



BRANDON SMITH
Barrister

+61 2 8239 0236
brandon.smith@banco.net.au

ADMISSIONS

- 2023 Barrister, New South Wales Bar
- 2021 Solicitor, Supreme Court of New South Wales and High Court of Australia

EDUCATION

- 2020 **Australian National University**, Bachelor of Laws (Hons 1), Bachelor of International Security Studies
- Tuckwell Scholar, 2016 – 2020
University Medal (Law), 2020
ACT Supreme Court Judges' Prize (top honours mark at graduation), 2020
King & Wood Mallesons Prize for Law Studies (highest average grade across Property and Equity & Trusts), 2019
Spark Helmore Prize for Equity & Trusts, 2019
Deans Certificate for International Trade Law, 2019
Ashurst Australia Prize for Corporations Law, 2018
Clayton Utz Prize for Administrative Law, 2018
Coral Bell Memorial Prize for Second Year Security Studies, 2017
ACT Department of Public Prosecutions Prize for Criminal Law, 2017
David Clark Ivan Memorial Prize for First Year Security Studies, 2016

EXPERIENCE

- Since 2023 **Barrister**, Banco Chambers
- 2023 - **Australian National University College of Law**, Lecturer (Administrative Law), Marker (Legal Research)
- 2022 - 23 **Allens**, Lawyer (Commercial Disputes)
- 2021 - 22 **Federal Court of Australia**, Associate to the Hon Chief Justice James Allsop AC and the Hon Justice John Griffiths
- 2018-20 **Australian Government Solicitor**, Law Clerk (Dispute Resolution)

SELECTED CASES

Appellate

CM v Trustees of the Roman Catholic Church for the Diocese of Armidale [2023] NSWCA 313, concurrent application for leave to appeal and appeal from a permanent stay of claims for historical child sexual abuse – led by Sebastian Hartford-Davis, instructed by Koffels Solicitors & Barristers for the appellants.

Seven Network (Operations) Limited v Fairfax Media Publications Pty Limited [2023] FCAFC 185 acting for the successful respondent in respect of appeals from decisions dismissing applications to set aside subpoenas – led by Nicholas Owens SC and Christopher Mitchell for the respondent.

Commercial, corporations and insolvency

Forex Capital Trading Pty Ltd (in liq) v Invesus Group Limited [2024] NSWSC 867 (NSWSC, Equity Division, Commercial List), contractual dispute concerning proper construction of a Letter of Comfort – led by David Sulan SC and Brendan Lim, instructed by King & Wood Mallesons for the plaintiff.

Our Jim & Felicja Superfund Pty Ltd (ACN 600 222 740) as Trustee for the Jim & Felicja Superannuation Fund & Ors v Lindenfels Pte Ltd & Ors (Federal Court, NSD479/2022), acting for a director alleged to have engaged in oppressive conduct and in breach of director's duties in the context of coal sales transactions – led by Robert Yezerski SC and Grace Keesing, instructed by Webb Henderson for the third defendant.

In the matter of Riverina Solar Pty Ltd [2024] NSWSC 480 (NSWSC, Equity Division, Corporations List), application to set aside statutory demand, separate question as to whether service was effective under s 459G of the *Corporations Act 2001* (Cth) – led by Farid Assaf SC, instructed by Pinsent Masons for the defendant.

Supabarn Supermarkets Pty Ltd v Eyre Kingston Pty Ltd (in liq) [2024] NSWSC 489 (NSWSC, Equity Division, Technology & Construction List, 2023/00207285), application for leave to proceed against defendant in liquidation under s 471B of the *Corporations Act 2001* (Cth) – led by Sebastian Hartford-Davis, instructed by Corrs Chambers Westgarth for the plaintiff.

Acting in an arbitration arising from a public-private partnership in the construction sector – led by Tim Breakspear SC and Sebastian Hartford-Davis, instructed by Baker McKenzie for the claimant.

Public law

Hunter Environment Lobby Inc v Minister for the Environment and Water & Anor (Federal Court, NSD711/2024) – judicial review of decision under s 75 of the *EPBC Act* in relation to a coal mine – led by Richard Lancaster SC and Zelie Heger, for the second defendant.

In the matter of Toplace Property Pty Ltd (administrators appointed) (NSWSC, Equity Division, Corporations List, 2023/00361112), judicial review of decision by Director of Fair Trading to issue directions under s 118(2) of the

Property and Stock Agents Act 2002 (NSW) freezing trust accounts of a real estate licensee – led by Darrell Barnett for the Director of Fair Trading (settled).

Morris v Harness Racing NSW [2024] NSWCATAD 129, alleged direct discrimination on the ground of ‘marital or domestic status’ under the *Anti-Discrimination Act 1997* (NSW) – led by Katherine Richardson SC, instructed by Cadre Moss for the respondent.

