

# Henry El-Hage SC

## Curriculum Vitae

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### Contact Details

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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, commercial and contractual disputes, matters under the *Corporations Act 2001*, environment, resources and planning matters, native title matters, property disputes, equity and trusts, 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:

- *Indara Inbuilding Solutions Pty Ltd v Australian Communications and Media Authority* [2024] FCAFC 117 (Full court of the Federal Court) –leading junior counsel, appearing for Indara Inbuilding Solutions (appeal concerning issues arising under the *Telecommunications Act 1997* (Cth) and *Telecommunications (Eligible Revenue) Determination 2015* (Cth))
- *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).
- *Clancy John Mckellar & Ors On Behalf Of The Wongkumara People v State Of Queensland & Ors* [2024] FCA 699 – leading two junior counsel (native title claimant proceedings, appearing for the Attorney General of NSW).
- *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)).
- *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).

## **Professional experience**

2009 to current      **Barrister, NSW Bar**

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

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

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*

## **Lecturing**

2003 to 2022      **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.