



Alexander Vial

+61 2 8066 6170 | +61 434 485 927

alexander.vial@5wentworth.com

Areas of Practice Alexander practices in complex commercial and regulatory matters. He has been recognised by Legal500 as a Leading Junior (Band 1) for competition law and as a Leading Junior (Band 1) for white collar and regulatory matters since 2024, and as a Leading Junior for commercial disputes since 2025. Alex has also been recognised by Best Lawyers for competition law since 2025 and for commercial law in 2026.

Alexander specialises in commercial and regulatory litigation that covers:

- competition and consumer law
- trade practices including franchising
- complex commercial disputes involving contract, restitution, equity, property, and private international law
- class actions
- corporations and insolvency
- intellectual property law
- employment law

Alexander regularly advises on and appears in regulatory investigations and enforcement matters, as well as Royal Commissions and inquiries.

Professional Experience **Barrister** | 2020 – Present
5 Wentworth Chambers, Sydney

Senior Associate | 2015 - 2020
Clayton Utz, Sydney (promoted to Senior Associate in July 2018)
▪ Competition, Regulation, Trade Practices, Consumer Law

Associate | 2013 – 2015
Camatta Lempens, Adelaide
▪ Commercial Litigation

Associate to the Honourable Chief Justice Christopher Kourakis | 2012

Associate to the Honourable Chief Justice John Doyle AC | 2011 - 2012

Associate to the Honourable Justice John Sulan | 2010 - 2011

Qualifications **University of Oxford** | 2013
Bachelor of Civil Law (BCL) - Postgraduate Masters
University of Adelaide | 2010
Bachelor of Laws (LLB) with First Class Honours (2010)

- First place in: Remedies, Constitutional Law, Law of Torts 2, Law Review A and B
- Prestigious prizes include: Stow Prize for 'exceptional merit in two or more subjects', Howard Zelling Prize for "Constitutional Law", and Thomson Lawbook Company Prize for the most outstanding merit in law subjects

University of South Australia | 2007

Bachelor of Commerce (Accounting) (**BCom**) (2007)

Bachelor of Business (Commercial Law) (**BBus(Comm Law)**) (2007)

**Selected Matters as
Counsel**

Current to:
11 February 2026

Competition, consumer law, regulatory

ACCC v Magnamail Pty Ltd (ACN 063 154 174) (NSD1588/2024) (Goodman J)

- Led by Nicholas De Young KC for the respondents (ongoing)
- Allegations that wholly owned subsidiary engaged in misleading or deceptive conduct contrary to ss 18 and 29(1)(b),(g) and (m), and 34 of the Australian Consumer Law (**ACL**), and parent company knowingly concerned in contraventions (s 224(1)(e) of the **ACL**)

ACCC v Productivity Partners Pty Ltd (trading as Captain Cook College) (No 6) [2025] FCA 542 (Stewart J)

- Led by M Hodge KC
- Imposition of civil penalties and other relief following findings fourth respondent was knowingly concerned in systemic unconscionable conduct (ss 21(4)(b) and 224(1)(e) of the **ACL**)

Delta Building Automation Pty Ltd v ACCC [2025] FCAFC 119 (Wigney, Abraham and Halley JJ)

- Led by R Higgins SC and C Bannan for the appellants
- Appeal against findings of 'attempt' and 'attempt to induce' cartel conduct contrary to s 45AJ of the *Competition and Consumer Act 2010* (Cth) (**CCA**)

ACCC v Delta Building Automation Pty Ltd (No 2) [2024] FCA 580 (Bromwich J)

- Led by C Bannan for the respondents
- Imposition of civil penalties and other relief following findings of 'attempt' and 'attempt to induce' cartel conduct contrary to s 45AJ of the **CCA**

Brickworks Ltd v BGC (Australia) Pty Ltd (NSD949/2023) (Halley J)

- Led by Garry Rich SC, Robert Yezerski SC, Danielle Forrester, and Peter Strickland; with M Caristo and H Letcher
- Alleged breaches of s 50 of the **CCA** (acquisition likely to, and did, substantially lessen competition in the WA clay brick market) and s 46 of the **CCA** (misuse of market power); settled before trial

ACCC v Delta Building Automation Pty Ltd [2023] FCA 880 (Bromwich J)

- Led by C Bannan for the respondents
- Allegations of 'attempt' and 'attempt to induce' cartel conduct contrary to s 45AJ of the **CCA**

Shift Financial Pty Ltd v Jack Aldridge-Kuhr & Ors (NSWDC 2023/00231545)

