

Andrew P. L. Naylor
Barrister

CURRICULUM VITAE

PERSONAL DETAILS

Address (Work): Maurice Byers Chambers
Level 60, 25 Martin Place
Sydney NSW 2000

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EDUCATIONAL QUALIFICATIONS

1981 – 1986 Higher School Certificate (HSC)
Colo High School

1987 – 1992 Bachelor of Commerce (Economics Major) (B Com)
Bachelor of Laws (LLB)
University of New South Wales

1993 – 1994 Graduate Diploma in Legal Practice (GDLP)
College of Law
University of Technology Sydney
Dux of Course

EMPLOYMENT HISTORY

15 February 2002 – current Barrister, Maurice Byers Chambers

July 1997 – February 2002 Commission Solicitor, NSW Police Integrity Commission

April 1995 – June 1997 Solicitor & Professional Assistant to Senior Counsel Assisting
Royal Commission into the NSW Police Service

September 1993 – April 1995 Senior Law Reform Officer, Australian Law Reform Commission

October 1992 – August 1993 Law Reform Officer, Australian Law Reform Commission

March 1992 – October 1992 Senior Research Officer, Australian Law Reform Commission

April 1991 – November 1991 Research Assistant, Australian Law Reform Commission

December 1991 – February 1992 Summer Clerk, Legal Aid Commission of NSW

December 1990 – February 1991

PRIMARY AREAS OF PRACTICE

- Medical negligence
- Class actions
- Common law
- Inquiries and inquests
- Administrative and public law
- Consumer law
- Human rights

SELECTED CASES

Class Actions

2017–2021 Claim for damages for injury loss and damage caused by the supply of medical devices for the treatment of pelvic organ prolapse and stress urinary incontinence:

[Gill v Ethicon Sàrl \(No 5\) \[2019\] FCA 1905](#) (substantive judgment on initial trial)

[Gill v Ethicon Sarl \(No 6\) \[2020\] FCA 279](#) (determination of common questions)

[Ethicon Sàrl v Gill \[2021\] FCAFC 29](#) (appeal to the Full Court of the Federal Court)

2021–2022 Claim for damages by passengers and relatives of passengers for injury loss and damage caused by the supply of services by the owners and operators of the *Ruby Princess* in relation to a cruise from Sydney to New Zealand and return in March 2020:

[Karpik v Carnival plc \(The Ruby Princess\) \(Initial Trial\) \[2023\] FCA 1280](#)

Selected Appellate Cases

2003 [Musumeci v Attorney General of NSW \[2003\] NSWCA 77](#); (2003) 57 NSWLR 193; (2003) 140 A Crim R 376 (NSW Court of Appeal – appeal from declaratory relief in relation to the proper application of the rules of procedural fairness in coronial inquests)

2008 [NSW Food Authority v Nutricia Australia Pty Ltd \[2008\] NSWCCA 252](#) (NSW Court of Criminal Appeal – prosecution of infant formula manufacturer for contraventions of the *Food Act 2003* (NSW) – stated case relating to the validity of statutory notices issued under the *Food Act*)

2008 [State of New South Wales v Burton \[2008\] NSWCA 319](#) (NSW Court of Appeal – claim in negligence for damages for psychiatric injury arising from exposure to work-related trauma – causation and quantum assessment)

2010 [Goodwin v Commissioner of Police \[2010\] NSWCA 239](#) (NSW Court of Appeal – appeal to the District Court from a determination of Commissioner of Police certifying that the appellant’s psychiatric injury was not caused as a consequence of the appellant being hurt on duty – constructive failure to exercise jurisdiction)

2011 [Commissioner of Police, NSW Police Force v Butcher \(EOD\) \[2011\] NSWADTAP 9](#) (Appeal Panel, NSW Administrative Decisions Tribunal – disability discrimination)

