

## Practice Areas

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Dean is an experienced advocate who practices in areas including:

- Banking and financial services, including *Personal Property Securities Act 2009*
- Building and construction, including *Building and Construction Industry Security of Payment Act 1999* (NSW) and *Home Building Act 1989* (NSW)
- Contract law
- *Corporations Act 2001* (Cth) and *Bankruptcy Act 1966* (Cth) proceedings, including applications on behalf of trustees, liquidators, administrators and receivers
- Equity
- Insolvency law
- Insurance / professional indemnity, including regularly appearing on behalf of insured solicitors, engineers, geotechnical engineers, and architects
- Property law
- Strata and community title
- Trust law
- Wills, estates and probate

## Professional Admissions

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

## Tertiary Education

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

## Professional Experience

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### Henry Davis York, Sydney

Restructuring and Insolvency group

Senior Associate	July 2012 to August 2014
Lawyer	October 2009 to June 2012

### Bell Gully, Auckland

Litigation (General and Insolvency)

Barrister & Solicitor	February 2006 to October 2009
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## DEAN ELLIOTT

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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

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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

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- *Afluk v The New South Wales Land and Housing Corporation* [2024] NSWDC 521 – Appearing for insurer in respect of negligence claim against landlord
- *Building Corp Australia Pty Ltd v A & B Australian Investment Pty Ltd* [2024] NSWDC 260 - Proceedings in respect of allegations that building contract and development management agreement are shams
- *Sui v Jiang* [2024] NSWSC 1013 – Proceedings concerning the proper construction of an option agreement (led by S A Lawrance SC)
- *Tanwar Institute of Professional Studies v Giordian Runoff Ltd* [2024] NSWDC 586 – Appearing for insurer in respect of coverage claim in respect of claim of malicious damage to petrol station
- *QGC Pty Limited v Alberts (No 5)* [2024] FCA 139 – Application by liquidator of indigenous corporation for payment of funds out of court
- *Cheng v Sydney Markets Ltd; Gao v Sydney Markets Ltd; Weng v Sydney Markets Ltd* [2024] NSWSC 755 – Proceedings seeking declaration that relocation notices issued in respect of retail leases at Paddy's Market were invalid
- *DC Rd DC Pty Ltd v Zhang (No 3)* [2024] FCA 221; *DC Rd DC Pty Ltd v Zhang (No 2)* [2024] FCA 157 - Proceedings seeking Sabre order (led by R Scruby SC)
- *Amirbeaggi as trustee of the bankrupt estate of Hanna v Hanna (No 3)* [2024] FCA 1171 – Proceedings seeking recovery of assets under ss 120 and 121 of the *Bankruptcy Act 1966* (Cth) and related cross claims

