

SIMON LEES

Areas of Practice

Accepts briefs in all areas of law, but particular interests in:

- Administrative
- Commercial
- Corporations
- Equity
- Insolvency (corporate and personal)
- Insurance
- Real Property
- Restraints of trade
- Regulatory and tax offences
- Succession
- Taxation (including state taxes)
- Trusts

Qualifications & admissions

- Called to the bar 2014
- Admitted as solicitor 2010
- LLB (Hons I) (UTS) 2010
- BCom (USyd) 2002

A selection of recent matters

Commercial/ Equity

- *Australia Capital Financial Management Pty Ltd v Australian Financial Complaints Authority Limited* (2021) NSWSC
 (Current commercial list proceedings challenging a determination made by AFCA, led by E Cox SC)
- *Spence's Coaches Western Pty Ltd v McMabon* [2021] NSWSC 786
 (Restraint of trade, injunction, unled)
- *Linvest DM Pty Ltd v CPDM Pty Ltd* [2020] NSWSC 1290
 (*Security of Payment Act*, strike out, abuse of process, unled against Senior Counsel)
- *Skybridge Financial Pty Ltd v Gerrard* (2020) NSW District Court
 (Restraint of trade, unled, settled)
- *Heroco Pty Ltd v Allianz Australia Insurance Ltd* (2019) Federal Court
 (s40(3) *Insurance Contracts Act*, settled, led by E Muston SC)

- *CHEP Australia Ltd v Flynn* [2019] NSWDC 614
(Guarantee of contract for hire, unled)
- *Pinaki Holdings Pty Limited v HSDCTLVMB Pty Ltd & Byrne* [2019] NSWDC 855
(Guarantee of obligations under a lease, unled)
- *Di Maggio v Westpac Banking Corporation Ltd trading as St George Bank Ltd* [2018] FCA 1354
(Preliminary discovery, unled against Senior Counsel)
- *Khalaf v Australia and New Zealand Banking Group Limited* [2018] NSWCA 19
(Application for leave to appeal from summary dismissal, unled for Respondent)
- *Pacific Clinical Research Group Pty Limited v Kona Medical Inc* [2018] NSWSC 162
(Contract dispute, strike-out of defence and default judgment, unled)

Corporations/insolvency

- Advised a listed company on Corporations Act issues and ASIC inquiries
- Represented an individual in ASIC compulsory examinations
- Advised a liquidator on application of *Personal Property Securities Act 2009* (Cth) to a dispute over company property
- *In the matter of Henry Morgan Ltd* (2021) Federal Court of Australia
(Current proceedings resisting an application to wind up the company on just and equitable grounds)
- *Amirbeaggi ATF the bankrupt estate of Hanna v Hanna* (2021) Federal Court
(Acting for a trustee in bankruptcy to recover property, unled, ongoing)
- *In the matter of Myao Travel Pty Ltd* [2020] NSWSC 1672
(s459S *Corporations Act*, opposing a winding up, dismissed by consent, costs, unled)
- *In the matter of Pages Sales Pty Ltd* [2016] NSWSC 616
(Opposing an application to set aside a statutory demand, unled)
- *Chen v Liu* [2015] NSWSC 161, ...*(No 2)* [2015] NSWSC 479

(Validity of general meeting of incorporated association, s1322 *Corporations Act*, unled)

Property

- *JWI (NSW) Pty Ltd v Rathbate Pty Ltd* (2020) NSWSC
(Urgent application for declarations and relief against forfeiture of a lease, application of COVID commercial leasing code, settled)
- *Bayfoyle Pty Ltd v Edmonds* (2018) NSW Supreme Court
(Specific performance, misleading or deceptive conduct, unconscionable conduct, caveats, settled before hearing, unled)
- *Kingelty v Stockley* [2017] NSWSC 671
(Termination of contract for sale and enforcement of writs of possession, unled)
- *Keat v Keat* (2017) NSW Supreme Court
(Urgent application for withdrawal of caveat, unled, settled)

Tax

- Regularly briefed to provide opinions on tax questions, both state and Commonwealth
- *Rose Cleaning Asset Services Pty Ltd v Commissioner for ACT Revenue* (2018) ACAT
(Payroll tax grouping and employment agency, settled before hearing, unled)
- *Canberra Cleaners Pty Ltd v Commissioner for ACT Revenue* [2018] ACTSC 208; (No. 3)[2017] ACTSC 340
(ADJR challenge to garnishee notices and director compliance notices, stay, led by D McGovern SC)
- *Goldfish Potts Point Pty Ltd v Chief Commissioner of State Revenue* [2017] NSWCATAD 13
(Gaming machine tax, Chief Commissioner's discretion re refund, unled)
- *Secom Australia Pty Ltd v Chief Commissioner of State Revenue* NSW Supreme Court (settled before hearing)
(Payroll tax proceeding, employment agency and grouping, led by R Dick SC and M Sealey)
- *Deputy Commissioner of Taxation v Ghaly* [2016] FCA 707
(Ex parte freezing orders, led by J Giles SC)
- *Batts v Commissioner of Taxation* (2015) Federal Court
(Part IVC appeal re residency, settled before hearing,

led by K Deards)

Administrative and public law

- *Leung v Transport for NSW* (2020) NCAT
(Application for review of decision to refuse renewal of driver authority, resolved by consent)
- *McKay v Transport for NSW* [2017] NSWCATAD 212
(*Government Information (Public Access) Act 2009* application re refusal to release documents, unled)
- *Clemente Group Holdings Pty Ltd v ASIC* [2016] AATA 758
(Review of refusal to grant Australian Financial Services Licence, unled against senior counsel)

Regulatory offences

- *Environment Protection Authority v Imad Osman-Kerim* [2017] NSWLEC 63
(Sentencing for failure to comply with licence condition and clean-up notices, unled)
- *Environment Protection Authority v Sydney Drum Machinery Pty Ltd (No 4)* [2016] NSWLEC 59
(Class 5 prosecution for failure to comply with licence condition and clean-up notices, led by J Giles SC)

Prior experience

- **Solicitor, King & Wood Mallesons** (formerly Mallesons Stephen Jaques) 2010–2014

Primarily in tax litigation, but also in commercial litigation
- **Senior advisor to the NSW Attorney General, Minister for Justice and Minister for Health, John Hatzistergos** 2004 - 2009

Pro bono

- Board Member, AIDS Trust of Australia 2014 - 2020

Advising charities and non government organisations on charitable status, tax and governance issues

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