



GREENWAY CHAMBERS



PENNY THEW
SOLICITOR 2000
BARRISTER 2005

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BACKGROUND

Penny was called to the Bar in 2005 and regularly advises and appears in federal and most state courts and tribunals for corporate, government and individual clients primarily in employment, discrimination and commercial matters.

While Penny's particular expertise includes all matters arising under the Fair Work Act 2009 (Cth) and the Industrial Relations Act 1996 (NSW), as well as claims involving discrimination law, contractual disputes and restraints of trade, she also appears regularly in litigation involving succession law, disposition of assets and possession. Penny is in addition appointed a part time Tribunal Member to the Consumer and Commercial Division of the New South Wales Civil and Administrative Tribunal (reappointed for a five year term in 2019).

Penny is known for her responsiveness and strategic, client-focused approach to litigation, and is sharply attuned to the client's interest in achieving the best possible end goal.

Before being called to the Bar, Penny practised as a solicitor in the areas of employment, industrial and discrimination law between 2000 and 2005, acting for corporate and government clients, as well as employer associations, and undertook an internship with the International Labour Office in Geneva, Switzerland.

Penny is an editorial committee member of Bar News, the journal of the Bar Association, and was a member of the Bar Association's Diversity and Equality Committee from 2013 to 2019, in which role she drafted the Bar Association's Model Best Practice Guidelines for use by the private Bar, and drafted amendments to the predecessor to Rule 123 of the Legal Profession Uniform Conduct (Barristers) Rules 2015 (prohibiting sexual harassment, discrimination and bullying).

Penny regularly advises and presents on workplace compliance and discrimination issues, particularly for legal practitioners and including for the New South Wales Bar Association, the Law Society of New South Wales, College of Law, the ODPP, NSW Parliamentary Counsel, law firms, private organisations and industry bodies.

Penny holds the degrees of Bachelor of Laws and Bachelor of Arts from the University of New South Wales, a Masters of Labour Law and Relations from the University of Sydney and in 2008 completed the Advanced Advocacy Course at the University of Oxford (Keble College) as a representative of the New South Wales Bar Association.

While completing her degrees, Penny worked as a policy advisor for the Human Rights and Equal Opportunity Commission (now the Australian Human Rights Commission), during which time she was a contributor to the Report of the National Pregnancy and Work Inquiry 1999 and was a representative of the former HREOC at the NSW Pay Equity Inquiry in 1998 on a pro bono basis.

FOCUS AREAS + SELECT CASES

APPELLATE

PIA Mortgage Services Pty Ltd v King [2020] FCAFC 15; (2020) 292 IR 317 (appeals under general protections provisions of *Fair Work Act 2009* (Cth)); *PIA Mortgage Services Pty Ltd v King (No 2)* [2020] FCAFC 53 (costs under section 570 of the *Fair Work Act 2009* (Cth))

El Ali v Royal & Ors; Zreika v Royal & Ors [2019] HCATrans 227 (led by Dr Birch SC; indemnity principle)

Zreika v Royal [2019] FCAFC 82; (2019) 271 FCR 65 (led by Dr Birch SC; dispositions of shares and assets); *Zreika v Royal (No 2)* [2019] FCAFC 237 (led by Dr Birch SC; costs and consequential orders)

Khanna v Bond Realty Pty Ltd [2019] NSWCA 128 (appeals from District Court decisions)

Todd Hadley Pty Limited v Lake Maintenance (NSW) Pty Limited [2019] NSWCA 262 (led by Dr Birch SC; separate question on limitation defence)

EMPLOYMENT AND DISCRIMINATION LAW

Buchanan v Fire and Rescue NSW [2020] NSWIRComm 1019 (victimisation claim under section 213 of the *Industrial Relations Act 1996* (NSW))

King v PIA Mortgage Services Pty Ltd & Ors [2018] FCCA 3426 (led by Taylor SC; general protections claim under the *Fair Work Act 2009* (Cth) and Australian Consumer Law claim)

King v PIA Mortgage Services Pty Ltd & Ors (No 2) [2019] FCCA 1460 (penalties under the *Fair Work Act 2009* (Cth))

Johnston v Ainslie Football Club Limited (Discrimination) [2018] ACAT 104 (disability discrimination; 'gambling behaviour').

Manuel Maciel v Lynch Admin Services Pty Ltd T/A Lynch Group [2017] FWC 4914 (unfair dismissal application under the *Fair Work Act 2009* (Cth))

Hinder v The Salvation Army (NSW) Property Trust (No 3) [2017] NSWCATAD 16 (disability discrimination under the *Anti-Discrimination Act 1977* (NSW); gambling alleged as a disability)

Cheng v Western Pursuits Trust Trading as Vauxhall Inn [2016] FCCA 3275 (general protections claim under the *Fair Work Act 2009* (Cth))

Lotfizadeh v University of Western Sydney [2016] NSWCATAD 205 (disability discrimination under the *Anti-Discrimination Act 1977* (NSW))

Concierge Travel Group Pty Limited v Ryan (24 December 2015 SC 2015/372185 per Stevenson J) (restraint of trade injunctive relief)

