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James Healy
BARRISTER

PROFILE*

Barrister and Arbitrator

LLB, FCI Arb, DiplCI Arb, RITP



James has a wide-ranging arbitration and commercial litigation practice. His extensive experience in resources and construction disputes has seen him act at various times for all proponents in these matters across Australia and internationally. He also practices extensively in corporate and personal insolvency, loan recovery matters and directors' duties.

Prior to joining the Bar in 2010, James was a partner of a national law firm (now K&L Gates) and assisted clients with all commercial and contentious aspects of the development of resource projects in Australia, the Asia Pacific and Africa.

His practice involves advising on complex contractual disputes with respect to major construction, engineering and infrastructure projects with a present emphasis on the renewables sector. This has seen him acting for parties in international arbitrations in the London Court of International Arbitration (LCIA), Singapore International Arbitration Court (SIAC) and numerous *ad hoc* international arbitrations seated in Perth. James works extensively with delay and quantum experts and preparing supporting lay evidence for these types of matters. Given his level of expertise, James is regularly appointed as arbitrator, both domestically and internationally.

James is sought out by clients for his focused strategic advice and responsive ability to achieve favourable resolution of multifaceted disputes. James is recognised by instructors for his excellent technical skills and approach to presentation of cases, particularly for his courtroom advocacy and ability to clearly synthesise complex factual disputes. As matters require, he acts both as sole counsel or as part of a team.

He is trusted by Commonwealth Government organisations to advise in respect to regulatory matters and has been briefed by ASIC, Fair Entitlements Guarantee (Attorney-General's Department), ATO, Commonwealth Department of Public Prosecution and the US Federal Reserve. In 2016 and 2017, he acted as counsel in the Royal Commission into Institutional Responses to Child Sexual Abuse hearings held in Newcastle and Sydney. In 2022 he acted in the Crown Casino Royal Commission matter in Western Australia.

James has been counsel in many of the leading cases on the *Construction Contracts Act 2004* (WA) judicial review and statutory demands decisions in Western Australia.

James makes significant contribution to *pro bono* matters in the areas of inheritance, loan defaults and guarantees provided by individuals.

He was recently Junior Counsel at trial in Julian Wright's Supreme Court claim against Wright Prospecting Pty Ltd and his sister Angela Bennett and deceased brother, Michael Wright regarding breaches of fiduciary duties and equitable claims, which is presently listed for the hearing of an appeal in November 2022.

Through his involvement in the Law Council of Australia, Law Society of Western Australia, Chartered Institute of Arbitrators (CI Arb) and Australian Restructuring Insolvency and Turnaround Association (ARITA), he is actively involved in law reform. James regularly teaches, presents and publishes papers in Australia and overseas.

James is a Fellow of CI Arb and is a past Vice President of the Australian division. He is also a member of the global CI Arb Approved Faculty List; the joint Law Council of Australia and Law Society of WA Insolvency and Restructuring Committee, having been a past chair of that committee; and the Law Council of Australia Construction and Infrastructure Committee.

Professional Qualifications & Memberships

- 1999 - LLB - University of Western Australia
- 2011 - DiplCI Arb Fellow – Chartered Institute of Arbitrators
- Qualified adjudicator under the *Construction Contracts Act 2004* (WA)
- RITP – Professional Member of the Australian Restructuring Insolvency & Turnaround Association
- 2014 – Young Members Group of the Chartered Institute of Arbitrators (Malaysia) International Arbitration Advocacy Workshop trainer
- 2016 – Young Members Group of the Chartered Institute of Arbitrators (Malaysia)
- 2017 – Australian Bar Association Appellate Advocacy Course (Brisbane)
- 2018 – Australian Bar Association Advanced Trial Advocacy Course (Sydney)
- 2019 – National Institution of Trial Advocacy course on depositions (New York)

Professional Organisations

James is an active member appointed and/or elected to the following organisations:

- Law Council of Australia & WA Law Society – Construction and Infrastructure Law Committee
- Law Council of Australia & WA Law Society – Insolvency and Reconstruction Law Committee
- Member of International Chamber of Commerce Australian Chapter (ICC)

- Australian Restructuring Insolvency and Turnaround Association (ARITA)

