



Phillip Lonergan

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Admissions, Education and Experience

2016-	Barrister , Ninth Floor, Selborne Chambers
2015-19	Masters in Law (LLM) , University of Sydney
2013-15	Juris Doctor (Distinction) , University of New South Wales
2009– 12	Managing Director , Head of Trading and Risk Deutsche Bank Asia, member of Global Executive Committee for Equities
2006-09	Managing Director , Joint Head of Global Equity Derivatives Europe, Deutsche Bank
2002-06	Director , Head of Portfolio Trading, Merrill Lynch, New York, USA

Experience – NSW Bar

Phillip accepts briefs in the following areas:

- Building and Construction Law;
- Competition and Consumer Law;
- Contracts, Trusts, Partnership and Franchise Law;
- Corporations Law, Fiduciary Obligations and Equity;
- Insolvency, Insider Trading and Market Abuse;
- Succession Law.

Phillip has appeared in the NSW Court of Appeal, Supreme Court of NSW and QLD, Federal Court of Australia, District Court of NSW and NCAT in its appellate jurisdiction.

Of note Phillip was briefed in the ACCC criminal cartel case brought against Deutsche Bank, Citibank and ANZ as well as numerous individuals from those organizations. He also represented a Chinese mining entrepreneur in a claim seeking \$25 million against her in commission for international commodity transactions.

<https://www.theaustralian.com.au/business/legal-affairs/a-commodities-trader-suing-sally-zou-for-10m-failed-in-a-bid-to-make-a-further-15m-claim/news-story/ca6b6ef76cba1a9c2ff9f6f5f2ba3820>

Phillip thrives on complex factual and legal matters. He accepts briefs electronically and runs his cases paperless, having personally developed and coded his own Court Litigation App in C# and Java.

Current and Recent Cases

Below is a list of some notable cases Phillip has appeared in.

NSW Supreme Court

Wang v Yu [2023] NSWSC 1182: Phillip acted for a former corporate lawyer of Norton Rose Fulbright who was 'bashed' by the boyfriend of the Plaintiff in order to have the client sign a deed transferring his interests in a large property development to the Plaintiff. The Plaintiff sought specific performance of the deed, and the defence of duress was raised against it. Issues around affirming conduct were raised by the Plaintiff. Ultimately the Court found the bashings occurred, duress was established and continued to affect the client during the period when the affirming conduct was said to have occurred.

Le v Le [2023] NSWSC 622: Phillip acted for the plaintiff (son) against his mother in relation to a property purchased in the name of the deceased father. The son claimed that it was purchased for benefit of the son and was held by the father in name only. The mother argued that there was no such intention and the property was rightly transferred to her upon her husband's death.

Bass Hill Investments Pty Ltd v JSJW Real Estate Pty Ltd: Phillip acted for a director of the Defendant who was also a cross-defendant in the proceedings. Allegations were made against the client relating to breach of fiduciary and directors' duties under the *Corporations Act 2001* (Cth) and misleading and deceptive conduct under the *Australian Consumer Law*. All of the allegations were successfully defended.

Bangladesh Islamic Centre of NSW Inc v Elzamtar [2021] NSWCA 198: Phillip acted for the applicant in the Court of Appeal seeking to overturn the decision of the Supreme Court at first instance. The case primarily involved the question of admissibility of new evidence on appeal and whether special grounds existed for the admission of such evidence.

Federal Court of Australia

Smyth v Zao: Phillip defended Sally (Sha) Zao in a claim from Anthony Smyth that he was entitled to commission (in excess of \$25 million) from commodity transactions that he brokered in the 'billions of dollars' for her and her Chinese buyers with mining companies in Australia, Indonesia, Columbia and more.

<https://www.theaustralian.com.au/business/legal-affairs/sally-zous-failure-to-pay-premeditated-fraud-says-commodities-trader-anthony-smyth/news-story/4833821ede4742f7c5538cfbc3173720>

CDPP v Deutsche Bank, CitiBank, ANZ & Ors: Phillip was briefed for the former Head of Deutsche Bank Asia in the criminal prosecution brought by the ACCC for cartel conduct in relation to a placement of ANZ shares as part of that bank's capital raising process in 2016. Ultimately, the case against all concerned was dropped.

<https://www.accc.gov.au/media-release/cdpp-withdraws-charges-in-bank-criminal-cartel-case>

Independent Commission Against Corruption

Operation Skyline: Phillip Represented one of the directors of the Awabakal Land Council in a Commission hearing that went for multiple years in relation to alleged corruption over Native Title land dealings in the Newcastle Area.

<https://www.icac.nsw.gov.au/media-centre/media-releases/2022-media-releases/icac-finds-corrupt-conduct-in-1-million-scheme-concerning-awabakal-lalc-land>

Operation Ember: Phillip represented an independent contractor who tendered for and supplied services and equipment to the former Roads and Maritime Services (now Transport for NSW) in what was said to be approximately \$11 million in illegally obtained benefit.

<https://www.icac.nsw.gov.au/media-centre/media-releases/2022-media-releases/icac-finds-former-rms-manager-corrupt-for-awarding-over-12-2-million-in-work-to-benefit-friends-and-himself>

NSW Civil and Administrative Tribunal

John McDonald Building Services v Gusa: Phillip acted for the homeowner at first instance and subsequently for them as the respondent on appeal in NCAT. The case involved questions of misrepresentations under the Australian Consumer Law, in addition to claims for defects. On appeal questions of admissibility of expert evidence and procedural fairness assertions were successfully defended.

Mohammad Sayer v Sam Al Shafi: Phillip acted for the respondent builder in the case where there were claims relating to damages for the deterioration of the incomplete building works due to exposure to the elements – in addition to claims relating to defects and variations. The case largely turned on which party repudiated the contract – which was found in favour of the builder.