

**CURRICULUM VITAE
CRAIG LAMBERT**

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2018 onward Member 6th Floor Windeyer Chambers
2015 to 2017 8th Floor Windeyer Chambers
2007 to 2015 Member Blackstone Chambers

Significant Cases:

- **Employment and Consumer Law:** *Dove v Everforex Financial Pty Ltd* [2023] FCA Appeared for the Applicant/Cross Respondents on application, inter alia, to strike out particular paragraphs of the cross-claim on the basis intra-employment representations are not made in trade and commerce – relevant paragraphs struck out – question of whether representations made by a prospective employee to a prospective employer during the negotiation of an employment contract are capable of being conduct in trade or commerce for the purposes of s 18 of the Australian Consumer Law is yet to be determined by the Court.
- **Employment Law:** *Dove v Everforex Financial Pty Ltd* [2023] FCA 1171 - Appeared for the Applicant/Cross Respondents - Application by Respondent/Cross Applicant to set aside three Notices to Produce - relevance of documents sought and whether the potential operation of s 570 of the Fair Work Act 2009 (Cth) operates as a bar to the production of documents relevant to an application for security for costs - Successful in having the application dismissed.
- **Administrative Law Appeal:** *Goodman v Commissioner for Fair Trading* [2023] NSWCATAP 260 - Appeared for the Commissioner - Appeal from original decision in the Tribunal - whether error established - successful in having all five Grounds of Appeal dismissed and having the decision in the first instance upheld.
- **Administrative Law - Occupational:** *Goodman v Commissioner for Fair Trading* [2023] NSWCATOD 66 - Home Building Act 1989 & Administrative Decisions Review Act 1997 - Appeared for the Commissioner - administrative review of decision to refuse application for renewal of qualified supervisor licence – whether a fit and proper person to hold a licence – whether applicant took all reasonable steps to avoid external administration - Applicant found to not be fit and person and to have not taken all reasonable steps to avoid external administration of his company - Successful in having the decision upheld.
- **Administrative Law:** *SNB Plus 3 Pty Ltd (Macleay Trailers & Steel Fabrications) v Commissioner for Fair Trading* [2023] NSWCATAD 29 – Appeared for the Commissioner - Application under Motor Dealers and Repairers Act 2013 – whether manager a ‘nominated person’ for purpose of motor dealer licence renewal application form – whether licence was renewed in error or because of a misrepresentation and therefore properly cancelled under section 22A(1) of Motor Dealers and Repairers Act 2013 - Successful in having the decision upheld.
- **Administrative Law Appeal:** *DeMarco v Macey* [2022] NSWSC 1348 (5 October 2022) Appeared for the Plaintiff on appeal from decision of NCAT Appeal Panel - successful in establishing a denial of procedural fairness and apprehended bias on the part of the Tribunal in the first instance against a self-represented applicant - Matter remitted to the NCAT Appeal Panel and the decision part of the Tribunal in the first instance set aside - Costs awarded to the Plaintiff.