Munkara v Santos NA Barossa Pty Ltd (No 4) [2024] FCA 414 (Federal Court, VID 907 of 2023), acting for four subpoenaed parties in relation to potential third party costs application and related subpoenas – led by Zelig Heger, instructed by Marque Lawyers.

Regulatory

ASIC v Holista Colltech Ltd [2024] FCA 44; ASIC v Holista Colltech Ltd (No 2) [2024] FCA 516, civil penalty proceedings for contraventions of continuous disclosure provisions, contested penalty hearing and question of appropriate instalments for payment of pecuniary penalty – led by David Sulan SC, instructed by Jones Day for the first defendant.

ASIC v Web3 Ventures Pty Ltd [2024] FCA 64; ASIC v Web3 Ventures Pty Ltd (Penalty) [2024] FCA 578, civil penalty proceedings, application of financial product regime in *Corporations Act 2001* (Cth) to crypto-currency related products, contested liability and penalty hearings. Successful application for relief under s 1317S of the *Corporations Act 2001* (Cth) – led by Jerome Entwisle, instructed by Gilbert + Tobin for the defendant.

Acting for a Professional Conduct Committee in disciplinary proceedings – led by Anne Horvath SC.

Other

Johnston v Allen [2024] NSWSC 187, successful application for release from *Harman* undertaking nunc pro tunc – led by Anne Horvath SC.

Hitchcock v Pratt Holdings Proprietary Limited as Trustee for the Pratt Family Holdings Trust (NSWSC, Equity Division, 2022/00115750), dispute concerning family trust, strike out application by defendants – led by Christopher Withers SC and Stephen Puttick, instructed by YPOL Lawyers for the plaintiff.

Lavigne & Anor v Garrett & Anor (NSWSC, Common Law Division, 2022/00198862), alleged professional negligence by solicitors in a litigious property transaction – led by Grace Keesing, instructed by Sparke Helmore for the defendants.

SELECTED CASES AS A SOLICITOR

Acting for Australian Unity Ltd in *NorthWest Healthcare Australia RE Limited v Australian Unity Funds Management Limited & Ors* (NSWSC, 2021/171239) ([2023] NSWSC 540, [2023] NSWSC 86) – alleged breaches of trust and general law and statutory duties, accessorial liability, misleading or deceptive conduct (settled)

Acting for Citibank, N.A in *J Wisbey & Associates Pty Ltd v UBS AG & Ors* (Federal Court, VID567/2019) – class action, alleged contraventions of Pt IV of the *Competition and Consumer Act 2010* (Cth)

Acting for Macquarie Bank Limited in *ASIC v Macquarie Bank Limited* (NSD241/2022) – alleged contraventions of s 912A of the *Corporations Act 2001* (Cth) and s 12DB of the *ASIC Act 2001* (Cth)

Acting for Nitro Software Limited in *In the matter of Nitro Software Limited* [2023] NSWSC 13, proposed scheme of arrangement (for the target)

Acting for the applicant/plaintiff in *Sami v Minister for Home Affairs* [2023] FCA 185 and *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* (High Court, P1/2023) – lawfulness of detention under *Migration Act 1958* (Cth)

PUBLICATIONS & OTHER EXPERIENCE

John Sheahan KC and Brandon Smith, 'Preparing and presenting evidence' in Michael Legg (ed), *Resolving Civil Disputes* (2nd ed, 2023)

Brandon Smith, 'An onus of "almost nothing": *Nathanson v Minister for Home Affairs*' on AUSPUBLAW (14 September 2022)

Brandon Smith, 'Reconceptualising justiciability: Crafting a coherent framework for Australia's unique constitutional context' (2022) 50(3) *Federal Law Review* 371

Brandon Smith and Andrew Ray, 'A final resolution to the question of leave to appeal from costs orders in the Federal Court' (2022) 10(3) *Journal of Civil Litigation and Practice* 142

Brandon Smith, "'Strong reasons": The Epic litigation and the primacy of public policy over exclusive jurisdiction clauses' (2022) 49(5) *Australian Business Law Review* 291

Volunteer lawyer for Homeless Persons Legal Service and Refugee and Casework Advice Service (2022-2023)

Various roles at the Australian National University, including:

- Student Editor at *Federal Law Review*, 2018 – 2020
- Research Assistant to Associate Professor Will Bateman, 2019
- Sub-editor at *East Asia Forum*, 2017 – 2018
- Academic Advisor for Law at John XXIII College, 2017 – 2018

Volunteer legal intern at:

- ACT Legal Aid (Mar – Jun 2017)
- Kimberley Community Legal Services, Broome (Nov – Dec 2018)