

# Melanie Cairns

Barrister

---

## Areas of practice

- Commercial and Corporate
- Insurance
- Professional liability
- Equity
- Intellectual property
- Superannuation and Trusts

## Professional experience

### **Barrister (2008 - present)**

Counsel on a variety of matters and I have acted for clients including AIG, Sunsuper, AMP, ANZ, Perpetual, Tenix, Baulderstone, Morgan Stanley and QBE.

### **Clayton Utz (2001 - 2008)**

Senior Associate, Litigation & Dispute Resolution

Lawyer, Intellectual Property

Lawyer, Energy, Resources & Privatisation

### **University of New South Wales**

Master of Laws Course Lecturer, "Intellectual Property: Regulation and Policy".

## Selected cases as a barrister

1. *AIG Australia Limited ats Woodward & Ors* [2016] NSWSC 1715 – acted for AIG in successfully defending a professional indemnity insurance claim by a firm of accountants including under an investment advice exclusion (led by E Muston SC, instructed by Clyde & Co).
2. *Sunsuper Pty Ltd & Ors ats Anderson*, NSW Supreme Court Proceedings No. 2013/345670 – acted for Sunsuper in successfully defending a claim for fees owed after a corporate trustee and manager of two institutional property development funds retired and then went into liquidation (led by M Henry SC, instructed by Arnold Bloch Leibler).
3. *In the matter of AMP Capital Funds Management Limited (as Responsible Entity of the AMP Capital China Growth Fund)* [2016] NSWSC 986 – acted for AMP Life as intervener in a judicial advice application and then as a defendant to a declaratory relief application regarding AMP Life's right to vote on a resolution proposing to wind up the Fund (led by B Walker SC, instructed by Clayton Utz).
4. *NMMT Limited ats Douglas & Ors* [2015] NSWSC 1403 – acted for NMMT (an AMP subsidiary who operated an investment platform for use by investors and their financial advisers) to obtain orders regarding access to a trust fund and shares where trustees gave competing instructions and litigation was on foot as to the identity of the proper trustees (unled, instructed by Clayton Utz).
5. *OnePath Life Limited & Ors ats EBC Services Pty Ltd & Ors*, Qld Supreme Court Proceedings No. 2013/4513 – acted for OnePath (an ANZ subsidiary) in denying liability under a life insurance policy based on fraudulent non-disclosure and misrepresentation by a broker (unled, instructed by in-house counsel).
6. *Tenix Holdings Pty Ltd v Olis Insurance Pte Ltd & Ors*, NSW Supreme Court Proceedings No. 2013/381728 – acted for Tenix in bringing a professional indemnity insurance claim regarding a design and construct contract for naval defence vessels (led by B Walker SC and M Jones SC, instructed by Clayton Utz).

7. *Harkin v OnePath Life Limited*, NSW District Court Proceedings No. 2012/120396 – acted for OnePath (an ANZ subsidiary) in disputing liability under an income protection policy valued at \$5 million (unled, instructed by in-house counsel).
8. *Tenix Holdings Pty Limited ats BAE Systems Australia Limited*, NSW Supreme Court Proceedings No. 2009/50086 – acted for Tenix in a dispute regarding the sale of its defence manufacturing subsidiary to a US defence systems company (led by then T Bathurst QC and A Payne SC, instructed by Clayton Utz).
9. *Optical 88 Pty Ltd & Ors ats Optical 88 Ltd* [2010] FCA 1380 – successfully defended claims of copyright breach, trade mark infringement, misleading and deceptive conduct and passing off, and successfully cross claimed for removal of the plaintiff's trade marks from the Register (led by J Hennessy SC, instructed by B & C Lawyers).
10. *QBE Insurance (Australia) Ltd ats Westpoint Management Limited (In Liq) & Anor*, NSW Supreme Court Proceedings No. 2008/50208 – acted for QBE in disputing liability under insurance bonds issued for a construction project (led by J Marshall SC, instructed by Polczynski Lawyers).

\* Please ask if you would like details of cases in a particular practice area.

### **Selected matters as a lawyer**

1. From 2005 to 2007, I acted for AMP Capital in defending proceedings brought by AACo disputing the validity of AMP's tender process for the sale of Australia's then largest pastoral company, Stanbroke.
2. In 2005 to 2006, I acted for AMPIS and AMP Capital in proceedings commenced by Industry Funds Management disputing AMP's role (with Macquarie Bank) in restructuring trust assets in a listed managed investment scheme named 'DUET'.
3. In 2007, I acted for Symbion Health successfully defending expedited proceedings brought by a Primary Healthcare subsidiary seeking to enforce their hostile takeover bid for Symbion Health.

### **Tertiary education**

#### **University of New South Wales**

2008	Master of Laws (Corporate & Commercial/ Intellectual Property), Distinction average
2000	Combined Bachelor of Arts (Political Science) / Bachelor of Laws, Distinction average

### **Lectures & publications**

2013	NSW State Legal Conference, " <i>Can post-contractual conduct be used in the construction of a contract?</i> "
2013	UNSW Postgraduate Law litigation course, "Resolving Civil Disputes", lectures on Legal Professional Privilege
2012	NSW Young Lawyers, " <i>Affidavits and witness statements: Drafting tips and tricks</i> "
2012	Newcastle Law Society, " <i>Insurance Law – A practitioner's guide to making a claim and objecting to a decision not to insure</i> "
2009 - 2014	Intellectual Property Reports, headnotes

### **Professional associations**

Member of the Intellectual Property Society of Australia and New Zealand  
Member of the Copyright Society of Australia