

BENJAMIN GOODYEAR

Eighth Floor Selborne Chambers
8/174 Phillip Street, Sydney, NSW, 2000

Telephone: (02) 8023 9019
Email: bgoodyear@eightselborne.com.au

OVERVIEW

After graduating Dux of his College (1997) and prior to turning to the law, Benjamin completed a Bachelor of Science majoring in Theoretical Physics (2000), a Graduate Diploma in Applied Finance and Investment (2003), and a Graduate Diploma in Property (2004).

During his Bachelor of Laws and Legal Practice, Benjamin graduated first in his year with nine subject prizes (Advanced Contract, Consumer Law, Corporate Law, English in Law, Lawyering, Property Law Concepts, Real Property Law, Torts, and Trusts & Assignments); three Chancellor's Letters of Commendation; and five various other awards including a University Medal (2012).

Following University, he served as the Associate to the Honourable Justice Lander of the Federal Court of Australia (2012/13).

Benjamin then worked as a solicitor with Henry Davis York in domestic and cross-border insolvency (2013) before moving to King & Wood Mallesons (2015) where he gained experience in corporate and general commercial litigation. He reverted to study and obtained a Bachelor of Civil Law from the University of Oxford (2016/17) before returning to King & Wood Mallesons and being appointed Senior Associate.

Since joining the Bar (2019), Benjamin has represented clients in a range of matters, from disputes in the Local Court worth tens of thousand dollars, up to large scale disputes between corporate entities worth tens of millions of dollars.

Benjamin accepts briefs in all areas of law. Inquiries should be made to the Clerk of Eighth Floor Selborne Chambers, Sally Flynn on (02) 9232 4724.

EXPERIENCE AS A BARRISTER

Selected litigious matters – all matters unled unless otherwise stated

- *Adsto International Pty Limited v Zeus Resources Limited* (Local Court-2019/00215179) – action in debt.
- *Betta Homes and Construction Pty Ltd v Wang & Wang* (Local Court-2020/00356499) – landlord and tenant dispute concerning landlord's covenant to repair, and COVID-19 related rent relief regulations.
- *Cheng v Chan* (Local Court-2019/00366808) – allegations of misleading or deceptive conduct.
- *Coastal Service Centres Pty Limited v United Petroleum Pty Limited* [2020] NSWSC 1870 – motion seeking an advance ruling on evidence pursuant to section 192A of the *Evidence Act 1995* (NSW) & motion seeking to set aside a notice to produce.
- *Coastal Service Centres Pty Ltd v United Petroleum Pty Ltd* (NSWSC-2019/00373788) – landlord and tenant dispute concerning the application of a rental abatement clause.
- *Emmobi Pty Ltd v Edmondson Rural Holdings Pty Ltd* (Local Court-2021/00201576) – action to recover agent's commission.
- *Ent. Services Australia Pty Ltd v Optus Systems Pty Ltd* (NSWSC-2018/00207579) – large scale software implementation dispute (led by Jason Potts SC & Alexander Langshaw).
- *Gerard O'Kane v Capital Special Vehicles Pty Ltd* (NCAT-MV20/45282) – motor vehicle application alleging breaches of the *Australian Consumer Law* and breach of warranty.
- *Guo & Wang v MacMillan & ors* (NSWDC-2019/383381) – allegations of misleading & deceptive conduct, negligence, and various other *ASIC Act 2001* (Cth) and *Corporations Act 2001* (Cth) claims.
- *Herbert v Siemson & ors* (Local Court-2019/00177435) – dispute between neighbouring landowners about the construction of an instrument that created an easement pursuant to section 88B of the *Conveyancing Act 1919* (NSW).
- *In the matter of Performance Group National Pty Limited* (NSD-576/2019) – winding up application.

- *In the matter of the Estate of the Late Brian Camidge* (NSWSC-2020/00007564) – executor advice.
- *Jetan Pty Ltd v Malvern Investments (VIC) Pty Ltd* (NSD-368/2020) – winding up application.
- *Law & Law v Tran & Le* (Local Court-2020/00099681) – motion to set aside default judgment obtained by landlords against tenant in default for unpaid rent.
- *Paligaru v Reliance Leasing Pty Ltd* (NSWSC-2021/00059266) – claim for declaratory relief and specific performance of a contract to lend money.
- *Quinn v Stevens* (LEC-2021/00120926) – application under the *Encroachment of Buildings Act 1922* (NSW) concerning cross-easements for support (with James Braithwaite).
- *Sydney Sweepers Pty Limited v Cityview Group (Aust) Pty Ltd* (Local Court-2019/00106274) – motion to set aside default judgment.
- *VoR Environmental Australia Pty Ltd v Taset Inc.* (NSD-585/2017) – allegations of breach of contract and various other causes of action under the *Australian Consumer Law* (led by Justin Hewitt).
- *Wang v Zhao* (NSWSC-2021/00142477) – application to extend caveat.
- *Willow Bend Station Pty Ltd v Madoti Pty Ltd* (Local Court-2020/00189503) – motion to set aside garnishee order obtained *ex parte*.
- *Willow Bend Station Pty Ltd v Madoti Pty Ltd* (NCAT-COM20/32206) – dispute under the *Dividing Fences Act 1991* (NSW).
- *X v Y* – large scale arbitration concerning a construction contract (led by Elliot Hyde and Mark Sheldon).

