

# DAVID L WILLIAMS SC

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***In the matter of Balamara Resources Ltd* [2023] NSWSC 1349**

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***Grant Reid Wilson atf G&L Wilson Family Trust v QBT Pty Limited* [2023] NSWSC 1255**

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***Calvary Health Care ACT Ltd v Australian Capital Territory* [2023] ACTSCFC 1**

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(Insolvency – long term debt; misleading and deceptive conduct – material adverse change; contractual construction; negligence; accessory liability in tort; employee liability for corporate conduct; causation)

**Xiao v BCEG International (Australia) Pty Ltd (No 2) [2023] NSWCA 87**  
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**Xiao v BCEG International (Australia) Pty Ltd (2023) 111 NSWLR 132; [2023] NSWCA 48**  
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**Giabal Pty Ltd v Gunns Plantations Ltd (in liquidation) (No 2) [2023] NSWSC 201**  
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**Vaughan Constructions Pty Ltd v Melbourne Water Corporation (Building and Property) [2023] VCAT 233**  
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***Twigg v Pitcher Partners Holdings Pty Ltd (No 2)* [2022] NSWSC 1714**

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***BCEG International (Australia) Pty Ltd v Xiao (No 3)* [2022] NSWSC 1221**

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***Twigg v Pitcher Partners Holdings Pty Ltd* [2022] NSWSC 1043**

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***BCEG International (Australia) Pty Ltd v Xiao* [2022] NSWSC 972**

(Corporations; sham sub-contracts; fraud; director and de facto director duties; fiduciary duties; remedies; split election between different defendants)

***Carter v Orix Australia Corporation Ltd* [2022] FCA 784**

(Employment and industrial relations; unpaid long service leave; equitable set-off; practice and procedure)

***Vaughan Constructions Pty Ltd v Melbourne Water Corporation (Building and Property) (Corrected)* [2022] VCAT 633**

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***Legge v Universal Hospitality Group Pty Ltd & Ors (No 3)* [2022] NSWSC 709**

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***Swiss Re International SE v LCA Marrickville Pty Limited (Second COVID-19 insurance test cases)* [2021] FCA 1206**

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***Lowe v Pascoe (No 10)* [2021] NSWSC 1232**

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***In the matter of Airtasker Limited* [2021] NSWSC 629**

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***ET-China.com International Holdings Ltd v Cheung* [2021] NSWCA 24**

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***Cohen v Sacks* [2021] NSWSC 88**

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**Legge v Universal Hospitality Group Pty Limited (No 2) [2020] NSWSC 1411**

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**Rodriguez & Sons Pty Limited v Queensland Bulk Water Supply Authority t/as Seqwater (No 23) [2020] NSWSC 650**

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**Augusta Ventures Limited v Mt Arthur Coal Pty Limited [2020] FCAFC 194**

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**DAC Finance (NSW/QLD) Pty Ltd & Other Companies [2020] NSWSC 182**

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**Almona Pty Ltd v Parklea Corporation Pty Ltd [2019] NSWSC 1868**

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**Rodriguez & Sons Pty Ltd v Queensland Bulk Water Supply Authority trading as Seqwater (No 22) [2019] NSWSC 1657**

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(Liquidation; Deeds of Company Arrangement; statutory interpretation)

**Australian Securities and Investments Commission v Rich (2010) 75 ACSR 1**  
(Corporations; civil penalty proceedings; directors' duty of care and diligence; standard of care; business judgment rule; pleadings and particulars; evidence)

**Gillies v Downer EDI Limited [2010] NSWSC 1323**  
(Privilege; waiver of privilege)

**Tropical Reef Shipyard Pty Ltd v QBE Insurance (Australia) Ltd (No 2) [2010] FCA 1093**  
(Practice and procedure; summary judgment; business interruption insurance)

**Wilson v Sydney Markets Limited (No 2) [2009] NSWADT 281**  
(Retail shopping leases; changes to core trading hours)

**QBE Insurance (Australia) Limited v Tropical Reef Shipyard Pty Ltd [2009] FCAFC 161**  
(Separate questions; business interruption insurance)

