

Martin Smith

Admitted as a Solicitor: 2005

Admitted to NSW Bar: 2011

Qualifications

BA (University of Newcastle)

LLB (Hons I) (University of Newcastle)

Practice Areas include: Bankruptcy & Insolvency ; Commercial Law ;
Competition & Consumer Law ; Corporations Law ; Employment & Industrial ;
Equity & Trusts ; Insurance & Re-Insurance ; Professional Indemnity ; Property

Prior to commencing at the Bar in 2011, Martin practised as a commercial litigation solicitor (including at Freehills) for four years and spent 18 months as associate to a Judge of the Federal Court of Australia.

Martin practises in corporate and commercial law, building and construction law, property law (particularly lease disputes), employment law (often including restraints of trade and confidential information issues) corporate insolvency/bankruptcy, trade practices (particularly involving misleading and deceptive conduct and passing off), insurance and administrative law.

Martin has appeared led and unled in commercial matters in all of the principal courts in New South Wales as well as the Federal Court. He often appears (usually as sole counsel) for Commonwealth departments in judicial review and related appeal proceedings in the Federal Circuit Court, the Federal Court and the High Court.

Martin has a substantial advice practice and is also regularly briefed to appear in urgent interlocutory applications in relation to property, restraint of trade and corporations law matters.

Recent significant or reported matters include:

- Acted for respondent Minister in a judicial review case in the Federal Court involving allegations of bias arising from comments made by the Minister on public radio (successful, unled for the Minister against silk) – [Zaburoni v Minister for Immigration and Border Protection \[2017\] FCA 654](#)
- SZTAL v Minister for Immigration and Border Protection, High Court of Australia – statutory construction; interaction between the Convention against Torture and the Migration Act (led by the Commonwealth Solicitor-General)

- [CGU Insurance Limited v AAI Limited \[2016\] NSWCA 335](#) – insurance, statutory interpretation
- [Lock v Australian Securities and Investments Commission \(2016\) 111 ACSR 318](#) – class action involving allegations of negligence; misfeasance in public office (for ASIC)
- Various cases involving applications to set aside deeds of company arrangement
- Acting for a director in a significant case involving allegations of breach of directors of duty and insolvent trading
- Various professional negligence actions against solicitors (briefed by insurers)
- Acted for the successful defendants in a three-week confidential information trial. Indemnity costs were awarded in the defendants' favour.
- [Shrestha v Migration Review Tribunal \(2015\) 229 FCR 301](#) (Full Federal Court); [SZWBH v Minister for Immigration and Border Protection \(2015\) 229 FCR 317](#) (Full Federal Court); [AAV15 v Minister for Immigration and Border Protection \(2015\) 230 FCR 454](#) – procedural fairness; scope of the Court's summary dismissal power (all unled for the Minister)
- [New South Wales Netball Association Ltd v Probuild Construction \(Aust\) Pty Ltd \[2015\] NSWSC 1339](#) – change of position under the Building and Construction Industry Security of Payment Act 1999 (NSW)