global Capital Finance* (NSWSC) led by S Robertson misleading and deceptive conduct, managed investment scheme.

- **Equity / Real Property**

- *Lyn v Cardinal* (NSWSC) led by A G Bell SC acting for trustee of trust and owner of real property, continuation of interlocutory injunction to restrain registration of subsequent purchaser, allegations of fraud against vendor. Numerous unled appearances on contested freezing order applications in respect of dissipated proceeds of sale.
- *Raynish v Shine* (NSWSC) led by I Pike SC unconscionable conduct, undue influence, constructive trust..
- *Brown v Gibbs* (NSWSC) specific performance of loan and mortgage agreement, equitable estoppel(unled).
- *Perpetual Trustee Company* [2016] NSWSC 1273 led by B A Coles QC, S Robertson judicial advice, charitable will trust.
- *Baris v H K Arista Investments ATF Arista Family Trust* (NSWSC), acting for beneficiary of trust, urgent injunction to restrain proceeds of sale of real property sold for improper purpose (unled).

- **Construction/ Security of Payment Act**

- *Southern Han Breakfast Point v Lewence Construction Pty Ltd* (2016) 260 CLR 340 led by S Robertson, administrative law, statutory construction, High Court's first consideration of the *Building and Construction Industry Security of Payment Act 1999* (NSW)
- *Shade Systems v Probuild Constructions Pty Ltd (No 2)* (2016) 344 ALR 355; [2016] NSWCA 379 (before a bench of five), led by S Robertson, s 69 Supreme Court Act, jurisdiction to quash adjudication under Security of Payment Act for non-jurisdictional error of law on the face of the record
- *Cockram v Fulton Hogan* (2018) 97 NSWLR 773 [2018] NSWCA 107 led by S Robertson, failure of adjudicator under Security of Payment Act to apply contract, absence of reasons.
- *Ottoway Engineering v Pooncarie*, (NSWSC) led by M Christie SC acting for principal in construction dispute, allegations of implied duty to award extension of time, prevention.
- *Probuild Constructions v DDI Group Pty Ltd* (2017) 95 NSWLR 82; [2017] NSWCA 151, led by S Robertson judicial review, procedural fairness, *obiter* in respect of prevention principle

**Private International Law**

- *Parnell Manufacturing v Lonza* [\[2017\] NSWSC 562](#) led by C S Ward SC anti-suit injunction against proceedings in Delaware, resisting stay on *forum non conveniens* grounds, and *Codelfa* argument regarding use of surrounding circumstances to construe jurisdiction clause. Subsequent appeal filed but settled before argument.
- *Nyunt v First Property* (NSWCA) led by C S Ward SC appeal against registration of Singapore default judgment. Unled application to stay appeal pending application to set aside judgment in Singapore
- *Hock v BPH* [\[2019\] NSWDC 559](#) application to stay proceedings in favour of Western Australia as natural forum, WA exclusive jurisdiction clause (unled)
- *Swedish Board for Study Support v Seidevall* (NSWLC) advice on justiciability of claim by foreign governmental authority (unled)

**Public Law**

- *Zistis v Zistis* (2018) 97 NSWLR 782 constitutional law, successfully argued federal judicial power conferred on NCAT which was not a Court and had no power to hear disputes between residents of different States, Residential Tenancies Act read down and Supreme Court held to have jurisdiction to grant vacant possession (unled against NSW Attorney-General intervening).
- *Saini v Royal Australia and New Zealand College of Radiologists* (FCA) led by A Moses SC, judicial review of determination of private body, justiciability, consideration of applicability of English *Datafin* approach to common law judicial review.
- *DFP16 v Minister for Immigration and Border Protection* [\[2018\] FCA 1901](#), successful appeal from Federal Circuit Court, jurisdictional error in assessment of refugee application (unled).
- Numerous matters in State tribunals contesting jurisdiction to hear claims against a telecommunications company (unled).
- *Wei v Croydon Park Apartments* [\[2018\] NSWSC 20](#) led by J Hyde resisting appeal from NCAT.