

# James Arnott SC

James has practised at the NSW Bar since 2008 and was appointed Senior Counsel in 2021.

He has a wide-ranging practice specialising in commercial and regulatory law. He has been instructed in many of the most interesting, complex and high-profile cases across competition and consumer law, class actions, commercial contract disputes, corporations, insolvency and restructuring law, energy law and professional negligence.

James' experience includes acting for both regulators and for regulated entities in investigations and civil penalty proceedings, including in investigations carried out, and proceedings commenced, by the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission, the Australian Energy Regulator, the Office of the Australian Information Commissioner and AUSTRAC.

James also regularly appears and advises in relation to commissions of inquiry. He appeared for the Westpac Group at the Financial Services Royal Commission, the Commonwealth of Australia at the Aged Care Royal Commission and the Disability Royal Commission, and for a former Commonwealth minister at the Robodebt Royal Commission.

James is ranked as a leading silk by Legal 500 (in commercial disputes) and by Doyles Guide (in insolvency and restructuring). He holds the degrees of Bachelor of Economics, Bachelor of Laws (Hons) and Master of Laws, all from the University of Sydney. Before joining the Bar, he was a senior associate at Allens.

## Recent decided cases

<p><i>Dexus Capital Funds Management Ltd v Macquarie Retail Pty Ltd atf Macquarie Retail Trust</i> <a href="#">[2025] NSWCA 68</a>; <i>Macquarie Retail Pty Ltd atf Macquarie Retail Trust v Dexus Capital Funds Management Ltd</i> <a href="#">[2024] NSWSC 1413</a></p>	<p><b>Commercial Contract Dispute.</b> Appeared at trial and on appeal for Macquarie Retail, a co-owner of the Macquarie Shopping Centre, to enforce a pre-emption right against the other co-owner arising after the sale of AMP's funds management business to Dexus</p>
<p><i>Master Wealth Control Pty Ltd v ACCC</i> <a href="#">[2024] FCAFC 171</a>; <i>ACCC v Master Wealth Control Pty Ltd</i> <a href="#">[2024] FCA 344</a> (liability); <a href="#">[2024] FCA 703</a> (public interest immunity); <a href="#">[2024] FCA 795</a> (penalty)</p>	<p><b>Consumer Law.</b> Appeared for the ACCC at trial and on appeal in civil penalty proceedings against DG Institute and Dominique Grubisa about false or misleading representations made to students in promoting and delivering wealth seminars</p>
<p><i>Australian Energy Regulator v AGL Retail Energy Limited</i> <a href="#">[2024] FCA 969</a> (liability); <a href="#">[2024] FCA 1500</a> (penalty)</p>	<p><b>Energy Law.</b> Appeared for the AER in civil penalty proceedings against AGL for contraventions of the National Energy Retail Rules by failing to notify and refund customers for overcharges obtained from the customer's welfare payments through the Centrepay service</p>

