

# DANIEL KROCHMALIK

## Barrister

3 St James' Hall Chambers  
Level 3, 169 Phillip Street, Sydney NSW 2000  
T - (02) 8998 8759 | F - (02) 9223 9699 | E - krochmalik@3sjh.com.au

## PRINCIPAL AREAS OF PRACTICE

---

Banking and Finance  
Commercial Law  
Contracts  
Corporations Law

Equity  
Insolvency and Bankruptcy  
Real Property  
Regulatory Investigations and Inquiries

Briefs accepted in all commercial areas of law, with particular specialisation in corporations law and corporate insolvency.

## ADMISSIONS

---

|  |      |
|--|------|
| Barrister, Supreme Court of New South Wales<br>( <i>Con Varnavas Award</i> – 1st in NSW Bar Examinations, June 2013) | 2013 |
| Solicitor, Supreme Court of New South Wales and High Court of Australia  | 2008 |

## SELECTION OF REPORTED CASES (AS AT APRIL 2022)

---

### Appellate (in order of most recent)

- *Adeva Home Solutions Pty Ltd v Queensland Motorways Management Pty Ltd* [2021] QCA 198 (led by I R Pike SC)
- *Porter as former trustee of Estates of Ghasemi and Kakhsaz v Ghasemi* (2021) 391 ALR 658; [2021] FCAFC 144 (unled; leading N Bailey)
- *El-Debel and Others v Micheletto (in his capacity as joint and several trustee in bankruptcy of the estate of El-Debel) and Another* (2021) 153 ACSR 15; [2021] FCAFC 117 (led by M L D Einfeld QC)
- *Roads and Maritime Services v Desane Properties Pty Limited* (2018) 98 NSWLR 820; [2018] NSWCA 196 (led by R Merkel QC and D R Pritchard SC)
- *Chinatex (Australia) Pty Limited v Bindaree Beef Pty Limited* [2018] NSWCA 126 (led by M L D Einfeld QC)
- *Thomson v New Galaxy Investments Pty Limited* [2017] HCATrans 265 (led by M L D Einfeld QC)
- *Cherry v Steele-Park* (2017) 96 NSWLR 548; [2017] NSWCA 295 (unled)

- *New Galaxy Investments Pty Ltd v Thomson* (2017) 18 BPR 36811; [2017] NSWCA 153 and [2017] NSWCA 235 (led by M L D Einfeld QC)
- *James v Douglas* [2016] NSWCA 178 (led by M A Ashurst SC)
- *Pavlovic v Universal Music Australia Pty Limited* (2015) 90 NSWLR 605; [2015] NSWCA 313 (led by R Merkel QC) and [2016] NSWCA 31 (led by R Dubler SC)
- *Mushroom Composters Pty Limited v IS & DE Robertson Pty Limited* [2015] NSWCA 1 and [2015] NSWCA 68 (led by B F Katekar)
- *Kisimul Holdings Pty Limited v Clear Position Pty Limited* (2014) 32 ACLC 14-045; [2014] NSWCA 262 and (2014) 86 NSWLR 645; [2014] NSWCA 317 (led by C D Wood)

First instance (in order of most recent)

