

# Joshua Knackstredt

Solicitor 2005

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Joshua Knackstredt was called to the Bar in 2007. He specialises in providing high-quality advocacy and advice to a broad range of clients in litigious matters involving commercial/ equity, corporations, real property/ construction and insolvency/ bankruptcy law. He has appeared both led and unled in the NSW Supreme Court, NSW Court of Appeal and Full Federal Court, as well as in other courts both in NSW and interstate, and in various statutory tribunals.

Joshua graduated from Macquarie University with First Class Honours in Law in 2005 and since then has completed a Master of Laws at the University of Sydney. Prior to being called to the Bar, Joshua worked as Tipstaff to the Hon. Justice R P Austin of the Supreme Court, following which he was employed as a solicitor at Clayton Utz.

Joshua was awarded first place in the Bar examinations and was also the recipient of the Dean's Award for Outstanding Academic Achievement (Macquarie, 2005) and Alumni Award to a Recent Graduate for Distinguished Service (Macquarie, 2009). He was President of NSW Young Lawyers in 2008.

Joshua has had a number of business interests outside of the law, including part-ownership and a directorship in a Sydney-based technology company. He is also a Member of the Australian Institute of Company Directors. These external projects have been of significant value to his legal practice, as they have given him hands-on knowledge and experience of the practical reality of commercial life.

## SPECIALISATIONS

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- Commercial law and equity
- Property law
- Construction law
- Corporations law
- Insolvency and bankruptcy law

## QUALIFICATIONS

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- Bachelor of Arts/Bachelor of Laws (Macquarie) 2004, First Class Honours
- Master of Laws (Sydney) 2012

## Building & Construction

**Owners of SP98970 v Capitol Property Services Pty Ltd [2021] NSWSC 950.** This was an application for a freezing order against a developer in the context of defect proceedings in the Technology & Construction List.

**Rodny v Stricke [2020] NSWSC 800; [2020] NSWSC 1126.** These were applications for leave to appeal from decisions of the NSW Civil and Administrative Tribunal in the context of a strata dispute relating to the owners corporation's duty to repair and maintain common property.

**Owners - SP 72381 v Meriton Apartments Pty Ltd [2015] NSWSC 442.** These proceedings concerned whether to adopt a referee's report on building defects.

**Owners - SP 76502 v Waterpoint Shepherds Bay Pty Limited [2015] NSWSC 1129.** This was an application to enforce a settlement of building defects.

## Commercial Law & Equity

**Gooley v Gooley [2021] NSWSC 56.** This was a probate dispute about testamentary capacity arising from dementia and stroke in the context of a complex multi-million dollar (~\$30m) estate.

**Super Vision Resources Ltd v AC Holdings Co Pty Ltd & Ors [2020] NSWCA 319.** This was an appeal from a decision of Stevenson J ([2020] NSWSC 65), involving an application for relief under s 37A of the *Conveyancing Act*. An application by the unsuccessful Respondents for special leave to appeal to the High Court was refused ([2021] HCASL 126).

**CIC Projects Pty Ltd v Eyre Kingston Pty Ltd [2020] NSWSC 1658.** This was an urgent contractual construction suit brought in the Technology & Construction List relating to the timing of a multi-million dollar payment required by contractual arrangements governing a multi-use development located in Kingston in the Australian Capital Territory. The dispute also involved issues of derivative leave under the *Corporations Act*.

**Omayya Investments Pty Ltd v Project Lawyers [2019] NSWSC 1394.** This case involved an application under section 472 of the Legal Profession Uniform Law. It considered the court's inherent jurisdiction for delivery up of a solicitor's file subject to a lien.

**Super Vision Resources Ltd v Xu [2019] NSWSC 389.** These proceedings concerned the enforcement of a guarantee, where the defendant's positive defences alleged misleading conduct and unconscionability.

## Commercial Law & Equity

**Fisher-Pollard v Fisher-Pollard [2018] NSWSC 500.** These proceedings concerned unconscionable conduct and undue influence in the context of a real estate transaction. The case also involved issues of capacity.

**Singh v De Castro [2017] NSWCA 241.** This was an appeal from a NSW District Court decision upholding a loan guarantee. It involved alleged legal and factual errors, including questions of capacity and onus.

**Healthcare Australia v Randstad [2016] NSWSC 1407.** In these proceedings, the plaintiff attempted to restrain the defendant from providing recruitment services, alleging it breached a restraint arising out of a sale of business agreement. The case involved questions of contractual construction.

**Ryde Developments Pty Ltd v Property Investors Alliance Pty Ltd [2016] NSWSC 728; [2016] NSWSC 829.** This application for leave to withdraw admissions and discovery concerned complex proceedings involving the potential application of section 55 of the Property, Stock and Business Agents Act.