Formula Chemicals Pty Limited v Gee (10 December 2015 SC 2015/331079 per White J) (restraint of trade injunctive relief)

ABI v Boral Australia Gypsum Ltd t/as Boral Plasterboard [2011] NSWADT 225 (disability discrimination and victimisation claim under the *Anti-Discrimination Act 1977* (NSW))

Howe v NSW Farmers' Association [2010] NSWADT 101 (disability discrimination claim under the *Anti-Discrimination Act 1977* (NSW))

Hulena v Owners Corporation Strata Plan 13672 [2009] NSWADT 119 (disability discrimination claim under the *Anti-Discrimination Act 1977* (NSW))

McDonald v Parnell Laboratories (Aust) Pty Ltd (2007) 168 IR 375 (breach of employment contract and family responsibilities discrimination claim under the *Sex Discrimination Act 1984* (Cth) and section 659(2)(f) of the *Workplace Relations Act 1996* (Cth))

McDonald v Parnell Laboratories (Aust) (No 2) (2007) 164 FCR 591; 175 IR 251 (costs under the *Workplace Relations Act 1996* (Cth))

Lane and Northern Sydney Central Coast Area Health Service [2006] NSWIRComm 380 (unfair dismissal appeal under the *Industrial Relations Act 1996* (NSW))

Mamouney v SS&A Club Albury Limited [2006] NSWIRComm 383 (led by Eastman SC; application under section 106 of the *Industrial Relations Act 1996* (NSW))

Joyce v Hendricks Pty Ltd & Another [2006] NSWIRComm 1068 (unfair dismissal under the *Industrial Relations Act 1996* (NSW))

COMMERCIAL AND COMMON LAW

Royal v Nazloomian, in the matter of Royal [2019] FCA 555 (bankruptcy notice set aside)

Lake Maintenance (NSW) Pty Limited v Todd Hadley Pty Limited & Ors [2019] NSWSC 297 (led by Dr Birch SC; limitation defence in professional liability proceedings); *Todd Hadley Pty Limited v Lake Maintenance (NSW) Pty Limited* [2019] NSWSC 1764 (separate question referral pursuant to rule 1.21 of the UCPR)

Mine Subsidence Board v Kozak [2017] NSWSC 421 (possession)

Curry v Curry [2017] NSWSC 461 (possession)

Royal v El Ali [2016] FCA 782; *Royal v El Ali (No 2)* [2016] FCA 1156; *Royal v El Ali (No 3)* [2016] FCA 1573; *Royal v El Ali (No 4)* [2017] FCA 299 (led by Dr Birch SC; dispositions of shares and assets rendered void, consequential orders)

Venn v Mine Subsidence Board [2013] NSWLEC 30 (appeal under the *Mine Subsidence Compensation Act 1961* (NSW))

Neale v Mine Subsidence Board [2013] NSWLEC 34 (appeal under the *Mine Subsidence Compensation Act 1961* (NSW))

Fitness First v Chong [2008] NSWSC 800 (appeal from decision of CTTT)

Milostnik v Jabbour [2008] FMCA 1540 (creditors petition under the *Bankruptcy Act 1966* (Cth))

ARTICLES

Thew and Nomchong SC, "The other pandemic: sexual harassment and bullying in law", *Lawyers Weekly*, 14 October 2020.

Thew, "Us Too?: One year on from the IBA's damning report" [2020] *LSJ* (Issue 68) 76.

Birch SC, Thew and France, "Alienations of property with intent to defraud" [2020] *LSJ* (Issue 63) 88.

Thew and Assaf, "Are there implications of NSW Court filing trends?" [2019] *Bar News* (Summer) 34.

Thew, "Us Too? Findings on bullying and harassment in the legal profession" [2019] *Bar News* (Winter) 10.

Cheshire SC and Thew, "Meeting the challenges of the modern Bar; A Clerk's View" [2019] *Bar News* (Winter) 52.

Corsaro SC and Thew, "Obtaining leave to appear - NSW Civil and Administrative Tribunal" [2019] *Bar News* (Winter) 71.

Thew and Tronson, "What is the economic cost of discrimination?" [2019] (Autumn) *Bar News* 67.

Thew, "The national conference; rise2018", [2018] (Summer) *Bar News* 37.

Thew and Taylor SC, "The Pursuit of Excellence: the Bar Association's Best Practice Guidelines" [2016] (Spring) *Bar News* 51.

Thew, "A first for Australia: A dedicated federal anti-bullying regime", *Workplace Review*, Thomson Reuters, Spring 2013.

Contributing author to *Australian Master Workplace Relations Guide*, CCH, 1st ed, 2006; 2nd ed, 2007; 3rd ed, 2008; 4th ed, 2009.

Contributing editor of "*Discrimination in Education, Goods and Services*" in Australian and New Zealand Equal Opportunity Law, CCH loose leaf service, 2009.

Menzies QC, Ryan and Thew, "Moot camp or boot camp: the Keble Advocacy Course" [2008] (Summer) *Bar News* 55.

Contributing author to Colvin, Watson and Burns, *The Workplace Relations Handbook: A Guide to the Workplace Relations Act 1996* (Cth), 2nd ed, Butterworths, 2004.