**Shekhani v Ardino [2009] NSWCA 361**  
(Appeals from credit findings)

**Wilson v Sydney Markets Limited [2009] NSWADT 256**  
(Jurisdiction of Administrative Decisions Tribunal; construction of Retail Leases Act 1994 (NSW))

**(Re Jones – Mashman) Amaca Pty Ltd v CSR Ltd (No 2) (2009) 7 DDCR 557; [2009] NSWDDT 24**  
(Jurisdiction of Dust Diseases Tribunal; contribution)

**City of Swan v Lehman Brothers Australia Ltd [2009] FCAFC 130**  
(Deed of company arrangement; statutory construction)

**Commissioner of Taxation v Aid/Watch Incorporated [2009] FCAFC 128**  
(Charitable institutions; charitable and political purposes)

**City of Swan v Lehman Brothers Australia Ltd (subject to a deed of company arrangement) [2009] 73 ACSR 86**  
(Deed of company arrangement; third party release; separate questions)

**Shipley v MASU Financial Management (2008) 68 ACSR 412**  
(Subpoenas; confidentiality of material produced to ASIC under compulsory process)

**QBE Insurance Ltd v Nguyen (2008) 100 SASR 560 (FC)**  
(Insurance policy construction; conclusiveness of default judgment for purposes of legal liability policy; equitable doctrines; election)

**Fowler Corbett & Jessop t/as Haydon Fowler Corbett Jessop v Toro Constructions [2008] NSWCA 178**  
(Personal costs orders against solicitors)

**Twynam Pastoral Pty Ltd v AWR (Australia) Ltd (2008) FCA 1922**  
(Tendency evidence)

**Aid/Watch Incorporated v Commissioner of Taxation (2008) 71 ATR 386; [2008] AATA 652**  
(Charitable institutions)

**Grace v Grace (2007) 25 ACLC 141**  
(External administration; provision liquidation; oppression; just and equitable ground)

**Chandra v Perpetual Trustees Victoria Ltd** (2007) 13 BPR 24,675; (2007) ANZ Conv 12481; (2007) Aust Torts Reports 81-896; (2007) NSW Conv R 56-187; [2007] NSWSC 694  
(Torrens system; assurance fund; indefeasibility of title; professional negligence)

**Collingwood Hotel Pty Ltd v O'Reilly; Night Knowledge Security Pty Ltd** [2007] NSWCA 155  
(Negligence; duties of licensees and security guards)

**Amaca Pty Ltd v Banton** (2007) 5 DDCR 314; [2007] NSWCA 336  
(Exemplary and aggravated damages; dust diseases)

**Snorkel Elevating Work Platforms Pty Ltd v Nominal Defendant** (2007) ACTCA 14  
(Legal practitioners; challenge to retainer; indemnity costs)

**HIH Insurance Ltd (in liq) v Adler** [2007] NSWSC 745  
(Strike out; trade practices; accessorial liability; journal entries as evidence of damages)

**Grace v Grace** (2007) 25 ACLC 141; [2007] NSWSC 6  
(Appointment of provisional liquidator for corporation; external administration)

**Bective Station Pty Ltd v AWB (Australia) Ltd** [2006] FCA 1596  
(Contracts; trade practice; tendency evidence)

**Australian Securities & Investments Commission v Rich** (2006) 58 ACSR 414  
(Evidence in reply; splitting a plaintiff's case)

**Australian Securities & Investments Commission v Vines** (2006) 58 ACSR 298  
(Civil penalty orders; disqualification of directors; pecuniary penalties)

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(Directors' duties; relief from liability)

**(Re Mowbray) Brambles Australia Limited v British Amehan Tobacco Australia Services Limited** (2006) NSWDDT 15  
(Discovery; destruction of documents; document retention policy)

**Australian Securities & Investments Commission v Vines** (2005) 55 ACSR 617; (2005) 23 ACLC 1,387  
(Directors' duties of care and diligence; Directors' duties of honesty; civil penalty proceedings)