- *Virgin Australia restructuring*, including:
  - *Melbourne Aircraft Leasing (UK) Ltd v Algeri & Ors in their capacity as joint and several trustees of the Project Volar Creditors' Trust* [2022] NSWSC 443 (led by P D Crutchfield QC)
  - *Re Project Volar Creditors' Trust* [2022] NSWSC 307 (unled)
  - *Re Project Volar Creditors' Trust* (2021) 152 ACSR 540; [2021] NSWSC 425 (led by R C A Higgins SC)
  - *Transport Workers' Union of Australia v Strawbridge, Re Virgin Australia Holdings Ltd (administrators appointed) (No 2)* [2020] FCA 1284 (unled)
  - *Transport Workers' Union of Australia v Strawbridge, Re Virgin Australia Holdings Ltd (administrators appointed)* [2020] FCA 1218 (unled)
  - *Hughes, Re Vah Newco No 2 Pty Ltd (in liq) (No 2)* [2020] FCA 1436 (unled)
  - *Hughes, Re Vah Newco No 2 Pty Ltd (in liq)* [2020] FCA 1121 (led by D R Sulan)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 9)* (2020) 148 ACSR 648; [2020] FCA 1652 (led by R C A Higgins SC and J J Hutton)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 8)* [2020] FCA 1344 (led by R C A Higgins SC, D R Sulan and J J Hutton)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (administrators appointed) (No 7)* [2020] FCA 1182 (led by R C A Higgins SC and D R Sulan)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 6)* [2020] FCA 1172 (led by R C A Higgins SC and D R Sulan)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 5)* [2020] FCA 986 (led by R C A Higgins SC and D R Sulan, R Yezerski)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 4)* [2020] FCA 927 (led by R C A Higgins SC)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 3)* [2020] FCA 726 (led by R C A Higgins SC and D R Sulan and R Yezerski)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd) (No 2)* (2020) 144 ACSR 347; [2020] FCA 717 (led by R C A Higgins SC)
  - *Strawbridge, Re Virgin Australia Holdings Ltd (Admins Apptd)* (2020) 144 ACSR 310; [2020] FCA 571 (led by R C A Higgins SC)

- *Re Spitfire Corporation Limited (in liquidation) and Aspirio Pty Ltd (in liquidation)* [2022] NSWSC 340 (unled)
- *Seymour Whyte Constructions Pty Ltd v Ostwald Bros Pty Ltd* [2022] NSWSC 234 (unled)
- *Ford, Careers Australia Group Ltd (in liq) v Mansfield* [2022] FCA 173 (unled)
- *Re BBY Ltd (Recs and Mgrs Apptd) (In Liq) and BBY Holdings Pty Ltd (Recs and Mgrs Apptd) (In Liq)* [2022] NSWSC 29 and [2022] NSWSC 30 (unled)
- *Re Peak Invest Pty Ltd (admins apptd)* [2021] NSWSC 1714 (unled)
- *Infocus Tax and Business Advisory Pty Ltd v Andrews (No 4)* [2021] NSWSC 1638 (unled)
- *Re Ter Wisscha Holdings Pty Ltd* [2021] NSWSC 1447 (unled)
- *Re i-Prosperity Waterside Rhodes Pty Ltd in its own capacity and as trustee for i-Prosperity Waterside Rhodes Unit Trust* [2021] NSWSC 1065 (led by J Stoljar SC)
- *Re Custom Bus Australia Pty Ltd (In Liq)* [2021] NSWSC 1036 (led by F Assaf SC)
- *Jahani (Liquidator) v Alfabs Mining Equipment Pty Ltd, Delta Coal Mining Pty Ltd (In Liq) (No 2)* [2021] FCA 927 (unled)
- *Re Double Bay Property Management Pty Ltd (In Liq)* [2021] NSWSC 996; [2020] NSWSC 203 (unled)
- *Ford (in their capacity as joint and several liquidators of Careers Australia Group Ltd) (In Liq) v McKendry* [2021] FCA 613 (unled)
- *McWilliam's Wines restructuring:*
  - *Dickerson, Re McWilliam's Wines Group Ltd (Admins Apptd) (No 5)* [2021] FCA 431 (unled)
  - *Dickerson, Re McWilliam's Wines Group Ltd (Admins Apptd) (No 4)* [2021] FCA 139 (unled)
  - *Dickerson, Re McWilliam's Wines Group Ltd (Admins Apptd) (No 3)* [2020] FCA 1564 (unled)
  - *Dickerson, Re McWilliam's Wines Group Ltd (Admins Apptd) (No 2)* [2020] FCA 417 (unled)
  - *Dickerson, Re McWilliam's Wines Group Ltd (Admins Apptd)* [2020] FCA 57 (unled)
- *Re Mediacloud Pty Ltd* [2021] NSWSC 357 (unled)
- *Infocus Tax and Business Advisory Pty Ltd v Andrews (No 3)* [2021] NSWSC 481 (unled)
- *Tarleton & Peters Pty Ltd (in liq) v Peters* [2021] FCA 749 (unled)
- *Re Savemore Wholesale Pty Ltd* [2021] NSWSC 307 (unled)
- *Re Eticore SD Pty Ltd* [2021] NSWSC 110 (unled)
- *Re Force Corp Pty Ltd (in liq)* (2020) 149 ACSR 451; [2020] NSWSC 1842 (unled)
- *De Lage Landen Pty Ltd v Blayney Crane Services Pty Ltd, Re Blayney Crane Services Pty Ltd* [2020] FCA 1692 (unled)
- *McMillan v Coolah Home Base* [2020] NSWSC 935; [2020] NSWSC 1325 (unled)
- *Commonwealth Bank of Australia Trading as Bankwest v Mastronardo (No.2)* [2020] FCCA 2609 (led by S Golledge SC)
- *Re Northern Energy Corporation Ltd* (2020) 147 ACSR 572; [2020] NSWSC 1073 (led by D L Cook SC)
- *Quinn v O'Rourke* [2020] FCA 1160, [2020] FCA 1156 and [2020] FCA 1145 (unled)