- *Firmtech Aluminium Pty Ltd v Xie; Zhang v Xu; Xie v Auschn Conveyancing & Associates Pty Ltd* [2024] NSWSC 1293; [2024] NSWSC 1427 – Proceedings for breach of fiduciary duty in respect of transfer of business (led by D Stack)
- *Sydney Water Corporation v various entities* – Appearing for Sydney Water Corporation in various claims in respect of damage to its underground assets
- *Decon Australia Pty Limited v Zhang & Ors* – Technology and Construction List - Appeared for Decon Australia in successful application for separate hearing in respect of quantum and damages in respect of defects claim
- *Alfa Laval Australia Pty Limited v Samnik Australia Pty Limited* – Commercial List - Proceedings seeking damages for breach of contract in respect of production of processing plants built in China and Italy (part heard)
- *Breona Pty Ltd v Gosatti* [2023] NSWSC 423 – Construction of terms of finance facility and enforcement of guarantee
- *In the matter of Digital Surge Pty Limited (Administrators Appointed)* – Federal Court – Proceedings seeking relief from the requirements of Part 5.3A of the *Corporations Act 2001 (Cth)* in relation to the first meeting of company's creditors
- *Hurdis v Jones (Trustee), in the matter of Hurdis* [2022] FCA 980 – Proceedings seeking removal trustee in bankruptcy
- *The Owners - Neighbourhood Plan No.285882 v Murray Moama Pty Ltd and New Age Resorts Operations Pty Ltd* [2022] NSWDC 644 – Proceedings concerning whether certificates pursuant to s 26(5) of the *Community Land Development Act 1989 (NSW)* were conclusive evidence of levy debt
- *Yat Kit Jong and Man Chun So – the Trustees of the Property of Ho Wah Au, a Bankrupt v Chow* [2022] NSWSC 1595 – Disputed application for appointment of trustee under s 66G of the *Conveyancing Act 1919 (NSW)*
- *In the matter of Natural Raw C Pty Ltd (No 2)* [2022] NSWSC 1334 – Proceedings concerning the disputed valuation of shares in Natural Raw, a retailer of coconut water and related products (led by D Stack)
- *Smith v Owners – Strata Plan No. 3004* [2022] NSWSC 1599 – Appeal of first instance decision concerning loss of rental income claim for breaches of the obligation to repair and maintain common property under the *Strata Schemes Management Act 2015 (NSW)*
- *Synergy Group Services Pty Ltd v The Owners Strata Plan No. 90607 & Anor* [2021] NSWDC 636
- *In the matter of Fogo Brazilia Holdings Pty Ltd (in liq)* [2021] NSWSC 580 – Application to remove liquidator of Fogo Brazilia for conflict of interest and allegedly using liquidator examination procedure for ulterior purpose (led by Roger Marshall SC)
- *Infinity Design Pty Ltd Trading As Ingenuity Product Design v Challenge Property Investments Pty Ltd* [2021] NSWDC 602 – Proceedings for breach of contract and misleading and descriptive conduct concerning the design and production of a portable RFID Reader

- *Commissioner of Police, New South Wales Police Force* [2021] FCA 93 (and related matters) – Bankruptcy proceedings and related appeals against a former police officer
- *Drip World Pty Ltd v Dardy Touring Corp* [2021] NSWSC 1772 – Application to set aside service on foreign defendant of proceedings seeking return of deposit paid to international music performer
- *In the matter of Ryals Hotel Pty Ltd* [2020] NSWSC 1906; (2020) 149 ACSR 626 - Winding up application which conflicted with the *Retail and Other Commercial Leases (COVID-19) Regulation 2020* and were found to be an abuse of process
- *COLAS Australia Group Pty Ltd v COLAS Road Surfacing Pty Ltd & Anor* [2020] NSWSC 1858 – Proceedings seeking injunction restraining trademark infringement and passing off of Colas trademark
- *Wilson v Chan & Naylor Parramatta Pty Ltd atf Chan & Naylor Parramatta Trust* [2020] NSWCA 213; (2020) 103 NSWLR 140 – Constitutional proceedings concerning whether NCAT has power to make costs order in proceedings which involve a federal matter (led by J Giles SC)
- *ADH Plumbing Pty Ltd v Glenashka Pty Ltd as Trustee of the Colin Henry Wilson Trading Trust trading as Wilsons Betamix Goonumbla Quarry & Wilsons Betamix Concrete and Another* [2020] NSWDC 593 – Proceedings against geotechnical engineers in professional negligence proceedings concerning the construction of a road at Parkes Hospital
- *Valmont Interiors Pty Limited v Giorgio Armani Australia Pty Limited* [2020] NSWDC 395 – Building defects claim (led by M Dawson)
- *One Pro Baulkham Hills Pty Ltd v Ming Tian Real Property Pty Ltd* [2020] NSWSC 1043 – Proceedings alleging breach of contract and misleading and deceptive conduct concerning a building development in Baulkham Hills
- *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; (2020) 145 ACSR 329 – Application to set aside statutory demand based on defects in BCISPA adjudication certificate and off-setting claim
- *Calacoci v Calacoci* [2020] NSWSC 476 – Proceedings seeking for dissolution of partnership and division and sale of partnership assets (led by M Dawson)
- *Wilson v Chan & Naylor Parramatta Pty Ltd atf Chan & Naylor Parramatta Trust* [2020] NSWCA 62 - Application for leave to appeal from decision of Harrison AJ refusing judicial review
- *McIntyre v Pettit* [2020] NSWSC 498 – Proceedings seeking payment of funds held in court for approximately 15 years
- *Arcidiacono v The Owners – Strata Plan No 61233* [2019] NSWCA 46; (2019) 19 BPR 39525 – Appeal from summary disposal of proceedings seeking to set aside easements in respect of old system title (led by A Leopold SC)