**Rich v Australian Securities & Investments Commission** (2005) 54 ACSR 365 (CA)  
(Appeals from interlocutory rulings)

**Australian Securities & Investments Commission v Rich** (2005) 54 ACSR 28; (2005) 23 ACLC 838  
(Admissibility of business records; discretionary exclusion)

**Australian Securities & Investments Commission v Vines** (2005) 23 ACLC 1387  
(Standard of care of executive directors and chief financial officers)

**Australian Securities & Investments Commission v Rich** (2005) 220 ALR 324; (2005) 188 FLR 416; (2005) 52 ACSR 374  
(Use of evidence obtained under search warrant)

***Australian Securities & Investments Commission v Rich* (2005) 218 ALR 764; (2005) 54 ACSR 326; (2005) 23 ACLC 1,111 (CA)**

(Admissibility of expert evidence; discretionary exclusion)

***Australian Securities & Investments Commission v Rich* (2005) 216 ALR 320; (2005) 53 ACSR 752; (2005) 23 ACLC 838**

(Admissibility of business records; authentication; documentary opinion evidence)

***Rich v CGU Insurance Ltd; Silbermann v CGU Insurance Ltd* (2005) 214 ALR 370; (2005) 79 ALJR 856; (2005) 13 ANZ Ins Cas 61-642 (HC)**

(Director and officer insurance policies)

***Australian Securities & Investments Commission v Rich* (2005) 190 FLR 242; (2005) 53 ACSR 110; (2005) 23 ACLC 430; [2005] NSWSC**

(Admissibility of expert evidence; discretionary exclusion)

***Rich v Australian Securities & Investments Commission* (2004) 220 CLR 129; (2004) 209 ALR 271; (2004) 78 ALJR 1354; (2004) 50 ACSR 242; (2004) 22 ACLC 1198**

(Privilege against self exposure to a penalty)

***Australian Securities & Investments Commission v Rich* (2004) 213 ALR 338; (2004) 51 ACSR 363**

(Expert evidence; cross examination on the voir dire)

***Re One.Tel Ltd (in liq); Australian Securities & Investments Commission v Rich* (2003) 44 ACSR 682; (2005) 23 ACLC 556**

(Civil penalty orders; declarations)

***Gosford City Council v GIO General Ltd* (2003) 56 NSWLR 542 (CA)**

(Sections 40 and 54 of the Insurance Contracts Act)

***Australian Securities & Investments Commission v Vines* (2003) 21 ACLC 159**

(Practice and procedure; evidence of witnesses who will not swear affidavits)

***Australian Securities & Investments Commission v Vines* (2003) 21 ACLC 59**

(Outlines of evidence)

***Australian Securities & Investments Commission v Vines* (2003) 176 FLR 106; (2003) 46 ACSR 719**

(Privilege against self exposure to a penalty; effect on case management directions)

***Australian Securities & Investments Commission v Vines* (2003) 48 ACSR 291**

(Admissibility of expert opinion evidence)

***Australian Securities & Investments Commission v Vines* (2003) 48 ACSR 282**

(Admissibility of evidence against multiple defendants; discretionary exclusion)

***Australian Securities & Investments Commission v Vines* (2003) 182 FLR 405; (2003) 48 ACSR 322**

(Standard of skill and care for directors; expert evidence)

***Gosford City Council v GIO General Ltd* (2002) 12 ANZ Ins Cases 61-527**

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(Liquidators; liquidation funding)

**Australian Securities & Investments Commission v Rich (2001) 38 ACSR 251**

(Practice and Procedure – media access to court materials)

**Studer v Boettcher (2001) ACL Rep 300 NSW 8 (CA)**

(Solicitors' negligence)

**John Wakim & Sons Pty Ltd v BBA Industries Pty Ltd (2002) 10 BPR 18,475; (2001) ANZ Conv R 48; (2000) NSW Conv R 55-946**

(Contract; estoppel; section 54A of the *Conveyancing Act 1919 (NSW)*)

**Weston v Carling Constructions Pty Ltd (2000) 175 ALR 202; (2000) 35 ACSR 100**

(Administrators' liens in company liquidation)

