

Henry El-Hage SC

Curriculum Vitae

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Admissions Senior Counsel, October 2023
Barrister, New South Wales Bar, May 2009
Solicitor, Supreme Court of NSW, High Court of Australia, 2003

Practice areas I accept briefs across a range of areas, including appellate matters, constitutional and administrative law, building and construction disputes, general commercial and contractual disputes, matters under the *Corporations Act 2001*, environment and planning matters, native title matters, property disputes, equity and trusts, State and federal tax matters and regulatory criminal prosecutions (as well as other, select criminal matters).

I appear in various jurisdictions, including the Supreme Court of NSW and the Federal Court, the High Court of Australia, the Land and Environmental Court of NSW, the District and Local Courts of NSW, the NSW Civil and Administrative Tribunal and the Administrative Appeals Tribunal.

Clients I have acted for include the Commonwealth, the State of NSW, various Ministers, Councils, Governmental/statutory bodies (such as the Department of Fair Trading, Commissioner of Police and Chief Commissioner of State Revenue), regulatory bodies (such as the EPA, ASIC, Medical Council of NSW, Natural Resources Access Regulator and Law Society of NSW), various corporate clients (such as S2 Resources, KPMG, Deloitte Australia and Sanofi-Aventis), as well as private individuals and entities.

Selected cases in which I have appeared:

- *Gomeroi People v Santos NSW Pty Ltd and Santos NSW (Narrabri Gas) Pty Ltd* [2024] FCAFC 26 (Full court of the Federal Court) –appearing for the Attorney General of NSW (appeal from a determination of the president of the National Native Title Tribunal, under the Future Act regime in the *Native Title Act 1993* (Cth)).
- *Catholic Metropolitan Cemeteries Trust v Attorney General of New South Wales* [2024] NSWCA 30 (NSW Court of Appeal) – leading junior counsel, appearing for the Attorney General of NSW (judicial advice proceedings, concerning the possible existence of a charitable trust over parts of Rookwood cemetery).
- *Natural Resources Access Regulator v Lidokew Pty Ltd* [2023] NSWLEC 130 (Land and Environment Court) – leading junior counsel, appearing for the prosecutor (prosecution under the *Water Management Act 2000*).
- *State of New South Wales v Ryan (Final)* [2023] NSWSC 1062 (Supreme Court) – appearing for the State (application under the *Crimes (High Risk Offenders) Act 2006* (NSW)).
- *Clancy John Mckellar & Ors On Behalf Of The Wongkumara People v State Of Queensland & Ors* (Federal Court, ongoing) – leading two junior counsel (native title claimant proceedings, appearing for the Attorney General of NSW);
- *Samuel v Daher; Daher v Samuel* [2022] NSWSC 421 (Supreme Court) – appearing for the plaintiff (contractual dispute arising from termination of contract for sale of land).
- *Verde Terra Pty Ltd v Central Coast Council; Central Coast Council v Environment Protection Authority (No 9)* [2022] NSWLEC 29 (Land and Environment Court)– appearing for the EPA (Civil enforcement proceedings, involving multiple issue concerning the Court’s powers and jurisdiction).
- *Anastasia Kalathas v 89 Ebley Street Pty Limited* [2021] NSWSC 490 (Supreme Court) - appearing for the plaintiff (proceedings involving a contractual dispute, the application of the principle in *Flight v Booth* and a purchaser’s entitlement to terminate a Sale of Land Contract).
- *Taylor v Council of the Law Society of New South Wales* [2020] NSWCA 273 – (Court of Appeal) appearing for the Law Society (an appeal from a decision of the NSW Civil and Administrative Tribunal dealing with the Tribunal’s jurisdiction and the construction of parts of *the Legal Profession Act 2004* (NSW)).
- *Alajmi v Macquarie University* [2019] NSWSC 1026 (Supreme Court) – appearing for Macquarie University (proceeding involving a challenge to action taken by the University relating to the thesis of a PHD student).
- *KinCare Community Services Limited v Chief Commissioner of State Revenue* [2019] NSWSC 182 (Supreme Court) – led by R Seiden SC (and with T Russell as second junior), appearing for the Commissioner (a case arising under the Payroll Tax Act 2007 (NSW), with the central issue being whether, in the context of complex corporate structures and relationships, the plaintiff was a non-profit organisation).

Professional experience

January 2002 to October 2003 **Associate to the Hon. Justice B J Tamberlin, Federal Court of Australia**

February 2004 to April 2009 **Crown Solicitor's Office, Sydney**
Solicitor Advocate, commercial law team and Solicitor/Senior Solicitor, constitutional law team

2009 to current **Barrister, NSW Bar**

Oct 2023 to current **Senior Counsel, NSW Bar**

2020 to current **Environmental Counsel for the Environment Protection Authority**

Lecturing

2003 to current **Part-time lecturer in law, University of Sydney, Macquarie University and Western Sydney University**

Selected conference/seminar presentations

Agency law – an overview of some of the principles, Consumer, Trader & Tenancy Tribunal, Members' Conference, Sydney, 1 June 2007.

The new Commonwealth Personal Properties Securities legislation and its impact on State agencies, Crown Solicitor's Office, commercial law seminar, 20 August 2008.

Examining Liability for Contaminating a 3rd Party's Land, Legalwise Seminars, Sydney, 22 November 2011.

State of mind waiver of Privilege, Holding Redlich, Sydney, 20 September 2012.

Judicial review proceedings - practical tips, 12 Wentworth Selborne Chambers Seminar Series, Sydney, 13 June 2013.

Proportionate liability & property damage - practical tips and considerations, Hicksons Lawyers seminar, Sydney, 14 August 2013

Caveats - principles and practical tips, CLE Seminar, Far South Coast Law Society, Moruya, 15 March 2014.

Judicial review proceedings - practical tips, State Legal Conference, Sydney, 27 August 2014.

Caveats - Principles and Tips, NSW regional CPD, 2015

Administrative Law Essentials - Twelfth Floor Seminar Series, Sydney, 14 September 2017.

Laying charges, particulars and expert evidence, Environment Protection Authority, Sydney, 27 September 2023.