- *Dee Vine Group Pty Ltd v Palais Reception Centre Pty Ltd* [2019] NSWSC 1462 – Proceedings seeking relief against forfeiture of lease in respect of the Palais Reception Centre (led by M Dawson)
- *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 – Proceedings seeking family provision order
- *Palmer v Talijancich* [2019] NSWSC 838; (2019) 19 BPR 39515 – Proceedings seeking 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 and judicial review of orders of the Appeal Panel dismissing professional negligence claim against Chan & Naylor, Accountants
- *Kaji Australia Pty Ltd v Glover (No. 3)* [2018] NSWSC 906
- *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
- *Nobarani v Mariconte* [2018] HCA 36 (2018) 92 ALJR 806 – Appeal seeking re-trial as a consequence of denial of procedural fairness (lead by G O’L Reynolds SC and A Maroya)
- *Westpac Banking Corporation v D’Ambrosi* [2018] NSWSC 1542
- *Taxa Australia Pty Limited v Wang* [2018] NSWSC 1412; (2018) 130 ACSR 531 – Proceedings 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 of debt recovery proceedings to the Supreme Court of Victoria
- *Meshumar v Otmay* [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 – Application to stay application under the *Trans-Tasman Proceedings Act 2010* (Cth) (and related matters: [2016] HCASL 278; [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
- *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)
- *Nobarani v Mariconte (No 2)* [2017] NSWCA 124 – Appeal seeking re-trial of probate application sought following alleged breaches of procedural fairness (led A Maroya)

- *Owners - Strata Plan No 14120 v McCarthy* [2017] FCA 242 - Appeal from orders of Federal Circuit Court Judge setting aside Bankruptcy Notice
- *Huang v Drumm & Ors* [2016] NSWCA 206; [2017] NSWCA 29; [2017] NSWCA 181; [2017] NSWCA 181; [2019] NSWCA 117 – Proceedings against trustee in respect of proceedings alleging breach of trust and breach of fiduciary duties
- *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

- *The Owners-Strata Plan No. 67607 v The Owners-Strata Plan No. 67608* (Unreported, 10 January 2025, Senior Member Goldstein) – Proceedings seeking reallocation of insurance premiums under s162 of the SSMA
- *Colman v The Owners – Strata Plan 61131* [2023] NSWCATAP 308 – Appeal of proceedings under s
- *The Owners – Strata Plan No. 69205 v Community Association DP270244* [2024] NSWCATCD – Proceedings concerning the proper construction of a Community Management Statement and responsibility for repair and maintenance of Restricted Subsidiary Property
- *Dart v The Owners – Strata Plan No. 71849* – Proceedings brought by lot owner under s 106 of the *Strata Schemes Management Act 2015* (NSW)
- *The Owners – Strata Plan No. 61667 v Ceramix Exclusive Pty Limited, B8P Group Pty Limited, Raymond Ross and Sarab Chami* [2022] NSWCATCD – Proceedings seeking mandatory injunction restraining former building manager from entering residential strata scheme, and related issues
- *Vlahakis NSW v Property NSW, Mirvac Retail Sub SPV Pty Limited* – Summary disposal of retail lease dispute brought by a group of retail tenants at Harbourside Shopping Centre, Darling Harbour
- *EGP Properties Pty Ltd v Futureflip Pty Ltd* – Proceeding brought by builder seeking damages for repudiation of building contract due to breaches of the *Home Building Act 1989* (NSW)
- *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*
- *Wilson v Chan and Naylor; Wilson v Chan and Naylor Parramatta Pty Ltd atf Chan and Naylor Parramatta Trust* [2018] NSWCATAP 311 – Proceedings for summary disposal of professional negligence proceedings
- *Roberts v Chan and Naylor Parramatta Pty Ltd* [2018] NSWCATAP 69 – Proceedings for summary disposal of professional negligence proceedings