Recent Matters

- James was counsel in Julian Wright's claim against Wright Prospecting Pty Ltd and the executors of Peter Wright's deceased Estate concerning alleged breaches of fiduciary duties and equitable claims.
- Appointed arbitrator in domestic property development dispute.
- Appointed arbitrator in international resource disputes concerning payment of royalties from base minerals.
- Trial counsel in property dispute concerning nuisance and damages claim.
- Counsel in Federal Court application for directions concerning distribution of recovered funds from the Marco Ponzi Scheme.
- Counsel in dispute concerning crypto-currency and blockchain dispute and associated corporate control.
- Advice in respect to regulations of and development approvals for hydrogen and green ammonia projects in Western Australia.
- Counsel in African investment arbitration concerning access and development of mineral concessions.
- Counsel in international arbitration seated in Indonesia concerning construction of a processing plant, and an international arbitration in the Philippines concerning a joint venture dispute over offshore petroleum permits.
- Offshore oil and gas processing plant dispute for South Korean client.
- Briefed to advise and appear in Supreme Court proceedings involving construction of a gold mine and associated infrastructure.
- Briefed to advise and appear in relation to Supreme Court proceedings concerning design and construction of a Perth hospital.
- Counsel in various winding up and oppression proceedings concerning control and management (particularly of unlisted mining companies).
- Project financing success fee dispute for an infrastructure development in the Sydney Federal Court.
- Judicial review proceedings under the *Construction Contracts Act 2004* (WA).
- Counsel in a design and construction dispute concerning a biofuel cogeneration plant.
- Numerous unfair preference claim recoveries under the *Corporations Act 2001*.
- *Personal Properties Securities Act 2009* vesting and recovery proceedings.

Recent Reported Decisions

- *Mervyn Jonathan Kitay as liquidator of ACN 009 009 072 Pty Ltd v Chaucer Syndicates Ltd (CRN 184915) as managing agents for Chaucer Syndicate* [2021] WASC 450; *ACN 009 009 072 Pty Ltd (in liq) v ASIC* [2022] WASC 221 (applications under sections 601AG and 601AH of the *Corporations Act 2001*)
- *Re: Bardoc Gold Ltd; ex parte Bardoc Gold Ltd* [2022] WASC 113 (scheme of arrangement)
- *Superline Enterprises Pty Ltd v Palassis Architects (A Firm)* [2021] WASC 430; [2019] WASC 414 (construction dispute)
- *Wright v Lemon & Ors* [2021] WASC 159 (a breach of fiduciary duty claim)
- *Soussa v Thomas* [2021] WASC 172 (loan recovery)
- *Jacobs (as liquidator of Necessary Holdings Pty Ltd (in liq)) v Lenton Brae Ltd Partnership (a firm)* [2021] WASC 10 (winding up)
- *OPS Screening & Crushing Equipment Pty Ltd v Gold Valley Iron Pty Ltd (in liq)* [2020] WASC 412 (*Personal Property Security Act 2009* dispute – pending appeal)
- *Bellaire Pty Ltd v Roselink Enterprises Pty Ltd atf Ice Nemisis Unit Trust [No 2]* [2020] WASC 390 (*Personal Property Security Act 2009* dispute)
- *Salini-Impregilo SPA v Francis* [2020] WASC 358 (*Construction Contracts Act 2004* dispute)
- *Arunkalaivanan and Medical Board of Australia* [2020] WASAT 118 (State Administrative Tribunal hearing)
- *Exore Resources Ltd; ex parte Exore Resources Ltd (no 2), Re* [2020] WASC 333 and [2020] WASC 285 (scheme of arrangement)
- *GPM Resources Pty Ltd v Golden Mile Mining Pty Ltd* [2020] WADC 102 (gold toll milling dispute)
- *Parton v Robins* [2020] WASC 206 (cross-vesting)
- *G & R Rossen Pty Ltd v Buchanan* [2019] WASC 373 (real estate dispute)
- *Barrett-Lennard v River Wind Pty Ltd* [2019] WASCA 119 (farming easement)
- *Clough Projects Australia Pty Ltd v Floreani* [2018] WASC 101 (*Construction Contracts Act 2004* judicial review)
- *Deputy Commissioner of Taxation v Josway Hospitality Pty Ltd* [2018] FCA 466 (review application of winding up orders)

* Current as at 1 July 2022