<p><i>ASIC v Macleod</i> <a href="#">[2024] FCAFC 174</a>; <i>ASIC v Noumi Ltd</i> <a href="#">[2024] FCA 495</a> and <a href="#">[2024] FCA 349</a> (legal professional privilege in PwC investigation report)</p> <p><i>ASIC v Noumi Ltd</i> <a href="#">[2024] FCA 862</a> (Noumi civil penalty hearing)</p> <p><i>ASIC v Noumi Ltd</i> <a href="#">[2024] FCA 1192</a> (CFO civil penalty hearing)</p>	<p><b>Corporations Law.</b> Appeared for ASIC in proceedings against Noumi Limited (formerly Freedom Foods Group Limited) and its former CEO and CFO for contraventions of the company's continuous disclosure obligations. Proceedings against Noumi and CFO resolved in 2024, with trial against CEO proceeding in 2026</p>
<p><i>Tour v Australia and New Zealand Banking Group Ltd</i> <a href="#">[2024] FCA 1513</a></p>	<p><b>Class Action.</b> Appeared for Woodsford, intervening as litigation funder, in relation to deductions from settlement sum, including funder's success fee, in the ANZ credit card class action.</p>
<p><i>ACCC v Mastercard Asia/Pacific Pte Ltd</i> <a href="#">[2024] FCA 999</a> (first instance); <a href="#">[2024] FCA 1237</a> (leave to appeal)</p>	<p><b>Competition Law.</b> Appeared for the ACCC in relation to advance ruling on whether judicial notice can be taken of statistical information under <i>Reserve Bank Act</i>, in advance of trial (now in 2026)</p>
<p><i>ASIC v Bit Trade Pty Ltd</i> <a href="#">[2024] FCA 953</a> (liability); <a href="#">[2024] FCA 1422</a> (penalty)</p>	<p><b>Corporations Law.</b> Appeared for Bit Trade, the Australian operator of the Kraken crypto exchange, in civil penalty proceedings concerning whether a margin extension facility used to purchase cryptocurrency on digital exchange was subject to the design and distribution obligations in the Corporations Act</p>
<p><i>Ingram as trustee for the Ingram Superannuation Fund v Ardent Leisure Limited (Settlement Approval)</i> <a href="#">[2024] FCA 836</a></p>	<p><b>Class Action.</b> Appeared for Woodsford, intervening as litigation funder, in relation to deductions from settlement sum, including funder's success fee, in the Ardent shareholder class action</p>
<p><i>Australian Energy Regulator v Santos Direct Pty Ltd</i> <a href="#">[2024] FCA 579</a></p>	<p><b>Energy Law.</b> Appeared for Santos in civil penalty proceedings regarding the record keeping obligations in the capacity auction under the National Gas Rules</p>
<p><i>Ramsay Health Care Australia v Australian Nursing Federation Industrial Union of Workers Perth</i> <a href="#">[2024] FCA 519</a></p>	<p><b>Consumer and Commercial Law.</b> Appeared for Ramsay in proceedings alleging misleading or deceptive conduct by the union respondent in its print and radio advertising</p>
<p><i>Binqld Finances Pty Ltd (In Liq) v Binetter</i> <a href="#">[2024] FCA 361</a></p>	<p><b>Corporations and Insolvency Law.</b> Appeared for applicants in interlocutory proceedings concerning whether the time period for claim for statutory compensation under the Corporations Act is capable of extension</p>
<p><i>J Wisbey &amp; Associates Pty Ltd v UBS AG</i> <a href="#">[2024] FCA 147</a> and <a href="#">[2021] FCA 36</a></p>	<p><b>Class Action.</b> Appearing for Citi in a class action alleging cartel conduct in the foreign exchange market from 2008 to 2013, including in application for soft class closure orders</p>
<p><i>Re Suncoast Cabs Ltd</i> <a href="#">[2023] FCA 1605</a> and <a href="#">[2024] FCA 56</a></p>	<p><b>Corporations and Restructuring Law.</b> Appeared for Suncoast Cabs Ltd in relation to a scheme of arrangement for the acquisitions of its shares</p>

<p><i>Potts v National Australia Bank Limited</i> (2023) 98 ALJR 81; <a href="#">[2023] HCA 41</a></p>	<p><b>Corporations and Commercial Law.</b> Appeared for the receivers of and lenders to Dick Smith in proceedings against the former directors of the listed company that operated the Dick Smith business, which was heard over 64 hearing days, commencing in March 2020 and concluding in February 2021, and then on appeal to the Court of Appeal and the High Court.</p>
<p><i>DSHE Holdings Ltd (Receivers and Managers) (in liq) v Potts</i> (2022) 405 ALR 70; <a href="#">[2022] NSWCA 165</a> and (No 2) <a href="#">[2022] NSWCA 258</a></p>	
<p><i>DSHE Holdings Ltd v Abboud (No 3); National Australia Bank Ltd v Abboud (No 4)</i> (2021) 155 ACSR 1; <a href="#">[2021] NSWSC 673</a> and <i>DSHE Holdings Ltd v Abboud (No 4); National Australia Bank Ltd v Abboud (No 5)</i> <a href="#">[2022] NSWSC 91</a></p>	
<p><i>Australian Energy Regulator v AGL Loy Yang Marketing Pty Ltd</i> <a href="#">[2023] FCA 1299</a></p>	<p><b>Energy Law.</b> Appeared for the AER in civil penalty proceedings about AGL's Loy Yang and Bayswater power stations not complying with dispatch instructions to provide contingency frequency services</p>
<p><i>nib Holdings Ltd v Raffy Nominees Pty Ltd as trustee of Whitecoat Holding Trust</i> <a href="#">[2023] NSWSC 715</a> and <a href="#">[2023] NSWSC 1036</a></p>	<p><b>Contract and shareholder dispute.</b> Appeared for nib to recover a loan made to a co-investor in the Whitecoat healthcare review platform, including defending a cross-claim alleging breach of fiduciary duty as joint venturers</p>
<p><i>Alto Pty Ltd v General Motors Australia and New Zealand Pty Ltd (formerly GM Holden Pty Ltd)</i> <a href="#">[2023] NSWSC 759</a></p>	<p><b>Commercial Law.</b> Appeared for General Motors' Australian subsidiaries in relation to plaintiff's application for approval to make §1782 application under Title 28 of the United States Code</p>
<p><i>Ghee v BT Funds Management Limited</i> <a href="#">[2023] FCA 1553</a></p>	<p><b>Class Action.</b> Appeared for BT Funds Management Limited and Westpac Life Insurance Services Limited in a class action brought by former members of two superannuation funds</p>
<p><i>Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd</i> <a href="#">[2022] FCA 1409</a> and <a href="#">[2023] FCA 143</a></p>	<p><b>Class Action.</b> Appeared for PTTEP AA in relation to the opt out and settlement approval process for the Montara class action, having appeared for PTTEP AA at the initial trial in 2019</p>
<p><i>Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd (No 1)</i> <a href="#">[2017] FCA 14</a>; (No 2) <a href="#">[2017] FCA 644</a>; (No 3) <a href="#">[2017] FCA 1272</a>; (No 4) <a href="#">[2018] FCA 74</a>; (No 5) <a href="#">[2019] FCA 932</a>; (No 6) <a href="#">[2019] FCA 1853</a>; (No 7) <a href="#">[2021] FCA 237</a> and (No 8) <a href="#">[2021] FCA 1291</a></p>	
<p><i>ACCC v Fujifilm Business Innovation Australia Pty Ltd</i> <a href="#">[2022] FCA 928</a> and (2021) 150 ACSR 165; <a href="#">[2021] FCA 153</a></p>	<p><b>Consumer Law.</b> Appeared for the ACCC in proceedings regarding unfair contract terms used in Fuji's small business contracts</p>
<p><i>Giabal Pty Ltd v Gunns Plantations Ltd (in liq)</i> <a href="#">[2020] NSWSC 1070</a>, <a href="#">[2022] NSWSC 1557</a>, <a href="#">[2023] NSWSC 184</a> and <a href="#">[2023] NSWSC 201</a></p>	<p><b>Class Action.</b> Appeared for the auditors in a class action alleging professional negligence in the conduct of certain compliance plan audits of forestry schemes</p>