- *Fanshil v Akman* [2020] NSWDC 393 (unled)
- *Re Citadel Financial Corporation Pty Ltd (subject to Deed of Company Arrangement)* (2020) 146 ACSR 220; [2020] NSWSC 886 (unled)
- *Re Fellmane Pty Ltd (in liq)* [2020] NSWSC 595 (unled)
- *Eagle, Re Techfront Australia Pty Ltd (admins apptd)* [2020] FCA 618 and [2020] FCA 542 (unled)
- *Re Clubb (in their capacity as joint and several administrators of DS Opco Pty Ltd (admins apptd) (recs and mgrs apptd))* (2019) 141 ACSR 497; [2019] FCA 2206 (unled)
- *Qazi v Westpac Banking Corporation Ltd & Ors* [2019] FCCA 3602 (unled)
- *Re Atlas Construction Group Pty Ltd (In Liq)* [2019] NSWSC 1656 (unled)
- *Re BBY Holdings Pty Ltd (Recs and Mgrs Apptd) (In Liq)* [2019] NSWSC 1272 (unled)
- *Re Dyladam Developments Pty Limited* [2019] NSWSC 1518 (unled)
- *Melhelm Pty Ltd, Re Boka Beverages Pty Ltd (In Liq) v Boka Beverages Pty Ltd (In Liq)* (2019) 138 ACSR 95; [2019] FCA 1184, (2019) 140 ACSR 424; [2019] FCA 1809 and [2020] FCA 850 (unled)
- *Re Rainbow Carlingford One Pty Ltd (in liq)* (2019) 140 ACSR 435; [2019] NSWSC 971 (unled)
- *Re ACN 150 567 098 Pty Ltd (in liq) (formerly known as Organic Response Investors Pty Ltd)* (2019) 137 ACSR 478; [2019] NSWSC 869 (unled)
- *Re Direct Acceptance Corporation Ltd (Receiver Appointed) (in Liquidation)* [2019] NSWSC 395 (unled)
- *Re Say Enterprises Pty Ltd* [2018] NSWSC 396 (unled)
- *Re Melvin Pty Limited* [2018] NSWSC 2027 (unled)
- *Re Force Corp Pty Limited (receivers and managers appointed) (in liquidation)* [2018] NSWSC 1919 (unled)
- *SX Projects Pty Ltd (in liq) v Battaglia* [2018] NSWSC 1830 (led by D L Cook SC)
- *Capital Securities XV Pty Limited v Calleja (No 2)* [2018] NSWSC 1498 (unled)
- *Re Precise Training Pty Limited* [2018] NSWSC 1383 (unled)
- *Re Complete Investing Services Pty Ltd (in liq)* (2018) 335 FLR 31; [2018] NSWSC 1003
- *Metal Storm litigation*, including:
  - *Re Metal Storm Limited (in liquidation) (receivers and managers appointed) (No 2)* [2019] NSWSC 1682 (led by A McGrath SC)
  - *Re Metal Storm Limited (in liquidation) (receivers and managers appointed)* [2019] NSWSC 1667 (led by A McGrath SC)
  - *Re Metal Storm Limited (in liquidation) (Receivers and Managers Appointed)* [2018] NSWSC 900 (led by A McGrath SC)
  - *Re Metal Storm Limited (subject to Deed of Company Arrangement)* [2016] NSWSC 306 (led by A McGrath SC)
  - *Re Metal Storm Limited (subject to Deed of Company Arrangement)* [2015] NSWSC 1699 (led by A McGrath SC)
  - *Re Metal Storm Limited (subject to Deed of Company Arrangement)* [2015] NSWSC 1698 (unled)

