

# DR ANDREW GREINKE

**Barrister**

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## QUALIFICATIONS

1999	Called to the Bar
1999	Doctor of Philosophy (ANU)
1993	Bachelor of Laws with <i>first class honours</i> (ANU)
1991	Bachelor of Commerce with <i>first class honours</i> (ANU)

## PRACTICE OVERVIEW

Over 25 years trial and appellate experience, regularly appearing unled against Senior Counsel in Supreme Court and Federal Court matters, and leading juniors in trials and appeals. He conducts a national practice across all Australian jurisdictions, is experienced in complex trials and appeals, centred on the following areas:

- appeals, including the High Court of Australia
- building and construction, particularly *Security of Payment*;
- equitable remedies, fiduciary duties and trusts
- franchise disputes;
- misleading and deceptive conduct;
- real property, caveats, commercial leases;
- wills and estates, family provision.

Finely honed cross-examination skills, particularly cross-examination challenging credit and experts. Well-versed in experts from diverse disciplines including: accounting, construction, earthworks, economics, engineering, elevator design, finance, solicitors' professional conduct, quantity surveying, real estate valuation, secant walls, share trading and town planning. Experienced in "hot-tub" cross-examination of multiple experts.

## APPEALS

Argued more than 50 appeals in the Federal Court of Australia and Courts of Appeal in Queensland, NSW and ACT.

Briefed in 24 matters in the High Court of Australia, appearing in a Full Court appeal led by Bret Walker SC.

Presenter to the Queensland Bar Practice Course on appeals. Participant in Australian Bar Association 5<sup>th</sup> Appellate Advocacy Workshop.

*Changela v Dracoma Pty Ltd* [2025] NSWCA 186 — s 588FDA *Corporations Act 2001*, voidable transactions, unreasonable director-related transactions

*Leyonhjelm v Hanson-Young* (2021) 282 FCR 341; 387 ALR 384; [2021] FCAFC 22 — defamation, qualified privilege, Parliamentary privilege, malice

*Heiko Constructions t/as Heiko Constructions Pty Ltd v Tyson* (2020) 282 FCR 297; [2020] FCAFC 208 — protections under s 348 of the *Fair Work Act 2009* (Cth)

*Commissioner of the AFP v Hart* (2018) 262 CLR 76; [2018] HCA 1; *Commissioner of the AFP v Hart* (2016) 336 ALR 492; [2016] QCA 215 — recovery of forfeited property under the *Proceeds of Crime Act 2002* (Cth), High Court of Australia

*Tang v Minister for Immigration and Citizenship* (2013) 217 FCR 55; [2013] FCAFC 139 — supervisory jurisdiction of Federal Court in migration matters

*Agripay Pty Ltd v Byrne* [2011] 2 Qd R 501; [2011] QCA 85 — wife's special equity principle from *Yerkey v Jones*

## BUILDING AND CONSTRUCTION & SECURITY OF PAYMENT

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Dr Greinke is a nationally leading barrister in building and construction law with special expertise in claims under **Security of Payment** legislation. Cases in which he has appeared have set important precedents.

He appears regularly on specialist building lists including the Technology and Construction List in the Supreme Court of New South Wales.

In *Hestbay Pty Ltd v One Sector Pty Ltd* [\[2024\] QSC 180](#) he was successful in opposing a \$7 million construction claim in the Supreme Court of Queensland (led by M Ambrose KC).

In *85 Princess Pty Ltd v Fleming* [\[2025\] NSWCA 261](#); [\[2025\] NSWSC 713](#), successfully opposed a \$5.6 million defects claim in the Supreme Court of NSW (led by Marcus Pesman SC).

Expertise in judicial and merits review of rectification orders made against builders and nominees.

*Roberts Co (NSW) Pty Ltd v Sharvain Facades Pty Ltd (Admins Apptd)* [\[2025\] NSWCA 161](#); [\[2025\] NSWSC 606](#) — deeming clauses, timing of service of payment claim, service by Payapps

*WNA Construction Pty Ltd v Canberra Building and Maintenance Pty Ltd* [\[2025\] ACTCA 17](#) — whether payment claim valid, whether payment claim effectively served, *Jones v Dunkel* inferences

*Kennedy Civil Contracting Pty Ltd (subject to deed of Co arrangement) v Linx Constructions Pty Ltd* [\[2024\] NSWCA 243](#) — whether a claimed set-off constitutes an improper cross-claim

*Kennedy Civil Contracting Pty Ltd (subject to deed of company arrangement) v Total Construction Pty Ltd* [\[2023\] NSWCA 306](#); [\[2023\] NSWDC 325](#) — requirements for a valid payment claim, misleading or deceptive conduct

*Bloc Constructions (ACT) Pty Ltd v ABS Façade (ACT) Pty Ltd* [\[2023\] FCA 1282](#) — sufficient identification of construction work, jurisdictional error

*Harlech Enterprises Pty Ltd v Beno Excavations Pty Ltd* (2022) [18 ACTLR 245](#); [ACTCA 42](#) — whether issue estoppel applies to adjudication determinations

*Style Timber Floor v Krivosudsky* (2019) [100 NSWLR 133](#); [\[2019\] NSWCA 17](#) — requirements for a valid payment schedule, proper approach for summary judgment applications

*Perform (NSW) Pty Ltd v Mev-Aus Pty Ltd* [\[2009\] NSWCA 157](#) — jurisdictional error, identification of construction work, good faith

## EQUITABLE REMEDIES

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Special expertise in seeking relief within equity's exclusive jurisdiction: breaches of fiduciary duties, undue influence, unconscionable conduct, estoppel and constructive trusts.

