

THOMAS BAGLEY

BARRISTER

Thomas maintains a broad commercial practice and has extensive experience in commercial law, corporations law and insolvency disputes. He is also a subject matter expert in class actions litigation and has developed a strong reputation in this field.

Thomas is often briefed as counsel of choice in high profile cases. His class actions practice has seen him briefed in shareholder claims, financial services, consumer and franchise disputes.

Thomas' experience at the Bar also extends to acting in a range of other practice areas including professional conduct matters, regulatory enforcement matters, public law and administrative law disputes, as well as migration matters. He appears at both trial and appellate level, often leading a junior barrister against Senior Counsel in the Supreme Court of New South Wales, Federal Court of Australia, Full Federal Court and select tribunals.

With considerable experience managing large-scale litigation, Thomas is commended by his clients for his ability to efficiently navigate and cut through complex legal issues that require a high degree of forensic analysis and intellectual rigour. He executes a strategic and methodical approach to the resolution of his clients' disputes, is a skilled negotiator and an accomplished advocate in court.

Prior to being called to the Bar in 2015, Thomas practised as a solicitor at Allens. He holds a Bachelor of Laws with First Class Honours and a Bachelor of Commerce from the University of Sydney.

ADMISSIONS TO PRACTICE

- 2015 Admitted to the Bar of New South Wales
- 2012 Admitted as a Solicitor of the Supreme Court of New South Wales

PROFESSIONAL QUALIFICATIONS

- 2007 – 2011 Bachelor of Commerce / Bachelor of Laws (Honours I): University of Sydney
Awards: First Class Honours. Merit Scholarship, Exchange Scholarship, Federal Constitutional Law Prize

PROFESSIONAL EXPERIENCE

- 2015 – present Barrister, Ninth Floor Selborne Chambers
 - 2011 – 2015 Solicitor, then Associate, Allens
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PRINCIPAL AREAS OF PRACTICE

- Commercial and Corporations Law
- Class Actions
- Insolvency
- Appellate
- Inquests
- Crime (including white collar crime)

SELECTION OF CURRENT AND RECENT CASES

Thomas has appeared in over 90 reported decisions. Below is a selection of cases from the past two years.

Unled Cases

1. ***Chu v Lin, in the matter of Gold Stone Capital Pty Ltd (deregistered)*** [2024] FCA 611, leading Mellos and opposing Thomas SC (three-week trial; misleading conduct and breach of trust);
2. ***Korat v Minister for Immigration, Citizenship and Multicultural Affairs*** [2024] FCAFC 59, leading Honnery (procedural fairness);
3. ***XJLR v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs*** [2022] FCAFC 6; 289 FCR 256 leading Maddocks and opposing Herzfeld SC (a case about the Minister's power to cancel a visa for serious criminal conduct and the circumstances in which it could be re-exercised as well as the jurisdiction of courts to review that decision);
4. ***ET-China.com International Holdings Ltd v Cheung*** [2021] NSWCA 24; 388 ALR 128; 150 ACSR 461 opposing Williams SC (a case about directors' duties and trusts and whether a reversible transfer of a business for nil consideration breached those duties);
5. ***Hempenstall v Minister for Home Affairs*** [2020] FCAFC 216, leading O'Connor (a case about the procedural fairness obligations owed in relation to visa cancellation notices);
6. ***Furniss v Blue Sky Alternative Investments Limited (Administrators Appointed) (Receivers and Managers Appointed) (in liq)*** [2022] FCA 1546; [2022] FCA 1443; and [2022] FCA 1444; [2023] FCA 703; [2023] FCA 1499 (shareholder class action, for a former director. The case has involved numerous contested disputes including about carriage);
7. ***Commissioner of Taxation v Bosanac (No 7)*** [2021] FCA 249; 390 ALR 74 leading O'Connor and opposing Musikanth SC (a case about resulting trusts and the presumption of advancement, ultimately appealed to the High Court);
8. ***Read-Zorn v Origin Distillers Group Pty Ltd*** [2023] FCA 280 (an application to wind up a company on just and equitable grounds);
9. ***Segal v Sharma & Anor*** [2022] NSWSC 496 (a separate question determination about the operation of the doctrine of set-off to insolvent trusts);
10. ***In the matter of Wrapaway Transport Pty Ltd (administrators appointed)*** [2021] NSWSC, (a duty-judge matter involving the appointment of a receiver over trusts where the trust deeds had been lost);
11. ***Health Care Complaints Commission v Azzam*** [2021] NSWCATOD 106 (a disciplinary action against a pharmacist).