- *Re Metal Storm Limited (subject to Deed of Company Arrangement)* [2014] NSWSC 1458 (led by C Scerri QC and H N G Austin)
- *Re Metal Storm Limited (subject to Deed of Company Arrangement)* (2014) 9 BFRA 497; [2014] NSWSC 1170 (led by C Scerri QC and H N G Austin)
- *Re Metal Storm Limited (subject to Deed of Company Arrangement)* (2014) 100 ACSR 637; [2014] NSWSC 813 (led by C Scerri QC and H N G Austin)
- *Re AMP Life Limited* [2018] NSWSC 855 (unled)
- *Re Cardinal Group Pty Ltd (in liq) and Cardinal Project Services Pty Ltd (in liq)* [2018] NSWSC 748; [2018] NSWSC 895 (unled)
- *Desane Properties Pty Limited v State of New South Wales* [2018] NSWSC 553 and [2018] NSWSC 738 (led by R Merkel QC and D R Pritchard SC)
- *De Lage Landen Pty Limited v HBO EMTB Holdings Pty Limited* [2018] NSWDC 116 (unled)
- *Re Bantex Pty Limited (subject to deed of company arrangement)* [2018] NSWSC 531 (unled)
- *Re Amirbeaggi, Re Simpikiss Pty Ltd (in liq)* [2018] FCA 2121 (unled)
- *Re SFL/PILTECH (EA) Pty Limited* [2018] NSWSC 637 (unled)
- *Re Belmont Sportsmans Club Co-operative Limited* [2018] NSWSC 2 (unled)
- *Re MROC Car Wholesalers Pty Limited* [2017] NSWSC 738 and (2017) 12 BFRA 583; [2017] NSWSC 287 (unled)
- *Re ACN 074 962 628 Pty Limited (in liq) (formerly Colonial Staff Super Pty Limited)* (2017) 12 BFRA 595; [2017] NSWSC 370 (unled)
- *Universal Music Australia Pty Ltd v Pavlovic* [2017] NSWSC 247 (unled)
- *Re Tanamerah Estates Pty Limited* [2016] NSWSC 1644 (unled)
- *Re Hunter Valley Foods Pty Limited* [2016] NSWSC 1903 (unled)
- *BCI Finances Pty Limited (in liq) v Binetter (No 4)* (2016) 348 ALR 227 [2016] FCA 1351 (led by S Golledge)
- *Re Arrow Law Pty Limited* [2016] NSWSC 748 (unled)
- *Re Therma Truck Pty Limited* [2016] NSWSC 266 (unled)
- *Perception Investire Pty Limited v Bassal Holdings Pty Limited* [2015] NSWSC 1954 (led by D R Pritchard SC)
- *Thomson v Golden Destiny Investments Pty Limited* [2016] NSWSC 78 and [2015] NSWSC 1929 (led by M L D Einfeld QC)
- *Re Mansfield; Re GSP Group Pty Limited (Administrators Appointed)* [2015] FCA 409 (unled)
- *Prentice in his capacity as the trustee of the bankrupt estate of Marjoribanks v Pitt* [2015] NSWSC 262 (unled)
- *Tripod Funds Management Pty Limited v Shao* [2014] NSWSC 1722 (unled)

#### Other

- Large commercial cases which have settled:
  - *In the matter of K-C Trade Pty Ltd (in liquidation)*; NSW Supreme Court Proceeding No. 2020/333191 (~\$10 million insolvent trading claim) (settled just prior to 2 week hearing) (unled)

