

CURRICULUM VITAE CRAIG LAMBERT

WINDEYER CHAMBERS - LEVEL 6, 225 MACQUARIE STREET, SYDNEY NSW 2000
TEL: 9235 3100 FAX: 9223 3929 DX 854 SYDNEY
LAMBERT@WINDEYERCHAMBERS.COM.AU

2018 onward Member 6th Floor Windeyer Chambers

2015 to 2017 8th Floor Windeyer Chambers

2007 to 2015 Member Blackstone Chambers

Cases:

Appeal Building: - *HSL Group Pty Ltd v Commissioner for Fair Trading, Department of Customer Service* [2021] NSWCATAP 112 Home Building Act 1989 (NSW) - improper conduct - disciplinary action - appellants failed to obtain insurance and made false or misleading applications - residential building work not carried out under a contract - 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 (11 March 2021) – Relevant factors – Whether plaintiff cross-defendant to be treated as the real defendant – whether “oppression” a basis to resist security even if respondent fails to establish that an order for security will stultify the claim.
- **Appeal Building:** – *X-Build Construction Services Pty Ltd v O’Rourke* [2020] NSWCATAP 181 - 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 – consequential variation of the Tribunal’s orders.
- **Appeal Occupational:** - *Murabito v Commissioner for Fair Trading (No 2)* [2020] NSWCATAP 155 real estate agent’s licence – application for renewal – offences involving dishonesty – discretion to ignore offences – whether error of law in exercise of discretion – whether leave to appeal should be granted.
- **Summary Dismissal:** – *Murabito v Commissioner for Fair Trading* [2020] NSWCATAP 63 - failure to comply with directions – application to dismiss appeal proceedings for want of prosecution.
- **Contempt:** *In the matter of Jimmy’s Recipe Pty Limited* [2020] NSWSC 93 – Contempt –whether criminal or civil – breach of undertakings- elements of civil contempt – elements of technical contempt – whether undertakings capable of compliance – whether acts of clients deliberate or willful – whether presence in court necessary at time of undertaking.
- **Administrative Law:** *Mr. Alexander Gambotto-Burke v Child Support Registrar & Ms. Antonella Gambotto-Burke* [2019] AATA review of objection decision for change of assessment under the Child Support (Assessment) Act 1989 by Department of Human Services.
- **Criminal Fraud:** *NSW Fair Trading, Department of Finance, Services and Innovation v Edward Kang* [2019] – Crown Prosecutor - 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:** *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 – Whether Applicant fit and proper person to hold a Licence under Act.
- **Appeals, Jurisdiction and Procedure:** *Gorczyński 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.
- **Appeals, Jurisdiction and Industrial 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.
- **Employment:** *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.
- **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.
- **Indictable Offences:** *R –v– Liam Cooley* H60475420 [2017] – Acting Crown Prosecutor 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.
- **Employment and 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.
- **Urgent Relief:** *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 on interpretation of Home Building Act.
- **Employment:** *Cole v Quest Software Pty Ltd* [2015] FCCA 1314 (27 May 2015) - Breach of employment contract and unconscionable conduct.
- **Negligence and Personal Injury:** *Jack Layard by his Tutor v Leisure Learning Pty Ltd* [2012] NSWDC 70218 – Duty of importer/distributor of a flying fox, Injury to child, future economic loss (Settled 2014 NFP).

- **Appeal:** *Tjong & Anor -v- Tjong* [2012] NSWCA 201 (28 February 2012) - Junior - 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 - security for costs and guillotine order obtained against vexatious self-represented litigant.
- **Employment and 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 Fraud:** *Tjong & Anor -v- Tjong* [2010] NSW 578 (4 June 2010) - Junior - fraudulently established family trust - removed trustee and executor - reclaimed monies improperly procured from the family trust - defendant found to have fabricated evidence.

2005 - 2007: Browns Lawyers.

Position: Solicitor

Experience: • Assisting the principal in matters in all state jurisdictions but largely in the Local Court, Federal Magistrate's Court and Family Courts.

1990 - 2005: AQCS Consulting.

Position: Special Counsel

Experience: • Drafting employment contracts, confidentiality agreements, intellectual property agreements, independent contractor agreements, service and works agreements, and sales and purchasing agreements and developing, documenting and registering Australian Workplace Agreements and developing Compliance Programs and conducting Compliance Audits against Part V of the then Trade Practices Act.

Community/Professional Appointments

- Current: • Approved NSW Bar Association ADR Arbitrator
- Current: • Appointed to the Crown Prosecutor Panels of the NSW Office of Director of Public Prosecutions and the Office of the Commonwealth Director of Public Prosecutions and Department 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

Relevant Qualifications

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

Practice Areas

Building and Construction	Commercial Leases and Property
Contract and Trade Practices	Employment and Fraud
Equity, Trusts and Estates	Administrative and Occupational