

Ben Bradley

Barrister



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Ben Bradley has a diverse practice that includes inquests and inquiries, professional indemnity and infrastructure and construction. Ben has appeared in most Australian civil jurisdictions. He also has an active domestic and international arbitral practice and has represented clients in China, Hong Kong, Ireland and the United Arab Emirates.

Ben has a strong reputation for collaborative problem-solving. He enjoys the opportunity to work alongside dedicated solicitors, experienced experts and committed clients, each of whom brings a nuanced approach to resolving disputed issues.

Ben works with a broad client base that spans government, individuals and corporate clients. He finds the variety in his practice rewarding and believes that it gives him greater insight into what drives people on all sides of a dispute.

Before becoming a barrister, Ben worked as a solicitor at some of Australia's leading law

firms. He began his career acting for the plaintiff on the high profile case of *Burger King Corporation v Hungry Jack's (2001) 69 NSWLR 558*, a seminal authority on the issue of implied good faith in contractual dealings. He also advised the underwriters of professional indemnity schemes on a series of large class actions involving the collapse of financial investment schemes.

SPECIALISATIONS

- Inquests and inquiries
- Professional indemnity
- Infrastructure and construction

QUALIFICATIONS

- Bachelor of Laws (ANU) 1999
- Master of Laws (USyd) 2002

PROFESSIONAL RECOGNITION



Doyles Guide 2020, Leading Professional Indemnity Junior Counsel - Recommended

Doyles Guide 2018, Leading Insurance Junior Counsel - Recommended

BEN'S PHILOSOPHY

"Common ground can be found in all disputes if you bring an objective and open mind. This involves not only a detailed understanding of the factual basis underlying a dispute but also a dispassionate application of the law to those facts"

WHAT BEN'S CLIENTS SAY

"Ben is an exceptional barrister with a strategic and commercially sensible approach to matters. He is able to transform complex evidentiary issues into straightforward and easy to understand advice. We enjoy working with Ben and always feel confident that our client is in good hands."

---- Special Counsel, Makinson d'Apice

"Ben has an incessant eye for detail; no stone remains unturned. He is always impeccably prepared, whether the task be large or small. His counsel is always available, logical and client-focused"

---- Associate, McCabes

NOTABLE CASES

Te Pahi Silver Medal (2014). Ben successfully represented the descendants of the Te Pahi people of New Zealand. A small silver medal gifted to the Te Pahi in the early Nineteenth century was listed in a Sydney auction catalogue. The return of the medal to New Zealand was important to the descendants of Te Pahi. Ben worked closely with Maori and Maori historians to secure this significant piece of taonga tuturu. The medal was ultimately purchased by Te Papa Museum and the Auckland Museum and returned to New Zealand (with Mr Roberts SC).

Ben appears and advises corporate, government and insurer clients in various building and infrastructure disputes. Ben has appeared in various jurisdictions throughout Australia as well as in arbitrations here and overseas. Some of the significant matters Ben has been involved with include:

The Owners- Strata Plan No 63731 v B&G Trading Pty Limited [2020] NSWCATAP 202.

Appeared for the defendant in a long-running dispute concerning the proper scope of special privileges afforded by way of a common property rights by-laws pursuant to s.142(b) of the Strata Scheme Management Act 2015 and its intersection with Part 6 Division 1 of that Act. An appeal was subsequently heard by the Supreme Court of New South Wales with decision pending.

Mining Infrastructure Arbitration (2018). Appeared for a leading engineering contractor in a heard in Australia and Dubai. It concerned a purported breach of the honesty and fairness obligation contained within standard form clause 23 of AS2124-1992 (with Mr Corsaro SC).

Investigation re purported false supporting statement (2017). Acted for a building contractor in relation to purported failure to comply with s. 13(8) of the Building and Construction Industry Security of Payment Act 1999 (NSW) and related offences under the Crimes Act 1900.

Thiess Pty Limited v Parsons Brinkerhoff Australia Pty Limited & Ors [2016] NSWSC 173.

Appeared for a large engineering firm in a dispute concerning the collapse of part of the Lane Cove Tunnel (with Mr Miller SC).

Thermal Power Plant Arbitration (2015). Appeared with a team of solicitors, barristers and trial advocates from NSW, Hong Kong and New York on behalf of an EPC contractor. The dispute was conducted pursuant to the Rules of Arbitration of the International Chamber of Commerce (ICC), with Singapore being the seat of the Arbitration. The value of the competing claims exceeded US \$1-billion and provided an excellent opportunity to work with leading industry experts from across the globe (with Mr Corsaro SC).