<p><i>Melbourne Aircraft Leasing (UK) Ltd v Algeri in their capacity as joint and several Trustees of Project Volar Creditors' Trust</i> (2022) 161 ACSR 569; <a href="#">[2022] NSWSC 443</a></p>	<p><b>Insolvency Law.</b> Appeared for several lessors of aircraft to the Virgin Group in relation to whether the <i>Lundy Granite</i> principle afforded priority to the aircraft rent during the administration</p>
<p><i>Goodwin v HBCA Pty Ltd</i> <a href="#">[2022] FCAFC 166</a></p>	<p><b>Class Action.</b> Appeared for the appellants in relation to security for costs orders made in a class action brought by Hog's Breath Cafe franchisees</p>
<p><i>Re Aventus Holdings Ltd and Aventus Capital Ltd as responsible entity of Aventus Retail Property Fund</i> <a href="#">[2021] NSWSC 1711</a> and <a href="#">[2022] NSWSC 266</a></p>	<p><b>Corporations and Restructuring Law.</b> Appeared for the acquirer on a scheme of arrangement to acquire the Aventus Retail Property Fund</p>
<p><i>ACCC v IVF Finance Pty Limited (No 1)</i> <a href="#">[2021] FCA 1266</a> and (No 2) <a href="#">[2021] FCA 1295</a></p>	<p><b>Competition Law.</b> Appeared for Healius Limited in proceedings brought by the ACCC to restrain the sale of a fertility business</p>
<p><i>AER v Hornsdale Power Reserve Pty Ltd</i> <a href="#">[2022] FCA 738</a></p>	<p><b>Energy Law.</b> Appeared for the AER in civil penalty proceedings about the Hornsdale 100MW battery not complying with dispatch instructions to provide contingency frequency services</p>
<p><i>Re Home Consortium Developments Limited</i> <a href="#">[2021] NSWSC 1476</a> and <a href="#">[2021] NSWSC 1708</a></p>	<p><b>Corporations and Restructuring Law.</b> Appeared for the proponent of a scheme of arrangement to restructure a stapled group</p>
<p><i>Binqld Finances Pty Ltd (in liq) v Israel Discount Bank Ltd</i> (2020) 384 ALR 148; (2020) 147 ACSR 342; <a href="#">[2020] FCA 1208</a></p>	<p><b>Corporations and Insolvency Law.</b> Appeared for the liquidators in proceedings against an Israeli bank alleging it knowingly assisted directors of certain Australian companies to engage in tax fraud in Australia causing loss to those companies</p>
<p><i>Vodafone Hutchison Australia Pty Ltd v ACCC</i> <a href="#">[2020] FCA 117</a></p>	<p><b>Competition Law.</b> Appeared for Vodafone Hutchison Australia in proceedings against the ACCC for declaratory relief to allow its merger with TPG to proceed</p>