

DR ANDREW GREINKE

Barrister

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QUALIFICATIONS

1999	Called to the Bar
1999	Doctor of Philosophy (ANU)
1995	Certified Practising Accountant (CPA)
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 5th 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

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.

TP Dynamics (ACT) Pty Ltd v G&H Plant Hire Pty Ltd [2026] ACTSC 15 – judicial review of adjudication, validity of payment schedule, failure to consider submissions

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

EQUITY AND TRUSTS

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

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

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

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

WILLS AND ESTATES

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.

ACCESS TO JUSTICE – PRO BONO WORK

Member of LawRight and Justice Connect.
Regularly referred matters by the Bar Association of Queensland and the *pro bono* panel of the Supreme Court of New South Wales.

Since 2020, Dr Greinke has acted pro bono for the **Dunghutti Aboriginal community** located at Kempsey, New South Wales, in representative proceedings in the Supreme Court of New South Wales against the Aboriginal Housing Office, seeking to establish equitable property rights and challenging the jurisdiction of NCAT to evict Aboriginal members from their tribal lands. This work has included a three-day mediation in Kempsey and contested proceedings before the Supreme Court: *Aboriginal Housing Office v Jacky* [2022] NSWSC 916 and a three-day judicial advice hearing listed for 12–14 May 2026.

Pro bono matters include:

- *Wong v Osipov* (2024) — domestic violence, migration status (settled)
- *Taylor v Clarke* [2023] WASC 365 — validity of legislation
- *Heiko Constructions Pty Ltd v Tyson* (2020) 282 FCR 297 — employment, penalties
- *Jermiin v CSIRO* [2021] FCCA 549 — age discrimination
- *Main v R* (High Court) — criminal special leave to appeal
- *Kirchen v Hodge* (District Court) — constructive trust claim by elderly woman
- *Kovacs v Nevelchev* (District Court) — real property obtained by undue influence
- *Coronam Pty Ltd v Macquarie Equipment Rentals Pty Ltd* (Federal Court) — acting for 25 small businesses caught up in a telephone sales scam

EDUCATION AND MENTORING

Prior to coming to the Bar, Dr Greinke held academic appointments at the Australian National University and the University of Queensland, and was a Visiting Fellow at the University of Cambridge, teaching courses including contract law, equity and trusts, bankruptcy and insolvency and commercial law.

He has mentored several pupils and readers and presented at the Queensland Bar Practice Course for the Advocacy Intensive Weekend and Appeals sections of the course. He was a participant in the Australian Bar Association 5th Appellate Advocacy Workshop (2017).

He has significant experience leading juniors in trials and appeals, including sustained mentoring of several junior Counsel through complex litigation.

MEDIATIONS

Appeared in more than 100 mediations, including before eminent mediators and retired judges:

- Hon. Michael Kirby AC CMG KC
- Hon. Michael McHugh AC KC
- Hon. Kevin Lindgren AM KC
- Hon. Moreton Rolfe KC
- Ian Hangar KC

Experienced in mediating complex multi-party commercial disputes, construction claims, franchise disputes, and family provision matters across multiple jurisdictions and internationally.

PUBLICATIONS AND PRESENTATIONS

Journal articles and books

Dempsey, G.C. & Greinke, A.J. (2004) “Proscriptive Fiduciary Duties in Australia” 25 *Australian Bar Review* 1–13

- cited with approval by the Full Federal Court in *Expectation Pty Ltd v PRD Realty Pty Ltd* (2004) 140 FCR 17 and by the NSW Court of Appeal in *Brown v NSW* [2008] NSWCA 287.

Pacini, C., Greinke, A.J. & Gunz, S. (2002) “Accountant Liability to Third Parties in Negligence: A Narrowing of Scope in Commonwealth Countries” 25 *Suffolk Transnational Law Journal*, 17–71

- Fabris, P. & Greinke, A.J. (1999) "Institutional Activism: Attitudes of Australian Fund Managers" *Corporate Governance: An International Review*, Vol. 7, 379–384
- Frost-Drury, A., Greinke, A.J. & Shailer, G.E.P. (1998) "Financial Differences between Voluntary Administrations and Liquidations" *6 Insolvency Law Journal*, 153–158
- Greinke, A.J. (1997) "Auditors' Liability to Third Parties: The View of the High Court" *15 Company and Securities Law Journal*, 309–313
- Greinke, A.J. (1994) *Law for Accountants and Auditors*, DataLegal, Brisbane
- Greinke, A.J. (1994) "Legal Expert Systems: A Humanistic Critique of Mechanical Legal Inference" *E-Law*, Vol. 1, No. 4 [<http://www.murdoch.edu.au/elaw/issues/v1n4/greinke.txt>].
- Greinke, A.J. (1992) "Auditors and Professional Opinion: A Comment on Section 52 of the Trade Practices Act" *4 Bond Law Review*, 95–107

Conference Papers

- "Builders and Body Corporates: New Duty of Care, New Risk" — *Building and Construction Law: Risks and Disputes*, Canberra (2014)
- "Relief against Forfeiture" — *Retail and Commercial Leasing Disputes*, Canberra (2014)
- "Issues in Caveat Practice" and "Indefeasibility of Title" — *Business and Property Law Specialist Conference*, Pokolbin (2008, 2009)

Continuing Legal Education

- "Digital Forgery and Evidence Law" — invited presentation to the Queensland Legal Services Commissioner and Supreme and Federal Court judges (2026)
- "Remedies under the *Australian Consumer Law*", CLE Seminar, 18 January 2017
- "Limiting Liability and Exclusion Clauses", College of Law, 27 July 2012.
- "Fundamentals of Contract Interpretation", College of Law, 19 July 2011
- "Contract Interpretation", College of Law, 11 February 2011.
- "Fundamentals of Contract Law", College of Law, 25 February 2009.
- "10 Tips for Drafting Effective Contracts" College of Law, 25 March 2008.
- "Interlocutory Injunctions: The Nuts and Bolts" College of Law, 12 September 2007.
- "Contract Law: The Basics" College of Law, 24 July 2007.
- "Setting Aside Judgments and Orders" College of Law, 21 June 2007.
- "Applying for Injunctive Relief", Commercial Litigation Masterclass, LexisNexis, Brisbane Marriott Hotel, 25 November 2004.
- "Torrens and Restitution", Seminar, TC Beirne School of Law, 5 November 2004.
- "Theory Construction and Argument Deconstruction", Seminar, Law School, Griffith University, 27 April 2004.
- "Current Developments in Fiduciary Duties" McInnes Wilson Seminar, 10 December 2003.
- "Undue Influence and Guarantees", McInnes Wilson Seminar, 4 December 2001.
- "Farmers Rights and the Trade Practices Act", Public Forum by Shannon Donaldson Province Lawyers, Dalby, 4 December 2001.
- "Section 52 of the Trade Practices Act: Some Less Familiar Commercial Applications", Queensland Law Society, Brisbane 10 August 2001.
- "Trade Practices Law – Update", Queensland Law Society, Brisbane, 29 March 2001.
- "An Empirical Examination of the Rule in *Foss v Harbottle*", TC Beirne School of Law, 21 March 2001.