Led Cases

12. *R&B Investments Pty Ltd (Trustee) v Blue Sky Alternative Investments Limited (Administrators Appointed) (in liq) (Reserved Question)* [2024] FCAFC, Hodge KC (contingency fees in class actions)
13. *Commissioner of Taxation v Bosanac* [2022] HCA 275 CLR 37; 96 ALJR 976; 405 ALR 424; 18 ABC(NS) 521; 115 ATR 35; 65 Fam LR 508, Hutley SC (presumption of advancement and resulting trusts, including an attempt by the Commissioner to abolish the doctrine of presumption of advancement); I also appeared below in *Bosanac v Commissioner of Taxation* [2019] FCAFC 116 and *Bosanac v Commissioner of Taxation* [2021] FCA 249;
14. *Kim v Wang* [2023] FCAFC 115; 411 ALR 402; 167 ACSR 116, Walker SC (appeal of claim of knowing involvement by an Australian solicitor in a large scale Korean Ponzi Scheme); *Kim v Hodgson Faraday Pty Limited* [2022] FCA 1190 (two-week trial);
15. *Bywater Investments & Ors v Commissioner of Taxation* [2016] HCA 45; 260 CLR 169; 91 ALJR 59; 339 ALR 39; 104 ATR 82, Myers QC (a case about whether a foreign company was resident in Australia);
16. *Anderson v Canaccord Genuity Financial Ltd* [2023] NSWCA 294, Painter SC (8-day appeal); [2022] NSWCA 168, Painter SC (security); *Anderson v Canaccord Genuity Financial Limited* [2022] NSWSC 58, Painter SC (breach of fiduciary duty; six-week trial);
17. *Giabal Pty Ltd v Gunns Plantations Ltd (in liq)* [2022] NSWSC 1557 and [2023] NSWSC 184 and [2023] NSWSC 201, Pike SC and Lloyd SC (pre-trial disputes about amendment and discovery as well as settlement approval; proceeding settled on the eve of a four-week trial);
18. *C Pty Ltd v Sommers* [2021] FCAFC 87, Lenehan SC (jurisdiction, powers, and discretions of bankruptcy courts);
19. *Gawler v FleetPartners Group Ltd* [2024] VSC 365, Forsyth KC (GCO application);
20. *Its Eco Pty Ltd v BPS Financial Limited (No 2)* [2023] FCA 110, Crowe KC (application to stay a class action pending ASIC proceedings);
21. *Kosen-Rufu Pty Ltd v Dixon Advisory and Superannuation Services Ltd* [2022] FCA 573, Jackman SC (a carriage dispute in a class action) and also *Watson & Co Superannuation Pty Ltd v Dixon Advisory and Superannuation Services Ltd (Settlement Approval)* [2024] FCA 386, Edwards KC (funder's application in relation to settlement approval);
22. *Brady v NULIS Nominees (Australia) Limited in its capacity as trustee of the MLC Super Fund* [2021] FCA 999, Martin SC (sample group members); *Brady v NULIS (No 2)* [2021] FCA 1517, Martin SC (aggregate damages); *Brady v NULIS Nominees (No 3)* [2022] FCA 224;
23. *Stack v AMP Financial Planning Pty Limited (No 2)* [2021] FCA 1479, Martin SC (a s33N "declassing" application);
24. *Forge Group Ltd (In Liq) (Receivers and Managers Appointed) v Hutchinson (No 2)* [2021] NSWSC 576 (Edwards SC) (resolving various pre-trial disputes. The matter settled shortly after)