

DEAN ELLIOTT

Nine Selborne Chambers
Level 9, 174 Phillip Street
Sydney NSW 2000
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Telephone: 02 8917 3013
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Areas of specialty

- Asset preservation
- Banking and Financial Services, including *Personal Property Securities Act 2009* (Cth)
- Bankruptcy and Insolvency
- Corporations and Securities
- Insurance / Professional Indemnity
- Equity
- Commercial Law
- Land Law
- Trust Law
- Wills and Estates

Particular experience

- Insolvency and restructuring
- Commercial and insurance litigation
- Banker and customer disputes, including misleading and deceptive conduct, Contracts Review Act and unconscionably claims
- Corporations and Bankruptcy Act proceedings, including applications on behalf of trustees, liquidators, administrators and receivers
- Freezing orders and injunctions
- Security enforcement disputes
- Professional indemnity

Professional Admissions

NSW bar:	August 2014
Admitted:	2006 (Barrister & Solicitor, New Zealand) 2010 (Solicitor, New South Wales)

Tertiary Education

University of Auckland	
Bachelor of Commerce (Accounting)	2006
Bachelor of Laws (Honors)	2006

Professional Experience

Henry Davis York, Sydney

Banking, Restructuring and Insolvency group
Senior Associate
Lawyer

July 2012 to August 2014
October 2009 to June 2012

Bell Gully, Auckland

Litigation (General and Insolvency)
Barrister & Solicitor

February 2006 to October 2009

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Herbert Smith Freehills, London

Litigation Group LL1
Associate (Secondment)

October 2008 to March 2009

The University of Auckland

Tutor - Faculty of Law 2006 to 2008
Tutor - Department of Accounting and Finance 2004 to 2006

Authorships

Original Co-Author, *Heath & Whale on Insolvency* (LexisNexis, Wellington, 2011).

Contributor, *The Avoidance of Antecedent Transactions and Cross-border Insolvency* (INSOL International, The Hague: Eleven Publishing 2014).

Contributor, *International Contributions to the Reform of Chapter 11 U.S. Bankruptcy Code* (INSOL International, The Hague: Eleven Publishing 2015).

Selected cases

High Court

Nobarani v Mariconte [2018] HCA 36 (2018) 92 ALJR 806 – Application for re-trial as a consequence of denial of procedural fairness (lead by G O’L Reynolds SC)

Court of Appeal

Wilson v Chan & Naylor Parramatta Pty Ltd atf Chan & Naylor Parramatta Trust (decision pending) – Whether NCAT has power to make costs order in proceedings which involve a federal matter (led by J Giles SC)

Wilson v Chan & Naylor Parramatta Pty Ltd atf Chan & Naylor Parramatta Trust [2020] NSWCA 62 – Application for leave to appeal (unled)

Arcidiacono v The Owners – Strata Plan No 61233 [2019] NSWCA 46 – Appeal from summary disposal of proceedings seeking to set aside easements in respect of old system title (lead by A Leopold SC)

Nobarani v Mariconte (No 2) [2017] NSWCA 124 – Re-trial sought following alleged breaches of procedural fairness (led A Maroya).

Huang v Drumm & Ors [2016] NSWCA 206; [2017] NSWCA 29; [2017] NSWCA 181; [2017] NSWCA 181; [2019] NSWCA 117 (unled)

Supreme Court

One Pro Baulkham Hills Pty Ltd v Ming Tian Real Property Pty Ltd [2020] NSWSC 1043 – Breach of contract and misleading and deceptive conduct

Liability limited by a scheme approved under Professional Standards Legislation

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Commissioner of the Australian Federal Police v ##### – Application for registration of foreign forfeiture order and suppression orders under the *Court Suppression and Non-publication Orders Act 2010* (NSW)

In the matter of Ming Tian Real Property Pty Ltd [2020] NSWSC 212 – Application to set aside statutory demand based on defects in BCISPA certificate and off-setting claim