- *In the matter of Australian Institute of Professional Education Pty Ltd*; NSW Supreme Court Proceeding No. 2017/317853 (~\$60 million voidable transaction and breach of duty claim) (settled just prior to 3 week hearing) (led by D L Williams SC)
- *In the matter of Force Corp Pty Ltd (in liquidation)*; NSW Supreme Court Proceeding No. 2017/78336 (~\$20 million insolvent trading claim) (settled prior to 2 week hearing) (unled)
- *In the matter of Bruck Textiles Technologies Pty Ltd*; Federal Court Proceeding No. NSD 237/2017 (voidable transaction and breach of duty claim) (settled prior to 3 week hearing) (led by M Hoffman QC)
- *In the matter of Metal Storm Ltd*; NSW Supreme Court Proceeding No. 2013/377450 (breach of trust and negligence claim against professional corporate trustee) (settled part-way through 3 week hearing) (led by A McGrath SC, with J D Williams)
- *McGrath v HNSW Pty Limited*; Federal Court Proceeding No. NSD 1867/2012 (negligence and misleading and deceptive claim against large accounting firm) (settled just prior to 2 week hearing) (led by K Rees SC, as her Honour then was, and A P Spencer)
- Appeared for liquidators and examinees in various examinations under Part 5.9 of the *Corporations Act 2001* including in the following large corporate collapses:
  - The Ralan Group Pty Ltd and its related entities
  - Careers Australia Group Ltd and its related entities
  - University Co-operative Bookshop Limited
  - K-C Trade Pty Ltd and its related entities
  - Atlas Construction Group Pty Ltd
  - HP Woods Holding Pty Ltd and its related entities
  - Russell-Smith Pty Ltd
  - Force Corp Pty Ltd and its related entities
- Appeared for examinees (including directors and officers of ASX-listed companies) in various examinations under s 19 of the *Australian Securities and Investments Commission Act 2001*

## PROFESSIONAL EXPERIENCE PRIOR TO BAR

---

**Solicitor, Herbert Smith Freehills (previously Freehills)**

2008–2013

- Commercial litigation and dispute resolution
- Specialised in contractual, property, corporations and equity disputes, regulatory investigations and enforcement proceedings, and white-collar prosecutions
- Selected matters include:
  - *CTI Joint Venture Company Pty Limited v CRI Chatswood Pty Limited (in liq) (Receivers & Managers Appointed) & Ors (No 3)* [2012] NSWLEC 6
  - *Australian Incentive Plan Pty Limited v Attorney-General for Victoria* (2012) 44 VR 661; [2012] VSCA 236 and [2012] VSCA 251 & *Australian Incentive Plan Pty Limited v Babcock & Brown International Pty Limited* (2010) 81 ATR 290; [2010] VSC 564 and (2011) 7 ASTLR 196; [2011] VSC 43

- o *Rosenberg v ASIC* [2010] AATA 654, *ASIC v AAT* (2009) 181 FCR 130; [2009] FCAFC 185 and *XQZT v ASIC* [2009] AATA 669
- o *Crawley v Short* (2009) 262 ALR 654; [2009] NSWCA 410 and [2010] NSWCA 97

**Shopfront Youth Legal Centre (secondment)**

2011–2012

- Pro bono legal service for homeless and disadvantaged clients (criminal law and victims' compensation)
- Represented clients as advocate in contested trials, pleas in mitigation, bail applications and appeals with daily appearances in Courts including the NSW Supreme Court, NSW District Court and NSW Local Court

**Faculty of Law, University of New South Wales (part-time)**

2009

- Lecturer, Public Law

---

## ACADEMIC QUALIFICATIONS & AWARDS

---

**University of New South Wales**

Bachelor of Law (Hons. equiv) (2006); ranked 3<sup>rd</sup> out of 247  
Bachelor of Arts (2004)

**Awards**

- Con Varnavas Award (2013); *Awarded for the highest aggregate score in the NSW Bar Examinations*
- Finalist ("Round of 32") (2006); Vis International Commercial Arbitration Moot, Vienna
- Sydney Morning Herald Prize (2004); *Awarded for the best overall performance in all the courses contributing to the completion of a major in Politics and International Relations*
- Politics and International Relations Prize (2004); *Awarded for the best overall performance in Upper Level courses in Politics and International Relations*

---

## OTHER INTERESTS

---

- Bridge
- Squash
- American Politics
- NSW Jewish Board of Deputies