His article with Dr Gillian Dempsey on fiduciary duties appearing in the **Australian Bar Review** has been cited with approval by the Full Federal Court and the NSW Court of Appeal.

Dempsey, G.C. & Greinke, A.J. (2004) "Proscriptive Fiduciary Duties in Australia" [25 Australian Bar Review 1-13](#), approved by Full Federal Court in *Expectation Pty Ltd v PRD Realty Pty Ltd* (2004) [140 FCR 17](#); [\[2004\] FCAFC 189](#) and by the NSW Court of Appeal in *Brown v NSW* [\[2008\] NSWCA 287](#).

*Aboriginal Housing Office v Jacky* [\[2022\] NSWSC 916](#) — whether trust was a charitable trust (appearing *pro bono* for Aboriginal residents of Old Burnt Bridge)

*Birch v Birch* [\[2020\] QCA 31](#); [\[2018\] QSC 289](#) — presumed undue influence, unconscionable conduct

*Nolan & Ors v Nolan* [\[2015\] QCA 199](#); [\[2014\] QSC 218](#) — common endeavour constructive trust over a family farm — the first Australian case in which a wife successfully claimed such an interest

*Agripay Pty Ltd v Byrne* [\[2011\] 2 Qd R 501](#); [\[2011\] QCA 85](#) — setting aside a personal guarantee by the "wife's special equity" doctrine in *Yerkey v Jones*

*Smith v Glegg* [\[2005\] 1 Qd R 561](#); [\[2004\] QSC 443](#) — presumed undue influence from s 87 of the *Powers of Attorney Act 1998*

*Bartier v Kounza Investments Pty Ltd* [\[2003\] QSC 390](#) — equitable estoppel creating charge on land as security

## FRANCHISE DISPUTES

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Regularly briefed in disputes between franchisor and franchisee (such as breaches of the *Franchising Code of Conduct*) and in respect of sales of franchised businesses, cases have involved some of Australia's most well-known franchise brands.

*Girchow Enterprises v Ultimate Franchising Group Pty Ltd* [2023] [FCA 420](#) — misleading representations by UFC Gym franchisor, \$5.8 million compensation order

*Shah v Hagemrad* [2018] FCA 91; [2018] FCAFC 148 — fraudulent representations by seller of Subway franchise

*Sarker Trading Pty Ltd v Vanege Pty Ltd* [2016] NSWDC 25 — misleading representations by seller of Subway franchise

## MISLEADING CONDUCT

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Expertise in misleading conduct claims and consumer protection provisions of the *Australian Consumer Law*.

Published journal articles and conference and seminar presentations in this area.

Includes claims for misleading conduct by franchisors, he has acted for many “off-the plan” purchasers in respect of residential developments in Brisbane, Sydney and the Gold Coast.

*Husseini v Girchow Enterprises Pty Ltd* [2024] FCAFC 143 — whether franchisor director engaged in misleading conduct by signing a misleading Disclosure Document

*Deep v Robinson* (2016, Commercial List, NSW Supreme Court) — lead Counsel for \$21 million claim for losses caused by share trading by an investment manager, settled during the trial

*Orchid Avenue Pty Ltd v Goode* [2014] QDC 217 — misleading conduct regarding the Hilton development in Surfers Paradise

*Colly Cotton Marketing Pty Ltd v Simmons* [2006] NSWCA 134 — cotton producer induced by a cotton trader into signing millions of dollars of foreign exchange contracts, misleading conduct, unconscionable conduct, negligence and *Contracts Review Act*

## REAL PROPERTY

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Expertise in real property disputes, caveats, mortgages, commercial leases including retail shop leases.

Regularly appears in the Real Property List in the Supreme Court of NSW.

*Stone Living Pty Ltd v 3 Property Group 9 Pty Ltd* [2020] [ACTSC 149](#) — extension of caveats, balance of convenience, alternative security

*Hatala v Graglee Pastoral Company Pty Ltd* [2017] NSWSC 155 — equitable mortgage arising from deposit of title deeds

*Li v Deng (No 2)* [2012] NSWSC 1245 — claim for proprietary estoppel, resulting trust, credit of witnesses

## WILL AND ESTATES

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Family provision claims in Queensland and New South Wales, many of which settle at mediation. Contested probate claims and charitable trusts.

Recently retained as lead Counsel in a family provision matter in an estate in excess of \$6 million, involving contested allegations of disentitling conduct.

Contested probate matters have included:

- a fabricated will, expert forensic paper and ink evidence;
- removal of executors for misconduct including suppression of testamentary documents;
- establishing *donationes mortis causa*, and implied trusts;
- an urgent interlocutory application to restrain the cremation of a body and orders for post-mortem examination where the capacity was disputed.