- **Employment Law:** *Dove v Everforex Financial Pty Ltd* [2022] FedCFamC2G 752 (9 September 2022) Appeared for the Applicants– late amendment of pleading – relevant considerations– application for transfer of matter to the Federal Court of Australia – relevant considerations - the proceedings were “in relation to a matter arising” under the Fair Work Act 2009 - question of the availability of costs under s.570 of that Act - Successful in obtaining cost order against the Respondents despite s.570 of the FW Act.
- **Partnership Accounts, Expedition, Referees Report:** *Peter Holmes Investments Pty Ltd v S&C Nicola Pty Ltd (No 2)* [2022] NSWSC 1215 - Appeared for the Plaintiff orders made referring the taking of accounts of a partnership project – adoption of referee report – whether referee made an error of law as to whether the Builder was entitled to charge the partners for the cost of its contract works insurance and as between the partners, that cost would have been a partnership expense - successful in having the cost of the Builder's contract works classified as not being a partnership expense.
- **Property, Summary Disposal & Dismissal:** *Nguyen v Sage Consultant Group Pty Ltd; Dang v Nguyen (No 4)* [2022] NSWSC 782 – Appeared for the Plaintiffs where a caveat was lodged on basis of spurious claim to interest in land thwarting enforcement their writ for levy of property - caveator fails to prosecute claim when given opportunity to do so - Successfully obtained a summary declaration that caveator has no estate or interest in land and an order that the caveat be removed and the Registrar General not register any further caveat on the property without the leave of the court.
- **Urgent Interlocutory Relief:** *DeMarco v Macey* [2022] NSWSC 327 Appeared from the Appellant/Applicant seeking a stay pending hearing of appeal from NCAT Panel decision – short stay initially granted to allow appeal to proceed – pending execution of judgment from NCAT affects plaintiff's building license – urgent stay granted until after hearing.
- **Property:** *Nguyen v Sage Consultant Group Pty Ltd; Dang v Nguyen* [2021] (No 3) NSWSC 753 -Acted for the successful first, second & third cross claimants - Land Law- caveats - Second Cross Defendant, Ms. Dang, ordered to remove caveat lodged against title to real property subject of writ of levy of property preventing judgment creditors from executing on judgment -whether *Real Property Act 1900 (NSW)* exhaustive of means whereby caveats may be ordered to be withdrawn - application by first cross defendant to set aside summary judgment in *Nguyen v Sage Consultant Group Pty Ltd; Dang v Nguyen* [2021] (No 1) NSWSC 753 made on the merits - whether summary judgment irregular - whether summary judgment ought to be set aside where judgment given in absence of party – application to set aside summary judgement dismissed.
- **Criminal Fraud:** *Hanna v Commissioner for Fair Trading* [2021] NSWCATOD 198 - Appeared for the Commissioner of Fair Trading - s.307A of the Crimes Act 1900 - False or misleading applications - s.307B of the Crimes Act 1900 - False or misleading information s.4A of the Crimes Act 1900 - Recklessness -disciplinary action against holder of contractor licence – improper conduct – whether statement is false or misleading – recklessness - fit and proper person – whether disciplinary action is appropriate.
- **Property, Costs of an Improper Caveat:** *Nguyen v Sage Consultant Group Pty Ltd; Dang v Nguyen (No 2)* [2021] NSWSC 978 - Acted for the successful first, second & third defendants as against Dang – Where the Nguyens sought to effectuate the judgment made in favour of the Nguyens against Mr Hoang & Sage and to protect themselves from the consequences of Ms Dang improperly lodging a Caveat where it was established that she was not entitled to the interest in the property claimed in the Caveat. Held; that where the Nguyens sought to seek compensation from Ms Dang, on the basis that she lodged a Caveat without reasonable cause, an application under s 74P of the *Real Property Act (NSW)* was necessary.