- **Unled** for the first and second defendants
- *ASIC Act 2001* (Cth) unfair contract terms regime pleaded as defence to enforcement of loan guarantees; matter settled after defence filed

Wills v ACCC (HCA, S49/2023) (Application for Special Leave to Appeal)

- Led by M Hodge KC and C Bannan (special leave granted)
- Application for special leave to appeal from [2023] FCAFC 54; accessorial liability for unconscionable conduct (s 21 of the ACL)

ACCC v Mastercard Asia/Pacific Pte Ltd & Anor (NSD401/2022) (Wigney J)

- Unled
- Involved at the investigation stage

Xiamen Huadian Switchgear Co Ltd v Powins Pty Ltd & Gelpag Electrics Pty Ltd [2022] FCA 1159 (Halley J)

- Led by B Mee for the applicant/cross-respondent
- Misleading or deceptive conduct contrary to s 18 of the ACL, trade mark infringement, passing off, breach of good faith, exemplary damages

Xiamen Huadian Switchgear Co Ltd v Powins Pty Ltd (No 2) [2022] FCA 1458 (Halley J)

- Led by B Mee
- Grant of relief including exemplary damages, declarations, injunctions, corrective advertising, and delivery up

Laith & Fadi Investments Pty Ltd v Fogo Brazilia Holdings Pty Ltd (NSWSC 2021/000245787); *RRZ Pty Ltd v Fogo Brazilia Franchise Holdings Pty Ltd* (NSWSC 2020/00179917); *Golden Peak Australia Pty Ltd v Fogo Brazilia Holdings Pty Ltd* (NSWSC 2021/00010215)

- Led by J Lazarus SC for the first and second defendants
- Alleged breach of the Franchise Code, misleading or deceptive conduct, unconscionability, and insolvent trading; proceedings dismissed with costs

ACCC v Employsure Pty Ltd [2021] FCAFC 142 (Rares J, Murphy J, Abraham J) (appeal); *ACCC v Employsure Pty Ltd (No 2)* [2021] FCA 1488 (Griffiths J)

- Led by P Brereton SC and C Bannan for the respondent
- Imposition of civil penalties and other relief for misleading or deceptive conduct in relation to paid results on Google Ads (s 18 of the ACL)

Other

- Worked on various aspects of leading competition cases (ongoing)
- Advised on a voluntary recall of defective consumer products
- Considered various competition law issues in relation to financial services, transport, and digital platforms

- Advised parties on cartel conduct and s 45(1) risks and issues, and whether and how markets should be pleaded as a defendant in competition law proceedings brought by the ACCC
- Advised on whether and when applications should be made under ACCC's immunity and cooperation policies
- Advised on s 155 notices and appeared as counsel in s 155(1)(c) examinations

Non-competition restraints of trade

Australian Timber Supplies Pty Ltd v BOM Building Supplies Pty Ltd (NSWSC 2023/00462005)

- Led by J Fernon SC for the plaintiff (ongoing)
- Alleged breaches of restraints of trade; alleged breaches of contractual, equitable, and *Corporations Act 2001* (Cth) duties; accessorial liability

Maximus International Pty Ltd v Maxwell Dodds (NSWSC 2024/00470751)

- Led by J Fernon SC for the defendant
- Alleged breaches of post-employment non-competition restraints of trade and confidentiality obligations; settled before trial

Australian Ceramics Engineering Pty Ltd v Darren Clinton (WAD 291/2021)

- Led by N Burmeister
- Alleged breaches of restraints of trade, alleged breaches of contractual, equitable, and *Corporations Act 2001* (Cth) duties

Hardaker v Janala Pty Ltd trading as COPE Sensitive Freight (NSWCA 2023/00210045)

- **Unled** for the respondent; appeal dismissed with costs
- Validity of non-competition restraints of trade in an employment context

Janala Pty Ltd trading as COPE Sensitive Freight v Hardaker [2023] NSWSC 446

- Led by J Fernon SC for the plaintiff
- Validity of restraints of trade in an employment context

DXC Eclipse Pty Ltd v Wildsmith [2023] NSWCA 98

- Led by Ian Neil SC, C Cochrane SC, and A Spies for the appellant
- Validity of non-competition restraint in a sale of business agreement

Grand Group Australia Pty Ltd v Chao Bo (NSWSC 2022/00233641)

- **Unled** for the defendant
- Alleged breaches of restraints of trade; alleged breaches of contractual, equitable, and *Corporations Act 2001* (Cth) duties

Class actions

Laith & Fadi Investments Pty Ltd v Fogo Brazilia Holdings Pty Ltd (NSWSC 2021/000245787)