Selected advice work

- Advised corporate entities about statutory demands and setting them aside.
- Advised excavator about its adjudication application under the *Building and Construction Industry Security of Payment Act 1999* (NSW).
- Advised executors of an estate, following the execution of a deed of family arrangement and the death of a party entitled to take under that deed.
- Advised landowner about the ability to recover mesne profits.
- Advised pharmacists about franchise agreements, pharmacy related legislation, and the availability of restitutionary claims.

PRIOR EXPERIENCE AS A SOLICITOR

King & Wood Mallesons (July 2015 to August 2016; August 2017 to February 2019)

Selected matters

- *In the matter of Asciano Limited* [2015] NSWSC 1548 & [2015] NSWSC 1651 – scheme of arrangement under the *Corporations Act 2001* (Cth).
- *TZI 1 Pty Ltd (ACN 076 905 550) as trustee for Australian Container Freight Services Trust & ors v Patrick Container Ports Pty Limited (ACN 009 762 985) & ors* (NSWSC-2016/147801) – allegations of breach of contract, and of the tort of inducing breach of contract.
- *Caltex Australia Petroleum Pty Ltd v CCS Česká společnost pro platební karty s.r.o. trading as FleetCor & anor* (NSWSC-2016/109638) – allegations of breach of contract (regarding software as a service).
- *De Lage Landen Pty Ltd v Philip Connard Harmer & ors* (NSWSC-2015/274438) – allegations of negligence and misrepresentations in respect of the manufacture of grain harvesters, leading to mediation.
- *In the matter of Aspen Group Limited* [2015] NSWSC 1718 – complex schemes of arrangement under the *Corporations Act*, and judicial advice under the *Trustee Act 1925* (NSW).
- Advised overseas manufacturer in respect of a consumer class action, involving claims under the *Trade Practices Act 1974* (Cth) and *Australian Consumer Law*.
- Acted for two shareholder individuals in an unlisted private company – allegations of insider trading; breach of fiduciary duty; and misleading and deceptive conduct, leading to mediation.
- Advised food exporter on its proposed restructure by schemes of arrangement under the *Corporations Act 2001* (Cth), and related disputes with a joint venture partner.

- Advised beverage producer on its proposed restructure and amalgamation by schemes of arrangement under the *Corporations Act 2001* (Cth).
- Advised Australian fund manager about dispute referred to the Financial Ombudsman Service.
- Advised logistics entity regarding its obligations under leasing arrangements concerning critical waterfront land.
- Advised bank in relation to reverse-mortgage lending and obligations under the *National Consumer Credit Protection Act 2009* (Cth), and in respect of notices for production issued by ASIC.
- Advised bank in relation to its obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), and in respect of notices for production issued by AUSTRAC.
- Advised auditor in respect of legal professional privilege claims and accountants' concession claims, in respect of notices for production issued by the ATO.
- Advised insurer during Royal Commission into Misconduct in the Banking, Superannuation & Financial Services Industry.

Henry Davis York (July 2013 to June 2015)

Selected matters

- *Anglican Development Fund Diocese of Bathurst in its own capacity and in its capacity as trustee of the Anglican Development Fund Diocese of Bathurst (receivers and managers appointed) v The Right Reverend Ian Palmer, Bishop of The Diocese of Bathurst* [2015] NSWSC 1856 – acted for receivers in complex debt recovery actions against unincorporated religious and charitable organisations, with issues concerning the enforceability of letters of comfort; breaches of statutory duties; the law of agency; and a creditor's ability to access charitable trust property.
- *Akers v Deputy Commissioner of Taxation* (2014) 223 FCR 8 – Australia's first appellate court proceeding concerning the *Cross-Border Insolvency Act 2008* (Cth).
- *Akers v Deputy Commissioner of Taxation* [2014] HCATrans 231 – special leave application.
- *In the matter of Caledonian Bank Limited (In Controllorship)* (NSD139/2015) – application under the *Cross-Border Insolvency Act 2008* (Cth) for remittal of assets to the foreign main proceeding.
- *ZYX Learning Centres Limited (rec. & mgrs. apptd.) (in liq.) & anor. v Green & ors.* (NSWSC-2013/257054) – claims for auditor professional negligence and breach of director's duties, leading to mediation.
- *Yellow Edge Pty Limited v Tahana* (NSWSC-2014/40313) – urgent application for a freezing order.
- *AxiCorp Financial Services Pty Limited v Jet Ice Australia Pty Limited* (NSWSC-2012/281775) – breach of contract concerning derivative securities.

ACKNOWLEDGEMENTS

Benjamin is grateful for his teachers at School and those in University; for the convenors of and presenters in the NSW Bar Practice Course; for the law firms that gave him an opportunity to work as a solicitor; and for his tutors at the Bar.

He remains indebted to all.