- **Property:** *Nguyen v Sage Consultant Group Pty Ltd; Dang v Nguyen* [2021] (No 1) NSWSC 753 - Acted for the successful first, second & third defendants as against Dang- Where the plaintiff fraudulently claimed a constructive trust over her sons' property and improperly lodged a caveat against the property after the defendants had registered a writ for the levy of property against the title to the property - found the defendants were entitled to an injunction requiring plaintiff to withdraw the caveat and to not lodge another caveat interfering with judgement creditors' entitlement to register a new writ on the title to the property or the ability of the Sheriff to execute the writ .
- **Strict Liability Offences:** *HSL Group Pty Ltd v Commissioner for Fair Trading, Department of Customer Service* [2021] NSWCATAP 112 - Appeared for the Commissioner of Fair Trading - improper conduct - disciplinary action - appellants failed to obtain insurance and **made false or misleading applications** - breach of s.92 of the HBA - **strict liability** - appellants not fit and proper persons to hold an authority under the Act. Successfully defeated all 18 Grounds of Appeal.
- **Security for Costs:** *Rad Drill Services Pty Ltd v Warrego Energy EP469 Pty Ltd* [2021] NSWSC 214 – Security for costs – Relevant factors – Appeared for the plaintiff/cross-defendant - Whether plaintiff/ cross-defendant to be treated as the real defendant for the purposes– whether “oppression” a basis to resist security even if respondent fails to establish that an order for security will stultify the claim.
- **Appeal Building - Costs:** *X-Build Construction Services Pty Ltd v O'Rourke (No 2)* [2021] NSWCATAP 45 - Acted for the Appellant -procedural fairness - decision on costs made at time appellant stayed from filing and serving submissions – denial of procedural fairness - successful in having decision of the Tribunal of 3 September 2020 as to costs set aside.
- **Appeal Building:** *X-Build Construction Services Pty Ltd v O'Rourke* [2020] NSWCATAP 181 – Acted for the Appellant - **constructive failure to exercise jurisdiction** - absence of a necessary finding of fact – Appeal Panel in as good a position as the Tribunal to make that finding of fact – Success in obtaining a variation of the Tribunal's orders.
- **Administrative Law - Occupational - Appeal:** *Murabito v Commissioner for Fair Trading (No 2)* [2020] NSWCATAP 155 - Appeared for the Commissioner - real estate agent's licence – application for renewal – **offences involving dishonesty** – s.16(2) of the *Property Stock and Business Agents Act 2002* - discretion to ignore offences recorded in the last ten years – whether error of law in the exercise of the discretion - successful in defeating an application to rely on fresh evidence and for leave to appeal.
- **Statutory Demand and Costs:** *In the matter of Warrego Energy EP469 Pty Limited* [2020] NSWSC 980 — Winding up — Statutory demand — Application to set aside — Genuine dispute — Debt claimed based on contract where contracting parties uncertain — Where construction of several contractual terms in dispute — Costs —Bases of quantification — Indemnity basis — Where creditor's statutory demand pursued despite assertion of plausible grounds of dispute.
- **Criminal Contempt:** *In the matter of Jimmy's Recipe Pty Limited* [2020] NSWSC 93 Acting for the Third and Fourth Defendants – **Contempt –whether criminal or civil** – breach of undertakings- elements of civil contempt – elements of technical contempt — whether acts of clients deliberate or wilful.
- **Criminal Fraud:** *NSW Fair Trading, Department of Finance, Services and Innovation v Edward Kang* [2019] – Acting Crown Prosecutor for the Commissioner of Fair Trading - 6 x s 192E(1)(b) Crimes Act charges: The defendant by deception, namely inducing consumers to believe that a company would arrange a 457 Visa application knowing or

being reckless to the fact that no such visa would eventuate, dishonestly caused a financial disadvantage.

- **Administrative Law - Occupational:** *Saul v Department of Fair Trading* [2019] NSWCATAD 161 - Department issued a determination to take disciplinary action against the applicant under s 198 of the *Property Stock and Business Agents Act 2002* – Applicant sought review - **offences involving dishonesty** – s.16(2) of the PSBA Act 2002 - discretion to ignore offences recorded in the last ten years - Whether Applicant fit and proper person to hold a Licence under Act.
- **Court of Appeal - Appeals, Jurisdiction and Procedure:** *Gorczynski v W & FT Osmo Pty Limited* [2019] NSWCA 80 - Appeal from interlocutory decision of associate Judge - Effect of commencing appeal in Court of Appeal rather than in Common Law - Preliminary discovery denied application not confined to defined period and specific category of documents.
- **Full Federal Court - Appeals, Jurisdiction and Employment Law:** *Liu v Stephen Grubits and Associates* [2019] FCAFC 24 and *Liu v Stephen Grubits and Associates (No2)* [2019] FCAFC 42 – Successfully defended the contention that there was no power for the Federal Circuit Court to award costs against a party in proceedings relating to a matter arising under the *Fair Work Act*.
- **Trust and Estates, Protected Persons:** *LP v P & Ors* [2018] NSWSC 1168 - Application by mother of protected person to have financial manager of the estate removed. Appeared for the family successfully opposing the application by the guardian to have the financial manager removed.
- **Employment Law:** *Liu v Stephen Grubits & Associates* [2018] FCCA 842 (No 2) - Industrial Law - whether costs available under the *Fair Work Act* where the applicant had acted unreasonably and was vexatious. Precedential case in which costs were ordered against an applicant in the Fair Work Division of the Federal Court and Federal Circuit Court of Australia.
- **Immigration Fraud:** *Van Tuan Nguyen & 2 others v Sage Consultant Group Pty Ltd & 4 others* [2018] NSWSC 65 (6 February 2018) - 1st & 2nd Defendants posed as Registered Immigration Agents and Solicitors defrauding the Plaintiffs and **obtaining financial benefit by deceit**.
- **Practice and Procedure:** *Gorczynski v W & FT Osmo Pty Limited* [2018] NSWSC 1107 - Acting for the Fifth Respondent - Application for preliminary discovery- whether plaintiff has confined orders sought for disclosure, discovery and production to a defined time period - whether plaintiff has defined the specific category of documents required - respondents not required to provide preliminary discovery.
- **Indictable Offences:** *R –v– Liam Cooley H60475420* [2017] – Acting Crown Prosecutor for ODPP - Seq. 1: Aggravated Break and Enter & commit serious indictable offence (in company) - s.112(2) Crimes Act 1900, Seq. 2: Be carried in conveyance taken w/o consent of owner - T2 - s.154A(1)(b) Crimes Act 1900, Seq. 3: Larceny - s.117 Crimes Act 1900 Seq. 4: Possess prohibited drug - s.10(1) Drug Misuse and Trafficking Act 1985. Successfully in prosecuting the defendant for the foregoing offences.
- **Civil Fraud:** *The Entourage Group Pty Ltd v Amilo Abouna & Rania Ishak trading as Smart Way Consulting* [2016] NSWDC 14827 - Fraud established against employee and by contractor wife and *The Entourage Group Pty Ltd v Amilo Abouna & Rania Ishak trading as Smart Way Consulting* [2016] NSWSC 226197 (24 June 2016) - Freezing order obtained against fraudsters.