**Wily v Rothschild Australia Ltd (1999) 47 NSWLR 555; (1999) 17 ACLC 1643**

(Preferences; set-off; securities)

**Treweeke v Wyong Shire Council (1999) 29 MVR 489 (CA)**

(Negligence; misfeasance rule)

**Commissioner of Taxation v Macquarie Health Corporation Ltd (1998) 88 FCR 451, (1988) 17 ACLC 171; (1988) 98 ATC 5214; (1998) 40 ATR 349**

(Constructive trusts; Limitation of actions; abuse of process; winding up; section 218 *Income Tax Assessment Act 1997 (Cth)* notices)

**Re Credit Reference Association of Australia Ltd (1998) 16 ACLC 491**

(Company arrangements and reconstructions)

**Wilkinson v Feldworth Financial Services Pty Ltd (1998) 29 ACSR 642; (1998) 17 ACLC 220**

(Breach of trust; misleading and deceptive conduct)

**Garcia v National Australia Bank Ltd (1998) 194 CLR 395; (1998) 72 ALJR 1243; (1998) ALR 614**

(Unconscionable conduct, guarantees; rule in *Yerkey v Jones*)

**Ultra Refurbishing & Construction Pty Ltd v John Goubran & Associates Pty Ltd (1997) 13 BCL 330**

(Injunctions; security bonds)

**National Australia Bank Ltd v Garcia (1996) 39 NSWLR 577; (1996) 21 ACSR 309 (CA)**

(Unconscionable conduct; guarantees)

**Lowns & Anor v Woods & Ors (1996) Aust. Tort R.81-376 (CA)**

(Medical negligence)

**Drayton v Martin (1996) 67 FCR 1; (1996) 137 ALR 145; (1996) 9 ANZ Ins Cas 61-322**

(Professional indemnity insurance; claims made policies; section 54 *Insurance Contracts Act 1984 (Cth)*)

**Trade Practices Commission v TNT Australia Pty Limited (1994) ATPR 41-286**

(Abuse of process; discovery on interlocutory applications)

***Mineral & Chemical Traders Pty Ltd v T. Tymczyszczym Pty Ltd (in liq.) & Horn*** (1994) 15 ASCR 398; (1994) 13 ASC 40

(Effect of liquidation on floating charge)

***Insurance Superannuation Commission v Regal Life Insurance Ltd*** (1994) 121 ALR 513

(Life insurance; powers of judicial manager)

***Erolen v Baulkham Hills Shire Council*** (1993) 10 ACSR 441; (1993) 11 ACLC 511

(Security for costs)

***Drulroad Pty Limited v Gibson*** (1993) ANZ Conv Rep 115

(Oral agreement for mortgage; priorities)

***Reid v Howard*** (1993) 31 NSWLR 298 (CA)

(Privilege against self incrimination)

***TNT Australia Pty Limited v Fels*** (1992) ATPR 40, 595

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***Re Spedley Securities Ltd (in Liq)*** (1992) 9 ACSR 83

(Liquidators' compromise with creditors; liquidators' application for directions)

***Garde v Workcover Authority (NSW)*** (1992) 35 AILR 303; 35 AILR 423 (FC)

(Powers of single judge; no case to answer submission)

***Garde v Workcover Authority (NSW)*** (1992) 35 AILR 103

(Termination of SES employees; *Public Sector Management Act 1988 (NSW)*; section 88F *Industrial Arbitration Act 1912 (NSW)*; unfair dismissal)

***Garde v Workcover Authority (NSW)*** (1992) 34 AILR 398

(No case to answer submissions)

***Fisons Pty Ltd v Rostinga Pty Ltd*** (1991) ANZ Conv R 438

(Leases; rent review clauses)

***Grimson v Aviation & General (Underwriting) Agents Pty Limited*** (1991) 25 NSWLR 422; (1991) 7 ANZ Ins. Cas. 61-095 (CA)

