

DAVID HARRIS

BARRISTER



CONTACT DETAILS

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5 Wentworth Chambers, 180 Phillip Street, Sydney NSW 2000

OVERVIEW

David has a wide ranging commercial litigation practice. He appears regularly in the Federal Court of Australia, the Supreme Court of NSW and the District Court of NSW, both unled and as junior counsel. David accepts briefs in all areas of commercial law.

David has particular experience acting in complex commercial litigation, misleading or deceptive conduct claims, insolvency proceedings, construction disputes and advising on contract law.

Prior to coming to the Bar, David was a Senior Associate at the leading international commercial law firm, Allens.

AREAS OF PRACTICE

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| • Alternative dispute resolution (incl mediation & arbitration) | • Construction law |
| • Appellate | • Corporate |
| • Banking, securities & insolvency | • Equity |
| • Class actions & representative proceedings | • Intellectual property |
| • Commercial litigation | • Regulatory |
| • Constitutional law | • Trade practices |
| | • Trusts |

ADMISSIONS

2010 Solicitor, Supreme Court of New South Wales and High Court of Australia

2015 Barrister, New South Wales

EDUCATION

2008 Bachelor of Arts with Bachelor of Laws, Macquarie University, Sydney
Honours, class 1. Several awards and prizes in areas including legal research, mooted competitions, constitutional and international law.

2010 Graduate Diploma of Legal Practice, College of Law, Sydney

EXPERIENCE

2007 – 2015 Allens, Senior Associate (from January 2014) (Corporate Insolvency & Restructuring, Commercial Litigation & Dispute Resolution and Projects practice groups)

From 2015 Barrister, 5 Wentworth Chambers

Significant recent cases include:

- *Australian Competition and Consumer Commission v Kimberly-Clark Australia Pty Ltd* [\[2019\] FCA 992](#) (on appeal – judgment reserved). “Flushable Wipes” – misleading or deceptive conduct – consumer protection. Acted for Kimberly-Clark in its successful defence of Federal Court proceedings commenced by the ACCC. Led by John Sheahan QC and Jonathon Redwood, instructed by King & Wood Mallesons.
- *Dyno Nobel Inc v Orica Explosives Technology Pty Ltd* (2019) 148 IPR 442; [\[2019\] FCA 1552](#) (settled mid-trial). Patent validity and infringement – including dispute as to admissibility of Wayback Machine evidence – various interlocutory disputes as to parties’ entitlement to discovery. Acted for Dyno. Led by Tony Bannon SC and Cynthia Cochrane, instructed by Shelston IP.
- *Bupa HI Pty Ltd v Chang* [\[2019\] FCAFC 180](#). Use of Medicare Benefits Schedule items – interpretation of statutory instrument – claims of misleading or deceptive conduct, unjust enrichment, breach of contract (subject of trial and appeal) – assessment of damages (heard separately, settled prior to hearing). Acted for Bupa. Led by Noel Hutley SC (on appeal) and Cynthia Cochrane (at trial). Briefed directly by Bupa’s in house counsel.
- *Re: Elk Petroleum Ltd (Administrators Appointed)* (2019, NSW Supreme Court, Corporations List, unreported). Successful application for voluntary administrators to extend convening period for second creditors’ meeting. Unled, instructed by Allens.
- *Re Rockgedgiel Pastoral Co Pty Ltd* (2018, NSW Supreme Court, Corporations List proceedings, settled prior to hearing). Acted for defendant in oppression proceedings involving a complex family dispute, multiple cross-claims and allegations of breach of trust. Led by David Pritchard SC, instructed by Pigott Stinson Lawyers.
- *Bandara v Director of Public Prosecutions* [\[2016\] NSWCA 140](#). Judicial review – administrative law. Appeared as amicus in proceedings in the NSW Court of Appeal (led by Michael Heath).
- *Tropfest Australia Pty Ltd* – Acted for Tropfest in enforcement proceedings to recover sponsorship fees that were lost as a result of the cancellation of the 2015 Tropfest short film festival. Instructed by Simpsons Solicitors.
- *G Developments (NSW) Pty Ltd v INA Latitude One Development Pty Ltd* (NSW Supreme Court proceedings, Technology and Construction List, ongoing). Liquidated damages – contractual penalty – construction defects – date of practical completion. Acting for plaintiff in \$1.3 million construction dispute. Led by Mark Martin QC, instructed by Evans Lawyers.

Further details of David’s recent cases are available on the 5 Wentworth website and from David’s clerk, Sarah Tiffen, upon request.

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