- Led by J Lazarus SC for the first and second defendants

- Alleged breaches of the Franchise Code, misleading or deceptive conduct, unconscionability, and insolvent trading; proceedings dismissed

Fakhouri v The Secretary for the NSW Ministry of Health (NSWSC 2020/00356588) (Garling J)

- Assisted E Raper SC (as her Honour then was) for the defendant
- Allegations of underpayment of employment entitlements by junior doctors including for excessive overtime

Davison v Commissioner of Police, New South Wales Police Force (NSD1063/2020) (Griffiths J)

- Assisted E Raper SC (as her Honour then was) for the defendant
- Allegations made under the Racial Discrimination Act 1975 (Cth)

Royal Commissions and inquiries

Royal Commission into the Robodebt Scheme

- Led by Dominique Hogan-Doran SC for the Commonwealth, instructed by the Australian Government Solicitor
- Royal Commission into the debt assessment and recovery scheme known as Robodebt

Inquest into the death of Moses Kellie (NSWCC 2019/28070)

- **Unled** for a number of individual witnesses
- Coronial inquest (death in immigration detention); self-incrimination privilege objections

Inquest into the death of Muhammad Bin Zaini (NSWCC 2022/00148393)

- **Unled** for a number of individual witnesses
- Coronial inquest (death in immigration detention); self-incrimination privilege objections

Inquest into the death of Leah Porter (NSWCC 2020/352738)

- **Unled** for a number of individual witnesses
- Coronial inquest (death in immigration detention); self-incrimination privilege objections

Commercial disputes

Trustees of the Roman Catholic Church for the Archdiocese of Sydney and Others v Insurance Australia Limited and Others (NSWSC 2025/00194807)

- Led by Dr A Hanak KC and with P Kelly for the First Defendant (ongoing)
- Claims to indemnity under historic policies of insurance; construction of contracts

B MGMT Pty Ltd v FanPro Management Pty Ltd and Tyron Humprhis (NSWSC 2025/246283)

- **Leading** J Tsaoousidis for the Defendants (ongoing)
- Allegations of breach of four separate contracts, breach of confidence, breach of fiduciary duties

Vergan Enterprises Pty Ltd v Endeavour Energy Network Operator Partnership (ABN 11 247 365 823) t/as Endeavour Energy (2025/187768)

- **Unled** for the defendants
- Allegations of repudiation or breach of 5 separate contracts and 7 separate allegations of misleading or deceptive conduct within the meaning of s 18 of the ACL (proceedings dismissed)

OTJ Construction Solutions Pty Ltd v Bradley John Mooney (NSWSC 2023/00345530)

- **Unled** for the applicant
- Alleged breaches of fiduciary duties and *Corporations Act 2001* (Cth) duties (directors' duties)

Jasbir Singh Motay v Sikh Mission Centre Sydney Inc (NSWSC 2022/00375829)

- Led by H Stowe
- Incorporated associations; procedural fairness

Radinger v Ole Lynggaard Copenhagen Pty Ltd (FCFCOA SYG495/2022)

- **Unled** for the respondent /cross claimant
- Breach of contract; breach of fiduciary duty

Shaw v The Trustees of the Roman Catholic Church for the Diocese of Armidale (NSWSC 2023/00232832)

- **Unled** for the defendant
- Alleged repudiation of a contract for the sale of land; settled at mediation

Cottee v Frederick & Co Pty Ltd (NSWSC 2020/00255715)

- Led by Ian Roberts SC for the defendant
- Alleged breach of contract and claims to relief in the nature of rectification, restitution, unjust enrichment; change of position defence; settled before trial

Zoom Design & Graphics Pty Ltd v McGaw (NSWDC 2022/95816)

- **Unled** for the Defendant
- Alleged breaches of fiduciary duties and directors' duties under the *Corporations Act 2001* (Cth)

Wealth Recovery Experts LLC v John Ford Medhurst (Unreported, NSWDC 2020/85402) (Olsson J)

- **Unled** for the plaintiff at trial (judgment for the plaintiff with interest and costs on an indemnity basis)
- Breach of contract; construction of contract; interaction of contract with third party deed; doctrine of mistake

Fortitude Accelerated Pty Ltd v Julia Zhang (NSWDC 2021/00089850)

- **Unled** for the plaintiff
- Repudiation of commercial lease; application of Covid lease regulations and code

N. Moit & Sons (NSW) Pty Ltd v AB Developments (Australia) Pty Ltd (NSWDC 2019/00094979)

- **Unled** for the plaintiff/cross-defendant
- Defendant failed to pay security; stay and costs order obtained