(Statutory charge on insurance monies; leave to proceed under section 6 of *the Law Reform (Miscellaneous) Provisions Act 1946 (NSW)*; limitations of actions)

***Henderson v Australian Chamber of Manufactures*** (1991) 34 AILR 10

(Employment termination packages; redundancy; eligible termination payments; implied terms; estoppel)

***Re G.B. Nathan & Co Pty Limited (In Liq)*** (1991) 24 NSWLR 674; (1991) 5 ACSR 673; (1991) 9 ACLC 1291

(Powers of court on liquidator's application for directions; liquidators control over trust property)

***Lee Gleeson Pty Limited v Sterling Estates Pty Limited*** (1991) 23 NSWLR 571; (1991) ATPR (Digest) 46-072 (1991) ASC 56-083

(Misleading and deceptive conduct; promissory estoppel; enforceability of oral building contracts; procedure before referee)

***Spika Trading Pty Limited v Harrison*** (1990) 19 NSWLR 211; (1990) 1 ACSR 609; (1990) 8 ACLC 310

(Directors liabilities under section 556 Companies Code; contribution between directors)



**Maurice Drycleaners Pty Limited v National Australia Bank Limited (1990) 8 ACLC 798**  
(Winding up; interest on void dispositions)

**Edward Keller (Australia) Pty Limited v Henelly (1990) 35 IR 464; 33 AILR 79 (CA)**  
(Employment contracts; reasonable notice)

**Clemada Pty Limited v Hire-it Pty Limited (No. 2) (1990) 3 ACSR 202**  
(Appointment of provisional liquidators)

**Stanham v National Trust of Australia (NSW) (1989) 15 ACLR 87; (1989) 7 ALLC 628**  
(Rights of members at extraordinary general meeting; rights of members of corporations)

**Fisons Pty Ltd v Rostinga Pty Ltd (1989) NSW Conv R 44-589**  
(Leases, rent review causes; declarations)

**Vaughan v O'Meara (1989) 31 IR 221; 31 AILR 311**  
(Jurisdiction of Industrial Commission under section 88F *Industrial Arbitration Act 1912 (NSW)*)

**O'Meara v Vaughan (1989) 31 IR 266**  
(Powers of Industrial Commission to stay of proceedings in Supreme Court)

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(Companies' indoor management rule)

**Whitehouse v Remme (1988) 64 LGRA 375**  
(Jurisdiction of Land & Environment Court; trespass; injunction)

**Corporate Affairs Commission (NSW) v Prime Commodities Pty Limited & Ors (1987) 11 ACLR 584; (1987) 5 ACLC 787**  
(Corporate Affairs Commission powers; injunctions)

**Peter Nobbs Consultancy Pty Limited (In Liq) v Brambles Holdings Limited & Ors (1987) 8 NSWLR 231; (1987) 11 ACLR 460**  
(Settlements in bankruptcy; settlements under Companies Code)

**Portfolio Projects Pty Limited v Oakes Building Co Pty Limited (1987) 5 ACLC 911**  
(Company winding-up; abuse of process)

**Kitt v Tourism Commission of NSW (1987) 11 NSWLR 686; (1987) EOC 92-196**  
(*Public Service Act 1999 (Cth)*; anti-discrimination legislation)

**Wentworth v Rogers & Anor (No. 3) (1986) NSWLR 642 (CA)**  
(Practice and procedure on death of trial judge; substitution of judges; costs)

**Guthega Development Pty Limited v Minister Administering the National Parks & Wildlife Act (NSW) 1974 (1986) 7 NSWLR 353; (1986) 61 LGRA 401 (CA)**  
(Building control and town planning; environmental impact statements; *National Parks & Wildlife Act 1974 (NSW)*)

**Leichhardt Municipal Council v Maritime Services Board of New South Wales (1985) 57 LGRA 169**  
(Noise control; environmental impact statements; determining authorities)

**Re Ward; ex parte Official Trustee & Bankruptcy v Dabnas Pty Limited (1984) 55 ALR 395; (1984) 3 FCR 112**  
(Settlements in bankruptcy; assignments of choses in action; promissory estoppel)