

Bernice Ng

Barrister

Eighth Floor Selborne Chambers
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Admissions

May 2017	Barrister , New South Wales Supreme Court and High Court of Australia
May 2011	Solicitor , High Court of Australia
Nov 2010	Solicitor , New South Wales
Jun 2005	Barrister and solicitor , High Court of New Zealand

Principal areas of practice

- Commercial Law
- Corporations Law
- Class actions
- Equity
- Insolvency and Bankruptcy
- Professional liability
- Trade practices & Competition law
- Schemes of Arrangement

Education and Qualifications

Jan 2012	Insolvency Practitioners Association of Australia (now known as the Australian Restructuring and Insolvency & Turnaround Association) Insolvency Education Programme (Master Level course), Queensland University of Technology
Sep 2010	University College London Master of Laws (with Distinction)
Mar 2005	University of Auckland Bachelor of Laws (with Honours) Bachelor of Commerce

Professional experience

Sep 2019 to present	Eight Selborne Chambers, Barrister
May 2017 to Aug 2019	Eleven Wentworth Chambers, Barrister
Oct 2010 to Apr 2017	Baker McKenzie , Senior Associate, Dispute Resolution

Jan 2007 to Sep 2009	Bell Gully , Solicitor, Litigation
Jan 2005 to Dec 2006	Ministry of Justice , Clerk to the Rules Committee and Judges' Clerk to Justice W D Baragwanath
Mar 2003 to Dec 2008	University of Auckland , Tutor in contract, equity and law and society
Mar 2003 to Dec 2004	New Zealand Legal Research Foundation , Assistant to the Editor of the New Zealand Law Review

Selected matters

As junior counsel (led)

- *In the matters of Boart Longyear Limited* [2021] NSWSC 982 (led by Ian Jackman SC)

Application for orders to convene meetings of creditors to consider two interdependent creditors' schemes of arrangement, heard together with a separate application to convene a meeting of members to consider a members' scheme of arrangement.
- *Arrium Limited (in liq)* et al (led by Philip Crutchfield QC, Michael Borsky QC, Patrick Holmes, Daniel Snyder; and with Dominic Delaney)

Allegations of insolvent trading against the former directors of Arrium Limited heard together with two other proceedings brought by lenders of Arrium Limited against the former directors of subsidiaries of Arrium Limited (in liq). The insolvent trading proceeding settled during the hearing.
- *ASIC v GetSwift Limited and others* (led by Jason Potts SC)

Appearing for the non-executive director in respect of alleged contraventions of the *Corporations Act* 2001 (Cth). Awaiting judgment on liability.
- *In the matter of Courtenay House Capital Trading Group Pty Limited (in liquidation) and Courtenay House Pty Limited (in liquidation)* [2019] NSWSC 1113 (led by Ian Pike SC)

Application for directions in relation to unregistered managed investment scheme; issues as to trust law.
- *Martin v Norton Rose Fulbright Australia* [2019] FCA 1101 (led by Peter Braham SC)

Application for leave to appeal from an interlocutory decision regarding claims for legal professional privilege.

- *DIF III Global Co-Investment Fund LP and Anor v Babcock & Brown International Pty Ltd and Ors* [2019] NSWSC 527 (led by Ian Jackman SC; Robert Glasson)

Proceedings concerning breach of statutory misleading and deceptive conduct, negligence, breach of contract, breach of fiduciary duty and whether those claims were subject to an indemnity under the relevant policies of insurance.

- *Re 1st Fleet Pty Ltd (in liquidation); Commonwealth (Department of Jobs and Small Business) v Riad Tayeh and David Solomons as joint and several liquidators of the 1st Fleet Group of Companies* [2019] NSWSC 6 (led by Victor Kerr SC)

Application under s 70-90 or 90-15 of Schedule 2 – *Insolvency Practice Schedule (Corporations) 2016* of the *Corporations Act 2001* (Cth).

- *Talifero v Asbestos Injuries Compensation Fund Limited as Trustee for the Asbestos Injuries Compensation Fund* [2018] NSWCA 227 (led by Ian Jackman SC)

Appeal brought by the intervener in respect of judicial advice given pursuant to s 55 of the *James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 (NSW)*.

- *Targus Group (UK) Ltd v Targus Australia Pty Limited and Others* [2018] NSWSC 1171 (led by Kate Morgan SC)

Interlocutory injunction to restrain the 51% shareholder from proposing a resolution for the appointment of additional directors and voting on those resolutions.

- *Chung-Yi Pty Ltd and Ors v Chang* [2018] NSWSC 1112 (led by Alec Leopold SC and Christian Bova)

Breach of fiduciary duty, breach of common law and statutory directors' duties, misappropriation of funds from the plaintiff company and individuals; cross claims regarding oppression and estoppel.

- *Asbestos Injuries Compensation Fund Limited as Trustee for the Asbestos Injuries Compensation Fund* [2018] NSWSC 589 (led by Ian Jackman SC)

Application for judicial advice pursuant to s 55 of the *James Hardie Former Subsidiaries (Winding up and Administration) Act 2005 (NSW)*.

- *Global Investments Limited v Babcock & Brown Global Investments Management Pty Ltd and Ors; and DIF III Global Co-Investment Fund LP and Anor v BBLP LLC and Ors* (Supreme Court of NSW, McDougall J, February and March 2018) (led by Alan Sullivan QC and Christian Bova)

Proceedings regarding breach of statutory misleading and deceptive conduct, negligence, breach of contract, breach of fiduciary duty and

whether those claims were subject to an indemnity under the relevant policies of insurance.

The proceedings settled after a 4-week hearing before McDougall J and before judgment was handed down.

- *X v Twitter Inc* [2017] NSWSC 1300; (2017) 95 NSWLR 301 (led by Justin Williams)

Interlocutory and then final injunctive relief in relation to the publication of confidential information on social media platform.

- *HN QCV Bottle Tree Pty Limited v QCV Bottle Tree Village Pty Limited* [2017] NSWSC 1035 (led by Vanessa Whittaker)

Application by the receivers for remuneration.

- Class Actions: previously appeared and advised on securities class action proceedings that eventually settled (led by Garry Rich SC, Stuart Lawrance and Peter Wallis); a class action against a big 4 bank (led by Jeremy Stoljar SC and Paul Batley); currently appearing and advising on securities class action proceedings (led by Noel Hutley SC and Stuart Lawrance).

As counsel (unled)

- *Martin v Norton Rose Fulbright Australia* [2019] FCA 967 (unled)

Application for adjournment of pre-trial case management hearing.

- Proceedings in the District Court, Supreme Court and Federal Court in relation to breach of contract, misleading or deceptive conduct, debt claims, breach of fiduciary/directors duties and real property disputes. Appeared on various interlocutory applications including applications to adjourn, security for costs, stay of proceedings etc.
- Corporations List matters: appeared in various Corporations List matters including applications for leave to proceed, leave to amend, application for winding up, application for public examinations and orders for production, public examinations.
- Bankruptcy matters: appeared on creditor's petitions, applications opposing sequestration orders, applications to review sequestration orders.

Publications

- Ng B., "Validity of a 'holding' DOCA" [2018-9] (Summer) Bar News 70
- Ng B., "Two bites at the cherry? Determining an administrator's remuneration" (2015) 27(4) Australian Insolvency Journal 39
- Ng B., "Liquidators, Committees of Inspection and Confidentiality Agreements" (2012) 24(3) Australian Insolvency Journal 24