- **Building:** *Yong v Antworks Pty Ltd* [2016] NSWCATAP 14 (18 January 2016) - Successful appeal and precedential case on the interpretation of the term 'variations' in the *Home Building Act* (NSW).
- **Family & Property:** *Heidner & Heidner* [2015] FamCA 105 - Appeared for the husband where the husband and wife cohabited for 42 years and raised four children – Where the husband was in poor mental and physical health and a case guardian was appointed to act – Where the wife acted as the husband's attorney while he was unwell – Where the husband alleged the wife breached her fiduciary duty - Successful in obtaining 50% share of the available property.
- **Court of Appeal:** *Tjong & Anor -v- Tjong* [2012] NSWCA 201 (28 February 2012) - Junior to Mr Evans - Credibility of appellant.
- **Urgent Relief:** *Cascio v Western Suburbs Soccer, Sports and Community Club Limited t/as Canada Bay Club* [2012] NSWSC 796 - Interim and final relief obtained preventing expulsion of a member.
- **Vexatious Litigants:** *Viavattene v Morton* [2011] NSWSC 1173 - guillotine order obtained - precedential case in that security for costs order was obtained against vexatious a self-represented litigant in person.
- **Civil Fraud:** *H. Polesy & Co Pty Limited -v- Peter Wayne Cherry* [2011] NSWSC 1334 (14 March 2011) - Fraud in employment - breach of fiduciary duty - restraint of confidential information.
- **Trusts and Civil Fraud:** *Tjong & Anor -v- Tjong* [2010] NSW 578 (4 June 2010) - Junior lead by Mr Evans acting for the Plaintiffs - fraudulently established family trust - removed trustee and executor - reclaimed monies improperly procured from the family trust - defendant found to have fabricated evidence.
- **Family and Parenting:** *Goode v Goode* [2006] FamCA 1346 - Junior to Mr Brown - precedent setting family law matter that first interpreted the changes to the Family Law Act 1975 by the Family Law Amendment (Shared Parental Responsibility) Act 2006 and first dealt with 'Shared Parental Responsibility' as set out in section 65DAC.

Community/Professional Appointments

- Current: • Approved NSW Bar Association ADR Arbitrator appointed to the panel of court accredited arbitrators by the Chief Magistrate of NSW
- Current: • Appointed to the Crown Prosecutor Panel of the Commonwealth Director of Public Prosecutions and Private Briefing Panel of the NSW Director of Public Prosecutions
- Current: • Appointed to the Private Briefing Panel of the NSW Commissioner of Fair Trading
- Current • Appointed to the Criminal and Mental Health Advocacy Panels of Legal Aid NSW
- Current • Duty Barrister NSW Bar Association Pro Bono Legal Aid Program
- Current • Appointed to the Industrial, Employment, Health & Safety Committee of NSW Bar Association

Relevant Qualifications

- 2004 • Bachelor of Laws (Honours: 1st Class) - Macquarie
- 1993 • Bachelor of Business (Majors: Accounting and Economics) – UTS