



**ANDREW BULLEY**  
5 Wentworth  
180 Phillip Street, Sydney NSW 2000  
T: +61 2 8066 6122

## **Selected Cases**

### **General Commercial and Equity**

#### **Recent Cases**

- *Flynn v. PPK Mining Equipment Pty Ltd* [\[2025\] NSWCA 10](#) – Mr Bulley appeared for the successful Respondents in this appeal. The Applicants sought Leave to Appeal from a decision of Rees, J awarding a Plaintiff only 50% of their costs because they failed on a number of issues which were considered "dominant" or "separable". The Court of Appeal refused to grant Leave. The Court emphasised earlier decisions of the Court at [16]-[17] that "particular caution" is exercised by an appellate court in matters involving costs (which are matters of practice and procedure) and that trial judges are best placed to determine issues involved in the awarding of costs.
- *Petith v New South Wales Trustee & Guardian; Bone v New South Wales Trustee & Guardian* [\[2024\] NSWSC 1503](#) – These proceedings involved the admission to probate of several wills and whether the Testator had testamentary capacity. Mr Bulley represented the successful Plaintiff, with Pike, J finding that the Testator did not have testamentary capacity and sufficient knowledge and approval of the final Will. Pike, J reiterated the principles discussed by Kunc, J in *Ryan v Dalton; Estate of Ryan* [2017] NSWSC 1007 at [106]–[107] regarding the appropriate conduct by a Solicitor in circumstances where testamentary capacity is in question. Pike J held that, in such circumstances, a Solicitor should satisfy themselves regarding any concerns not just at the time of obtaining instructions but also at any later date when the will is executed.
- *Singh v. AKM Investments Group Pty Ltd* [\[2024\] NSWCA 268](#) – These proceedings concerned a claim for \$190,000.00 advanced on the basis of oral discussions between the parties, without any written record as to the precise terms. Mr Bulley represented the successful Respondent, with the NSW Court of Appeal unanimously affirming the Trial Judge's finding that certain monies

advanced constituted a loan. The Court of Appeal reaffirmed the principle established in *Fox v Percy* (2023) 214 CLR 118 at [30]-[31] emphasizing the importance of using contemporary materials, objectively established facts and the apparent logic of events to evaluate oral evidence and disputed events. The Trial Judge correctly had reference to contemporary materials such as WhatsApp messages, the description of transfers appearing in bank records and other surrounding circumstances to conclude that the monies advanced were a loan.

- *WAM Active Limited v Keybridge Capital Limited* [\[2024\] NSWSC 1135](#) – Mr Bulley appeared for the Defendant in these proceedings which involved an application for orders to restrict the inspection of documents by the Plaintiff. The application was on the basis that the parties were trade rivals and that the documents contained commercially sensitive information. Nixon J found that the parties were trade rivals but that only some of the relevant documents were commercially sensitive. Those documents which were found to be commercially sensitive were restricted and inspection was only allowable by the legal representatives and experts of the Plaintiff.
- *Daniel Flynn & Anor v. PPK Mining Equipment Pty Ltd & Anor (No. 3 and No. 4)* [\[2024\] NSWSC 663](#); [\[2024\] NSWSC 894](#) – in the [\[2024\] NSWSC 663](#) proceedings, Rees J handed down judgment in relation to damages and the Plaintiffs, unsuccessful at first instance, received an order for \$500,000 worth of shares in the Defendants. In a later costs argument [\[2024\] NSWSC 894](#) the Plaintiffs received an order for only 50% of their party/party costs as well as an order to pay the Defendant's costs on an indemnity basis after the date of the Calderbank offer.
- *Wellington v Hutchison* [\[2024\] NSWCA 54](#) – these proceedings involved an appeal against the orders made in [\[2023\] NSWSC 911](#). Mr Bulley acted for the Director of the company, Mr Wellington, who appealed against the orders made by Black J in relation to a costs order. Leave to Appeal was required as was an order extending time seeking Leave to Appeal from the costs orers. An extension of time was granted, however, no Leave to Appeal was granted.
- *In the Matter of Carbon Copies Composites Pty Ltd (Receivers and Manager appointed)* [\[2023\] NSWSC 911](#) – these proceedings dealt with declarations in relation to the ownership and return of company property and allegations of

misleading and deceptive conduct by the Defendant. Mr Bulley's clients were successful in obtaining the declarations and orders concerning the return of the company property and intellectual property.