Cordon Investments Pty Limited v Lesdor Properties Pty Limited [2013] 29 BCL 329.

Appeared for a building and construction company in relation to a dispute arising from the purported repudiation of a joint venture deed for a multi-level mixed residential and commercial development (with Mr Corsaro SC).

Inquests & Inquiries

Ben has extensive experience in appearing on behalf of interested parties at inquests over many years. In recent times, Ben frequently appears on behalf of medical and allied health professionals and institutions, though has also assisted assisting families, sporting organisations and other organisations. Some of the recent inquests Ben has been involved in include:

Inquest into the death of "MH" (2021). Appeared for a senior psychiatrist in relation to the death in custody of a patient with severe chronic schizophrenia. The psychiatrist was not the subject of adverse comment.

Inquest into the death of 'F' (2021). Appeared on behalf of health interests in relation to the death in custody of a mentally ill man suffering a schizoaffective disorder. The inquest provided support to a revised model of custodial care devised by those interests presently under consideration by government.

Inquest into the death of Kelvin Moulds (2021). Appeared on behalf of the interests of a leading quaternary health facility in relation to the death of a patient who self-removed a central venous catheter following a successful bilateral lung and heart transplant.

Inquest into the death of John Glen Laurenson (2021). Appeared on behalf of health interests in relation to the death of an inmate held on remand who sustained a ruptured berry brain aneurysm.

Inquest into the death of Ye Chiu (a pseudonym) (2020). Appeared on behalf of health interests in relation to the death of a patient with mental health issues held on remand at the MRRC. His passing was not avoided despite receiving adequate and appropriate care in a custodial setting. The inquest focussed on the role of interpretative services in that setting.

Inquest into the death of Thomas Hunt (2020). Appeared on behalf of health interests in relation to a man who was attended by paramedics in the context of a mental health emergency and later went missing before being located deceased. The focus of the inquest was on NSW Police Missing Persons Standard Operating Procedures.

Inquest into the death of AP (2020). Appeared for a psychologist in relation to a death of a young infant in tragic circumstances. The focus of the inquest was on the adequacy of care by the then Department of Family and Community Services, Local Community Mental Health teams and compliance with section 27 of the Children and Young Persons (Care and Protection) Act 1998.

Inquest into the death of Jonathon Hogan (2020). Appeared for health interests in relation to the death in custody of a man of the Wiradjuri, Ngiyampaa and Murrawarri people.

Inquest into the death of Scott Cayirylis (2020). Appeared for health interests in relation to the death of a man who passed away in an ambulance. The inquest focussed on inter-agency cooperation and protocols.

Inquest into the death of DP (2020). Appeared for health interests in relation to the shooting death of a man in the context of methylamphetamine intoxication.

Inquest into the death of Tristan Naudi (2020). Ben acted for health interests in an inquest involving the restraint of an MDMA-effected patient.

Professional Indemnity & Insurance

In addition to appearing for and advising government and insurance interests in relation to numerous professional indemnity claims each year, Ben frequently provides advice to insurers in relation to the proper construction and operation of various different form policies. In recent times, this has included providing advice in relation to the proper operation of cross-liability clauses, reasonable precautions condition and continuous cover and notification clauses in various policies of insurance issued to civil contractors and other corporate organisations in general liability and construction works policies of insurance.

Some recent professional indemnity disputes in which Ben has been involved include:

Ebejer bht Mueller v Central Coast Local Health District [2021] NSWSC 1163. Acted for health interests in relation to an allegation made by a patient under legal incapacity of delayed diagnosis of a central cord syndrome. The matter was settled without admission.

Hintz v Illawarra Shoalhaven Local Health District [2021] NSWSC 999. Acted for health interests in relation to a claim by a person under legal incapacity for wrongful death of her father. An issue in dispute was whether an entitlement to damages for loss of services under the Compensation to Relatives Act 1897 is precluded by section 15 of the Civil Liability Act 2005 (see *Coote v Kelly*; *Northam v Kelly* [2016] NSWSC 1447 and *Goddard v Central Coast Health Network* [2013] NSWSC 1932). The matter was settled without admission.

Burns by her tutor Newman v Ratnam [2020] NSWSC 353. Appeared for a child who sustained psychiatric injury following the death of her father from diffuse cerebral oedema and brain herniation secondary to obstructive hydrocephalus. The matter settled without admission.

Liu v State of New South Wales [2014] NSWSC 933. Appeared for the State of NSW in a claim for \$1.5M for property seized and inadvertently destroyed by the NSW Police Force. The claim was successfully reduced to less than \$35,000 with indemnity costs in favour of the State.

PUBLICATIONS

Litigation Essentials: Subpoenas