2011 [Insight Vacations Pty Limited v Young \[2011\] HCA 16](#); (2011) 243 CLR 149 (High Court – trade practices – travel contract – whether s 5N of the *Civil Liability Act 2002* (NSW) was picked up by s 74(2A) of the *Trade Practices Act 1974* (Cth) as surrogate federal law)

2012 [Goodwin v Commissioner of Police \[2012\] NSWCA 379](#) (NSW Court of Appeal – appeal to the District Court from a determination of Commissioner of Police certifying that the appellant’s psychiatric injury was not caused as a consequence of the appellant being hurt on duty – appeal from retrial)

2013 [State of New South Wales v TD \[2013\] NSWCA 32](#); (2013) 83 NSWLR 566 (NSW Court of Appeal – claim for damages for false imprisonment for the unlawful detention of a forensic patient in a prison when required to be detained in a hospital)

2013 [State of New South Wales v TD by her tutor The Protective Commissioner of New South Wales \[2013\] HCATrans 209](#) (High Court – claim for damages for false imprisonment – detention of a forensic patient in a prison)

2017 [Murad v Assistant Minister for Immigration and Border Protection \[2017\] FCAFC 73](#) (Full Court of the Federal Court – visa cancellation of stateless Palestinian man – proper application of the obligation to treat the best interests of the child as a primary consideration)

- 2017 [*Shinwari v Anjoul bht Therese Anjoul* \[2017\] NSWCA 74](#); (2017) 94 NSWLR 314 (NSW Court of Appeal – medical negligence – proper construction of the proportionate liability provisions in s 34 of the *Civil Liability Act 2002* (NSW))
- 2021 [*Ethicon Sàrl v Gill* \[2021\] FCAFC 29](#) (Full Court of the Federal Court – class action – appeal from first instance judgments)

Selected First Instance Matters

- 2005 [*Principal Registrar of the Supreme Court of New South Wales v Joseph Assi* \[2004\] NSWSC 1123](#); [*Principal Registrar of the Supreme Court of New South Wales v Joseph Assi* \[2005\] NSWSC 183](#) (prosecution of a former solicitor for contempt of court)
- 2006 [*Inspector Mayo-Ramsay \(WorkCover Authority of NSW\) v The Crown in the Right of the State of New South Wales \(NSW Fire Brigades\)* \[2006\] NSWIRComm 356](#); [*Inspector Mayo-Ramsay \(WorkCover Authority of NSW\) v The Crown in the Right of the State of New South Wales \(NSW Fire Brigades\) \(No 2\)* \[2007\] NSWIRComm 168](#) (prosecution of the NSW Fire Brigades for offences under the *Occupational Health and Safety Act 1983* (NSW))
- 2007 [*Authorised Officer Christine Tumney \(NSW Food Authority\) v Nutricia Australia Pty Limited* \[2007\] NSWSC 1215](#) (prosecution of an infant formula manufacturer for multiple alleged offences under the *Food Act 2003* (NSW) – validity of statutory notices)
- 2007 [*Pollard v Boulderstone Hornibrook Engineering Pty Ltd & Bilfinger Berger AG* \[2007\] NSWSC 15](#) (claim for damages in negligence by an employee of a labour hire company)
- 2008 [*Tumney \(NSW Food Authority\) v Nutricia Australia Pty Ltd* \[2008\] NSWSC 1382](#); (2008) 74 NSWLR 148 (prosecution of an infant formula manufacturer for multiple alleged contraventions of the *Food Act 2003* (NSW) – permanent stay application)
- 2008-2013 [*TD v State of New South Wales* \[2010\] NSWSC 368](#); [*TD, by her tutor, the Protective Commissioner of NSW v State of NSW* \[2011\] NSWSC 763](#) (claim for damages for false imprisonment – detention of a forensic patient in a prison)
- 2010-2012 [*Page v Commissioner of Police \(No 1\)* \[2012\] NSWDC 130](#); [*Page v Commissioner of Police \(No 2\)* \[2012\] NSWDC 137](#) (appeal to the District Court from a determination by the Commissioner of Police certifying that the appellant's psychiatric injury was not caused by him having been hurt on duty)
- 2013 [*Belinda Lawlor \(nee Latta\) v State of New South Wales* \[2014\] NSWSC 1659](#) (application for an extension of time under s 151D of the *Workers Compensation Act 1987* (NSW) in relation to a claim for work injury damages for psychiatric injury)
- 2015 [*Ingram v QBE Insurance \(Australia\) Ltd \(Human Rights\)* \[2015\] VCAT 1936](#) (Victorian Civil and Administrative Tribunal – claim for damages for unlawful disability discrimination on account of the respondent refusing indemnity under a travel insurance contract on the basis of a general exclusion for mental illness)