- *In the Matter of Carbon Copies Composites Pty Ltd (Receivers and Manager appointed)* [\[2023\] NSWSC 1039](#) – the Plaintiff sought an apportionment of costs based on the success of the parties as determined by Black J, as well as special costs orders arising out of the service of *Calderbank* letters. Black J made final orders and, in relation to the issue of costs, made orders that each party receive a costs order but otherwise made no special costs order as a result of the *Calderbank* offers made.
- *Daniel Flynn & Anor v. PPK Mining Equipment Pty Ltd & Anor* [\[2023\] NSWCA 151](#) – this matter was an interlocutory application seeking security for costs. Mr Bulley's clients were the Respondents in the matter, the application was dismissed.
- *Daniel Flynn & Anor v. PPK Mining Equipment & Anor* [\[2023\] NSWCA 201](#) – Mr Bulley's clients in this appeal were the Respondents, it was an appeal from the decision of Rees J [2022] NSWSC 1640. The issue concerned the construction of a Share Purchase Agreement concerning the allocation of a parcel of shares. The Appellants, unsuccessful at first instance, succeeded in their arguments in relation to the construction of the relevant Agreement. The Court of Appeal remitted the questions of relief and damages to Rees J.
- *Daniel Flynn & Anor v. PPK Mining Equipment Pty Ltd & Anor* [\[2022\] NSWSC 1640](#) – these proceedings involved a dispute in relation to a Share Purchase Agreement where the plaintiffs alleged they were entitled to shares in the defendant companies. After a long running hearing Mr. Bulley's clients were successful. The plaintiffs filed a Notice of Appeal in the Court of Appeal.
- *In the matter of Carbon Copies Composites Pty Ltd (Rec and Mgrs Apptd)* [\[2022\] NSWSC 1762](#) – these proceedings involved an application on behalf of the plaintiffs seeking leave to bring a statutory derivation action on behalf of a company in administration under s 237 of the *Corporations Act 2001* (Cth). The proceedings also involved an interlocutory mandatory injunction against the defendants. Leave was granted and orders made for the ongoing conduct of the proceedings.

- *Hancock (Administrator), In the matter of Hay Queensland Pty Ltd (Administrator Appointed)* [\[2022\] FCA 226](#) – this involved an urgent application under ss 90-15 and 90-20 of the *Insolvency Practice Schedule* to the *Corporations Act 2001* (Cth) (the “Act”) seeking orders conferring power on the voluntary administrator to deal in and sell assets of the relevant trust (and related orders).
- *Changizi v. Rizaie* [\[2021\] NSWSC 613](#) – these proceedings involved alleged breaches of fiduciary duties on the part of a director alleged to have been involved in the burning down of business premises and the destruction of the company business. The proceeding also involved a cross-claim involving misleading and deceptive conduct concerning the acquisition and contribution of assets in the company.
- *In the matter of Synergy Medical Imaging Pty Ltd* [\[2021\] NSWSC 579](#) – an Interlocutory Application seeking declarations as to the effect of Terms of Settlement entered into at Mediation pursuant to s 73 of the *Civil Procedure Act 2005* (NSW) and whether the Terms contained implied obligations of good faith as well as an obligation to do all things necessary to enable each party to have the benefit of the Terms; and as to costs of that Application; In the matter of *Synergy Medical Imaging Pty Ltd (No 2)* [\[2021\] NSWSC 627](#).
- *Ferngrove Pharmaceuticals Australia Pty Ltd v. HLW Investments Pty Ltd* [\[2020\] NSWSC 1137](#) – these proceedings involved a dispute for the contract for the sale of goods and whether the First Defendant entered the contract as a disclosed Agent for a disclosed Chinese corporation (not a party to the proceedings) and whether a guarantee secured the First Defendants’ obligations pursuant to the contract.
- *Bailey v. Seneca Ltd, in the matter of Seneca Textiles Ltd* [\[2020\] FCA 242](#) – costs application in the winding up of a domestically registered foreign corporation.
- *Dowsett v. King* [\[2019\] NSWSC 1459](#) – gift of personal property and as to Costs of those proceedings. *Dowsett v. King (No 2)* [\[2020\] NSWSC 6](#)

### **Earlier Cases**

- *Galati v. Deans (No. 2)* [\[2018\] NSWSC 1813](#) – leave to further amend pleading.
- *Pattinson v. Bellwether Agriculture Pty Ltd (in liq)* [\[2018\] NSWSC 38](#) –

misleading and deceptive conduct, led by Faulkner SC.

- *CB Australia Ltd v. Shepherd* [\[2017\] NSWSC 1968](#) – contract for sale of shares.
- *Smith v. Smith* [\[2017\] NSWSC 408](#) – power of attorney and fiduciary duties.
- *Hastie Group Ltd (in liq) v. Moore t/as Deloitte Touche Tohmatsu* [\[2016\] NSWSC1355](#) – confidentiality and privileged documents, led by Studdy SC.
- *Hastie Group Ltd (in liq) v. Moore & Ors* [\[2016\] NSWSC 1315](#) – client legal privilege of documents, led by Studdy SC.
- *Sydney Markets Credit Services Cooperative Ltd v. Barry Anthony Taylor & Ors; ACN 123 849 883 Pty Ltd v. Sydney Markets Credit Services Cooperative Ltd* [\[2014\] NSWSC 754](#) – equitable charge over land and priorities.
- *Todd v. Jinalong Pty Ltd* [\[2014\] NSWSC 362](#) – exceptions to indefeasibility of Title.
- *Harris v. Digital Pulse Pty Ltd* [\[2003\] NSWCA 10](#) – fiduciary duties and exemplary damages, led by Einfeld QC.