Constitutional Law

[Confidential]

- Led by J Lazarus SC for the plaintiffs
- Acquisition of property on other than just terms

Employment Law

Davies v Stripes Civil Pty Ltd and T Chaffey (FWC C2025/3906)

- Led by D Mahendra for the respondents
- General protections; settled before hearing

Ryckmans v Camerons Management Pty Ltd (FWC U2023/6891)

- Led by D Chin SC for the respondent
- Unfair dismissal

SafeWork NSW v Craig Arthur Pty Ltd (NSWDC 2021/262467 and 2021/262485)

- Led by Kris Handshin QC and B Armstrong
- Workplace death; allegations of unsafe systems of work and failure to consult, cooperate and coordinate

Insolvency

An application by Henry Peter McKena in his capacity as Liquidator of Raised Pty Ltd (In Liquidation) ACN 612 726 262 (NSD281/2025)

- **Unled** for examinee
- Liquidator's examination under s 596B of the *Corporations Act 2001* (Cth)

In re Raised Pty Ltd (In Liquidation) ACN 612 726 262 (FCA, Registrar Ditton)

- **Unled** for examinee
- Liquidator's examination under s 596B of the *Corporations Act 2001* (Cth)

Fogo Brazilia Holdings Pty Ltd and Ian Dresner v Gavin Moss (in his capacity as liquidator of Fogo Brazilia Franchise Holdings Pty Ltd (in liq)) [2022] NSWSC 556 (Williams J)

- Led by J Lazarus SC for the plaintiffs
- Application to remove liquidator for alleged breaches of duties and apprehended bias in relation to the conduct of examinations under ss 596A and 596B of the *Corporations Act 2001* (Cth) and the liquidation generally

Civil Procedure / interlocutory applications

Vergan Enterprises Pty Ltd v Endeavour Energy Network Operator Partnership (ABN 11 247 365 823) t/as Endeavour Energy [2025] NSWSC 1198 (Ball JA)

- **Unled** for the defendants
- Security for costs ordered with proceedings dismissed shortly thereafter

Laith & Fadi Investments Pty Ltd v Fogo Brazilia Holdings Pty Ltd [2024] NSWSC 1508 (McGrath J)

- **Unled** for the first and second defendants
- Application for security for costs where US based funder terminated funding agreement due to plaintiffs' breach; application granted

OTJ Construction Solutions Pty Ltd v Bradley John Mooney (NSWSC 2023/00345530)

- **Unled** for the applicant
- *Ex parte* global freezing order obtained; breach of fiduciary duties

Janala Pty Ltd v Hardaker (No 2) [2022] NSWSC 1222

- Led by J Fernon SC for the Plaintiff
- Resisted in part the setting aside of a subpoena; legitimate forensic purpose established

Janala Pty Ltd trading as COPE Sensitive Freight v Hardaker [2022] NSWSC 822

- Led by J Fernon SC for the plaintiff
- Urgent injunction to enforce non-competition restraints of trade

RRZ Pty Ltd v Fogo Brazilia Holdings Pty Ltd [2021] NSWSC 873 (Robb J)

- Led by J Lazarus SC for the second and third defendants
- Whether costs of hearing were payable by plaintiff or plaintiff's solicitor; lump sum costs order made against plaintiff

In the matter of Fogo Brazilia Holdings Pty Ltd (in liq) (ex tempore, Williams J, 24 March 2021, 2020/00163342)

- Led by J Lazarus SC for the plaintiffs
- Successful application to amend pleading on second day of trial based on new matters discovered by defendant in opening submissions

In the matter of Fogo Brazilia Holdings Pty Ltd (in liq) [2021] NSWSC 580 (Williams J)

- Led by J Lazarus SC for the plaintiffs
- Resisted in part the setting aside of a notice to produce; legitimate forensic purpose established

In the matter of Fogo Brazilia Holdings Pty Ltd (in liq) [2021] NSWSC 242 (Williams J)

- Led by J Lazarus SC for the plaintiffs
- Resisted in part the setting aside of a subpoena; waiver of legal professional privilege established

In the matter of Fogo Brazilia Holdings Pty Ltd (in liq) [2022] NSWSC 1070 (Williams J)

- Led by J Lazarus SC for the plaintiffs
- Resisted applications for a gross sum costs order and indemnity costs

Criminal Law

Elmir v R [2021] NSWCCA 19 (Court of Criminal Appeal) (McCallum JA, Garling and Wright JJ)

- Led by C Parkin for the appellant
- Sentencing for foreign incursion offences using terrorism sentencing principles in the Criminal Code (Cth)