Selected Administrative and Public Law Matters

- 2002 [*Cowdery v O'Meara* \[2002\] NSWSC 927](#) (application to take over and terminate a private prosecution)
- 2015 [*BCS v NCAT & The Children's Guardian* \[2015\] NSWSC 126](#) (appeal from a decision of the NSW Civil and Administrative Tribunal (**NCAT**) dismissing a dentist's application for a working with children check)
- 2015 [*Veterinary Practitioners Board of NSW v Gallagher* \[2015\] NSWSC 1233](#) (appeal from a decision of NCAT setting aside a decision of the Veterinary Practitioners Board of NSW finding the respondent guilty of unsatisfactory professional conduct)

- 2016 [*Insurance Australia Ltd t/as NRMA Insurance v Cornish \[2016\] NSWSC 1583*](#) (application for judicial review of a determination by the State Insurance Regulatory Authority (**SIRA**) dismissing an application for a further medical assessment)
- 2016 [*QBE Insurance \(Australia\) Limited v Alawia \[2016\] NSWSC 1875*](#) (application for judicial review of a determination by SIRA dismissing an application for referral of a medical assessment to a review panel)

Selected Inquiries

- 2002 Police Integrity Commission (**PIC**) Operation Tower – inquiry into complaints of police misconduct by the late John Marsden – [*Police Integrity Commission, Report to Parliament: Operation Tower, April 2004*](#) (Counsel Assisting)
- 2006 PIC Operation Rani – public inquiry into the Police Force investigation into the disappearance of Janine Vaughan in 2001 – [*Police Integrity Commission, Report to Parliament: Operation Rani, December 2007*](#) (Counsel for Superintendent Frank Kuiters)
- 2011 ICAC Operation Jarek – public inquiry into allegations of receipt of corrupt benefits by local council employees – [*ICAC, Investigation into Allegations that Staff from a Number of Local Councils and Other Public Authorities Accepted Secret Benefits from Suppliers and that Staff from Two Local Councils Facilitated Payment of False Invoices from Suppliers, October 2012*](#) (Counsel for local council officials)
- 2012 ICAC Operation Tilga – public inquiry into allegations that C Diekman made corrupt payments and provided corrupt benefits to public officials – [*ICAC, Investigation into Allegations of Corrupt Conduct in the Provision of Security Products and Services by Suppliers, Installers and Consultants, September 2013*](#) (Counsel for C Diekman)
- 2012 ICAC Operation Indus – public inquiry into an allegation that the Hon E Roozendaal MLC received a corrupt benefit from the Hon Edward Obeid MLC (Counsel for the Hon E Roozendaal MLC)
- 2014 Counsel Assisting the Royal Commission into Institutional Responses to Child Sexual Abuse – public inquiry into the response of a primary school and the Toowoomba Catholic Education Office to the conduct of Gerard Byrnes
- 2014 ICAC Operation Credo – public inquiry into dealings between Australian Water Holdings Pty Ltd and Sydney Water Corporation – [*ICAC, Investigation into Dealings between Australian Water Holdings Pty Ltd and Sydney Water Corporation and Related Matters*](#) (Counsel for witness T Koelma)
- 2014 ICAC Operation Spicer – public inquiry into allegations that Mr Koelma conspired with the Hon C Hartcher MP to unlawfully receive political donations for the benefit of himself, Mr Hartcher and political candidates C Spence and D Webber – [*ICAC, Investigation into NSW Liberal Party Electoral Funding for the 2011 State Election Campaign and Other Matters*](#) (Counsel for T Koelma)
- 2015 ICAC Operation Tunic – public inquiry into allegations that a former official of the Mine Subsidence Board, D Bullock, received corrupt commissions from building contractors in return for exercising his functions in a manner favourable to the contractors – [*ICAC, Investigation into the Conduct of a Mine Subsidence Board District Manager*](#) (Counsel Assisting)