**Burabs Holdings Pty Ltd v Alexander Dennis (Australia) Pty Ltd [2013] NSWSC 1182.** These proceedings involved a commercial dispute arising out of a large bus manufacturer's share sale agreement.

**Granger v Murdoch Books Pty Ltd [2012] FCA 909.** This decision concerned the appropriate orders to be made out of settlement of proceedings for infringement of copyright, misleading or deceptive conduct and infringement of moral rights.

**BOS International (Australia) Ltd v Babcock & Brown International Pty Ltd [2011] NSWSC 1382.** These proceedings concerned breach of contract and the contractual interpretation of a facility agreement involving a \$3 billion loan.

## Corporations Law

**Corbett v Corbett Court Pty Ltd & Ors [2015] FCA 1176.** These proceedings involved alleged oppression arising out of a share issue in a closely-held family company.

**B J McAdam Pty Ltd & Ors v Jax Tyres Pty Ltd & Ors (No 5) [2014] FCA 358.** This was an application to strike out a reply and limit the use of evidence. It arose in the context of a complex derivative oppression suit (see also [2013] FCA 643; [2012] FCA 1438; [2012] FCA 1438).

**In the matter of Wan Jia (Australia) International Development Pty Ltd [2012] NSWSC 1007.** These proceedings involved an application for section 237 derivative leave.

## Insolvency & Bankruptcy Law

**In the matter of Essential Media and Entertainment Pty Limited [2020] NSWSC 990.** This was an application to set aside a statutory demand on various grounds.

**Super Vision Resources Ltd v Xu [2020] FCCA 758.** This bankruptcy application concerned a multi-million dollar unpaid construction loan.

**Super Vision Resources Ltd v AC Holdings Co Pty Ltd [2020] NSWSC 65.** This was an application to set aside alienation of property under section 37A of the Conveyancing Act, in the context of the liquidation and receivership of a property development company.

**In the matter of BCD Resources NL (Subject to Deed of Company Arrangement) [2018] NSWSC 1605.** These proceedings involved a section 444GA Corporations Act application for the compulsory transfer of shares by a deed administrator.

**In the matter of Denham Constructions Pty Ltd [2016] NSWSC 1425.** This was an application for the adjournment of a winding up application in the context of administration and proposed DOCA.

**Aravanis (Trustee), in the matter of Gillespie (Bankrupt) v Gillespie [2014] FCA 630.** This was an application by a bankruptcy trustee for access to sale proceeds of a property formerly owned by a bankrupt. The property was subject to a constructive trust.

## Property Law

**Paolucci v Makedyn Pty Ltd [2021] NSWCA 215.** This was an appeal from a decision of Rein J ([2020] NSWSC 1871) relating to the purchase of a development lot in Western Sydney. The case involved issues of natural justice, specific performance, contractual construction (and, at first instance, an application under s 66ZS of the *Conveyancing Act*).

**GR Capital Group Pty Ltd v Yan [2020] NSWSC 911.** This was an application for the withdrawal of caveats under s 74MA of the *Real Property Act*.

**Hua Cheng International Holdings Group Pty Ltd v Xu [2020] NSWSC 922.** These proceedings involved claims for possession of apartment units in a development at Hurstville, as well as a claim for mesne profits.

**Golden J Wealth Pty Ltd v AC Holdings Co Pty Limited [2019] NSWSC 1342.** These possession proceedings considered the impact of freezing orders made in related proceedings.

**Ta Lee Investment Pty Ltd v Antonios [2019] NSWCA 24.** This appeal concerned a claim for specific performance of a sale of land contract. It raised issues of indefeasibility, the nature of a 'right to caveat', adverse inferences and valid methods of payment.

**Bradstreet & Ors v Merrin Developments [2017] NSWSC 1559.** These injunction proceedings arose out of a large off-the-plan development. They involved multiple plaintiffs and defendants, as well as various common law and statutory claims.

**Lum v M V Developments (Lane Cove) Pty Limited (in liq) [2016] NSWSC 1248.** This was an application for specific performance and to extend a caveat where a developer was placed in liquidation.

**Meriton Apartments Pty Ltd v Owners - SP 72381 (No. 2) [2016] NSWSC 819; [2015] NSWSC 202.** These proceedings concerned a dispute between an owners corporation and a developer/caretaker. They involved contractual termination and breach of fiduciary duty issues.

**Allselte Pty Ltd v Cassegrain Wines Pty Limited [2015] NSWSC 1370.** This case involved a claim for relief against forfeiture of a lease.

**The Owners of Strata Plan 75633 v Axiom Property Consulting Pty Limited [2011] NSWSC 1542.** This case involved allegations of breach of contract, negligence, detinue and conversion against a former strata manager.

### **PUBLICATIONS**

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- Gambling with your property rights: A review of recent cases in property law
- Caveats, Lapsing Notices and Extensions
- Contractual Penalties And Default Interest
- Advocacy 101