R v Hasan Ali (NSWDC 2019/00042319)

- Led by C Parkin for the defendant
- Sentencing for tobacco importation offence under s 233BABAD(2B) of the Customs Act 1901 (Cth)

Selected Presentations

- **Forthcoming:** A Vial, “Commentator for the address by Michael Hodge KC on attempts and attempts to induce” (Competition Law Conference 2026, 23 May 2026)
- **Forthcoming:** A Vial, “Advocacy in Interlocutory Hearings” (Evidence and Advocacy Conference 2026, 5 March 2026)
- A Vial, “A discussion: Delta Building Automation Pty Ltd v ACCC [2025] FCAFC 119” (Competition Law Discussion Group, 23 October 2025)
- A Vial, “Affidavit evidence of conversations” (Evidence and Advocacy Conference 2025, 28 February 2025)
- H Stowe and A Vial, “Conversation Evidence and the Psychology of Memory” (Evidence and Advocacy Conference 2024, 1 March 2024)
- A Fox SC and S Hallahan, “Conversation Evidence: Recent Developments” (7 September 2023)
- C Cochrane SC, C Bembrick, and A Vial, “Patented Pharmaceutical Products: Allegations of Misuse of Market Power or Cartel Conduct” (Trade Marks and Patents Conference 2022, 26 May 2022)
- C Cochrane SC, C Bembrick, and A Vial, “The Inaugural Competition Litigation Update - A Retrospective on 2021 and What to Expect in 2022” (3 March 2022)
- A Vial, “Can you contract out of misleading or deceptive conduct?”, delivered at the Law Society of New South Wales as part of its “Mandatory rule 6.1 – commercial lawyers” series (12 March 2021)
- A Vial, “Outlines of Evidence in the Federal Court”, delivered at the Law Society of New South Wales during its Specialist Accreditation Week for Commercial Litigation (26 November 2020)

Selected Publications

- C Bembrick, A Vial and M Donoghue, “I am, therefore I think: Proving a company’s state of mind” (Law Society Journal, June 2025)
- **Co-author** of Adrian Zuckerman, Stephanie Wilkins, Jonathan Adamopoulos, Alexander Vial, Andrew Higgins, Stephanie Hooper, Naomi Oreb, and Claire Jago, Zuckerman on Australian Civil Procedure (LexisNexis, 2nd ed, 2023)
- H Stowe and A Vial, “Conversational Evidence: A stake in the heart of ‘direct speech’ & the psychology of memory” (Summer 2023) Bar News 50

- C Cochrane SC and A Vial, “Testing the competition: Legitimate restraints of trade” (July 2023) Law Society Journal
- C Bembrick and A Vial, “ACCC v BlueScope Steel – Cartels and Attempts to Induce” (February 2023) Law Society Journal
- C Cochrane SC, C Bembrick and A Vial, “Exposed to Part IV of the Competition and Consumer Act 2010 (Cth) – How Do We Settle Patent Cases Now?” (2022) 129 Intellectual Property Forum 23
- C Cochrane SC and A Vial, “Patented pharmaceutical products — risk of misuse of market power or cartel conduct following statutory amendments” (2022) 35(5) Intellectual Property Law Bulletin 78
- C Cochrane SC, C Bembrick, and A Vial, Allegations of Misuse of Market Power or Cartel Conduct in the Context of Patented Pharmaceutical Products (Legalwise, 26 May 2022)
- M Corrigan and A Vial, “Merger review where the target is a “failing firm”” (Thomson Reuters, Practical law)
- Co-author of Adrian Zuckerman, Stephanie Wilkins, Jonathan Adamopoulos, Alexander Vial, Andrew Higgins, and Stephanie Hooper, Zuckerman on Australian Civil Procedure (LexisNexis, 2018)
- Linda Evans and Alexander Vial, 'Settlement Practices in Australia: The distinction between civil and criminal penalties' (2016) 44 Australian Business Law Review 300
- Alexander Vial, 'The Minimum Entrenched Supervisory Review Jurisdiction of State Supreme Courts - Kirk v Industrial Relations Commission (NSW) (2010) 239 CLR 531' (2011) 32(1) Adelaide Law Review 145 (cited in *Simpson v Andrew Maynard Architects Pty Ltd* [2014] VSC 365; (2014) 287 FLR 418 at [35] per Garde J)
- Current **contributor** to Thomson Reuters' “Practical Law Australia” service for competition law
- **Senior Reporter** of the South Australian State Reports (and previously reporter of the Western Australian State Reports)