PROFESSIONAL MEMBERSHIPS / DIRECTORSHIPS / APPOINTMENTS / AWARDS

- 1992 NSW State Finalist, National Family Law Mooting Competition
- 1993 – 1996 Foundation Editor and Member, Editorial Board, *Australian Journal of Human Rights*
- 1994 AusDoc Award for Excellence (Dux of course, College of Law)
- 1994 – 2002 Member, Law Society of New South Wales

1994 – current	Member, Human Rights Council of Australia Inc (HRCA)
1997 – 2000	Treasurer, HRCA
1998 – 2000	Member, Australian Lawyers for Human Rights (ALHR)
1999 – 2000	Member, International Commission of Jurists (ICJ)
2002 – current	Member, NSW Bar Association
2002 – current	Director, Illawong Ski Tourers Inc (IST)
2002 – 2010	Treasurer, IST
2002 – 2003	Vice-Chairperson, HRCA
2003 – current	Chairperson / Co-Chairperson, HRCA
2004 – 2008	Director / Treasurer, Level 60 Pty Limited
2012 – 2013	Member, Human Rights Committee, NSW Bar Association
2013 – 2019	Secretary / Treasurer / Director, Level 60 Pty Limited
2017	Convenor, Maurice Byers Centenary Conference, 1 November 2017
July 2017 – current	Member, Professional Conduct Committee 4, NSW Bar Association
May 2018	Judge, Sydney University Law School, Public International Law Mooting Competition
2019 – 2021	Chairperson, Maurice Byers Chambers
June 2022	Judge, University of New South Wales Senior Mooting Competition
July 2024 - current	Member, Human Rights Committee, NSW Bar Association

PUBLICATIONS & CONFERENCE PAPERS

1. A Naylor & C Sidoti, “Leap of Faith: Religious Freedom in Australia” in AE-S Tay & CSC Leung, *Australian Law and Legal Thinking: A Collection of 32 Country Reports to the XIVth International Congress of Comparative Law*, 1994, Faculty of Law, University of Sydney
2. A Naylor, “Australia’s Treaty-Making Process: Democracy in Action?”, in Australian Law Reform Commission, *Reform*, 1995, Issue 67
3. A Naylor, “Work of the Police Integrity Commission”, 1999, College of Law
4. M Finlay QC and A Naylor, “Appearances Before Commissions of Inquiry”, NSW Bar Association Winter Conference 2002
5. A Naylor, “The Right to Education: Human Rights Day Address to the Bahá’í Community”, December 2002
6. A Naylor, “The Liability of Public Authorities: Impact of Part 5 of the Civil Liability Act”, State Legal Conference, August 2003
7. A Naylor, “Recreational Services and Geographical Limitation of the Civil Liability Act: *Insight Vacations Pty Ltd v Young* [2011] HCA 16”, *Precedent*, November/December 2011, Issue No. 107, pp 44-46
8. A Naylor, “Legal Unreasonableness in Administrative Decision Making”, Legalwise Seminar, November 2013.
9. A Naylor, “Police and Traumatic Stress”, Annual conference of the association of the Australia and New Zealand Association of Psychiatry Psychology and the Law, November 2014
10. A Naylor, “Medical Devices Class Actions: Reflections on the Pelvic Mesh Class Action”, Legalwise Seminar, February 2022
11. A Naylor, Foreword to *Court of Conscience*, UNSW Law Society, Issue 17, 2023