Calacoci v Calacoci [2020] NSWSC 476 (with M Dawson) – Partnership dispute

Dee Vine Group Pty Ltd v Palais Reception Centre Pty Ltd [2019] NSWSC 1462 – Relief against forfeiture of lease (with M Dawson)

McIntyre v Pettit [2020] NSWSC 498 – Proceedings seeking payment of funds held in court for approximately 15 years

Westpac Banking Corporation v Chamaty [2019] NSWSC 1365 – Approval of variation to deed of settlement in respect of person under incapacity

Drummond v Drummond [2019] NSWSC 993 – Application for family provision order

Palmer v Talijancich [2019] NSWSC 838 – Declaration of implied charging clause in loan documents and priority in respect of sale proceeds

In the matter of Plutus Payroll Australia Pty Limited (in liq) [2019] NSWSC 706 - Application for approval for liquidators to enter into deed of indemnity and compromise a debt *nunc pro tunc* under ss 477(2A) and 477(2B) of the *Corporations Act 2001* (Cth)

Wilson v Brisbane; Wilson v Chan and Naylor Parramatta Pty Ltd [2019] NSWSC 1598 – Appeal of orders of the Appeal Panel

The Owners – Strata Plan No 61233 v Arcidiacono [2018] NSWSC 1260 – Summary disposal of proceedings seeking to set aside easements in respect of land under old system title

Taxa Australia Pty Limited v Wang [2018] NSWSC 1412; (2018) 130 ACSR 531 – Application to relief against former director for misappropriation of company funds, breach of directors' duties and oppression

Fuji Xerox Australia Pty Ltd v Documents on Call Pty Ltd [2018] NSWSC 1862 – Application for cross-vesting to the Supreme Court of Victoria

Mesbumar v Otmey [2018] NSWSC 125 (2018) 97 NSWLR 615 – Proceeding in relation to express and resulting trusts and land transfer fraud in relation to failed scheme

Huang v Drumm [2018] NSWSC 1556 Stay application under the Trans-Tasman Proceedings Act 2010 (Cth) – multiplicity of proceedings – abuse of process) (and related matters: [2016] NSWCA 206; [2017] NSWCA 29; [2017] NSWCA 181; [2017] NSWSC 1535; [2018] NSWSC 1300; *Huang v Attapallil (No.3)* [2017] NSWSC 1535; [2017] NSWCA 181

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Jones, in the matter of Maz Platinum Pty Ltd (in liq) [2018] FCA 1139 - Application for directions concerning distribution of property of an insolvent corporate trustee

In the matter of Healthy Industries Pty Ltd [2018] NSWSC 1172 - Application to set aside statutory demand

In the matter of Acu Rate Pty Ltd [2017] NSWSC 1845 - Application to set aside statutory demand)

Owners - Strata Plan No 14120 v McCarthy [2017] FCA 242 - Appeal from orders of Federal Circuit Court Judge setting aside Bankruptcy Notice

Diao v Cohen [2016] NSWSC 96 - Proceedings for specific performance of agreement to acquire shares) (led by J Kelly SC).

In the matter of Italian Forum Limited (subject to a deed of company arrangement) [2015] NSWSC 1386 - Application for judicial advice regarding strata payment schedule (led by E Finnane).

NCAT

Wilson v Chan and Naylor; Wilson v Chan and Naylor Parramatta Pty Ltd atf Chan and Naylor Parramatta Trust [2018] NSWCATAP 311 – Proceedings for breach of contract and negligence

Roberts v Chan and Naylor Parramatta Pty Ltd [2018] NSWCATAP 69 - Proceedings for breach of contract and negligence

Skin & Cancer Foundation v The Owners— Strata Plan No 21880 SC 19/19357 – Application for reallocation of unit entitlements under the *Strata Schemes Management Act 2015*

The Owners Corporation SP 633341 v Malachite Holdings Pty Ltd & Anderson [2018] NSWCAT – Application for reallocation of unit entitlements under the *Strata Schemes Management Act 2015*