

# TIMOTHY SMARTT

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## Professional Experience

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2019 – 2021	<b>Solicitor (Commercial Litigation), Corrs Chambers Westgarth</b>
2019, 2020	<b>Casual Lecturer (Criminal Law), University of Sydney</b>
2018 – 2019	<b>Associate to the NSW Attorney General</b>
2017	<b>Tipstaff to the Hon Justice Brereton AM RFD</b>
2016 – 2017	<b>Paralegal, Clayton Utz</b>
2013	<b>Transfer Pricing Intern, PricewaterhouseCoopers</b>

## Education

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2014 – 2016	<b>Juris Doctor, University of Sydney</b> <ul style="list-style-type: none"><li>• John George Dalley Prize No. 1B (2016)</li><li>• Dean's List for Excellence in Academic Performance (2016)</li><li>• Governor-General's Prize (2016)</li><li>• Winner, Sydney Law School Contracts Moot (2014)</li><li>• Winner, Sydney Law School Witness Examination (2014)</li><li>• Winning Team, national Shine Lawyer Torts Moot (2014)</li><li>• Wigram Allen Scholarship for Juris Doctor Award (2014)</li></ul>
2010 – 2013	<b>Bachelor of Arts (Economics and Plan II Honours) and Bachelor of Science (Psychology), University of Texas at Austin</b> <ul style="list-style-type: none"><li>• Highest Honours (2013)</li><li>• Departmental Honours in Psychology (2013)</li><li>• Distinguished College Scholar (2013)</li><li>• Stephen Michael Sanders Scholarship (2012)</li><li>• Unrestricted Endowed Presidential Scholarship (2012)</li><li>• Dean's List (2010-2013)</li><li>• University Honours (2010-2013)</li></ul>

## Publications

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2022	Timothy Smartt, Sanaz Talaifar and Samuel D Gosling, 'Dostoevsky's conjecture: Evaluating personality impressions based on laughter' 46 <i>Journal of Nonverbal Behavior</i> (Special Issue of the Science of Laughter) 383
2018	'Book Review: Leading Cases in Contract Law' (2018) 92(7) <i>Australian Law Journal</i> 563
2018	'The Doctrine of Extended Joint Criminal Enterprise: A "Wrong Turn" in Australian Common Law' (2018) 41(3) <i>Melbourne University Law Review</i> 1324
2017 – present	Thomson Reuters, <i>Robson's Annotated Corporations Legislation</i> (co-author of commentary on various parts of the <i>Corporations Act</i> )

## Selected current and past matters

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### Led

- *Farmer v Minister for Home Affairs* (High Court) - acting for an American political commentator in her constitutional challenge asserting that a provision of the *Migration Act 1958* (Cth) infringes the implied freedom of political communication, arising out of the Minister for Home Affairs refusing her a visa to visit Australia (led by P Herzfeld SC)
- *Faruqi v Hanson* (Full Federal Court) – acting for Senator Pauline Hanson in her constitutional challenge to s 18C of the *Racial Discrimination Act 1975* (Cth) (led by S Chrysanthou SC and P Herzfeld SC, with R Harvey)
- *Al Muderis v Nine Network Australia Pty Ltd* (Full Federal Court) – acting for a high-profile orthopaedic surgeon in his defamation claim against the Nine Network arising out of an episode of *60 Minutes* and front-page articles in the *Sydney Morning Herald* and *The Age* (led by S Chrysanthou SC and N Olson)
- *CN1 Pty Ltd v NSW Self Insurance Corporation* (Supreme Court of NSW) – acting for a developer in an appeal to the Supreme Court concerning the meaning of “residential development” in the *Home Building Act 1989* (NSW) (led by I Roberts SC)
- *Pure Metals Pty Ltd v Shaw and Partners Ltd* (Supreme Court of NSW) (settled) – acting for the owner of shares in a mining company in its claim against its broker for allegedly misappropriating its shares in collusion with another party (led by D Barnett SC)
- *Edwards v Nine Network Australia Pty Ltd (No 5)* [2024] FCA 422 – acting for a barrister in successful defamation proceedings against the Nine Network for broadcasting *A Current Affair* episode that falsely accused her of stealing a celebrity dog (led by S Chrysanthou SC and N Olson)
- *Beame; Els v Commissioner of Police & Anor* [2023] NSWSC 347; 297 A Crim R 131– acting for the plaintiffs in the test case that ultimately led to the withdrawal of every COVID-19 penalty notice issued in NSW during the pandemic (approximately 60,000 fines, worth about \$55m) (led by K Richardson SC)
- *Hanson v Burston* [2023] FCAFC 124; 413 ALR 299 – acting for Senator Pauline Hanson in her successful defence of defamation proceedings, in which she proved that the applicant senator had sexually abused a staffer in his office (led by S Chrysanthou SC)
- *Russell v Australian Broadcasting Corporation (No 3)* [2023] FCA 1223; 303 FCR 372 – acting for a former commando platoon commander in successful defamation proceedings against the ABC for falsely accusing him of involvement in war crimes (led by S Chrysanthou SC and N Olson)
- *HarperCollins Publishers Australia Pty Ltd & Anor v Gill & Ors* [2023] HCATrans 14 – acting for the respondent doctor to an application for special leave to appeal brought by the publishers of a book carrying imputations of medical malpractice in the administration of deep sleep therapy (for the respondent, led by S Chrysanthou SC and B Dean).
- *Garlett v Western Australia* [2022] HCA 30 – acting for the amicus curiae in a constitutional challenge to the *High Risk Serious Offenders Act 2020* (WA) (led by G McIntyre SC and S Hartford Davis)
- *Employers Mutual Ltd v Heise* [2022] NSWSC 465 – acting for the successful insurer appellant in its appeal against its conviction arising from a private prosecution (led by N Chen SC)

## Unled

- *Zandona v Charter Financial Planning Ltd* (Federal Court) – acting for retirees in their claims that various financial advisory firms are liable for their losses caused by the alleged fraud of their financial advisor (unled)
- *Lost Paradise Glenworth Valley Pty Ltd v Lyte AU Pty Ltd* (Supreme Court of Victoria) – acting for the organiser of the Lost Paradise concert in its claim that its ticket seller, Lyte AU, failed to pay it more than \$8m of proceeds from ticket sales (unled)
- *Hersant v R* (County Court of Victoria) – acting for the first person convicted of the Victorian offence prohibiting the public performance of the Nazi salute in his appeal against his conviction and his constitutional challenge to the law based on the implied freedom of political communication (unled)
- *Gussen v Momentum Media Pty Ltd & Anor* (Federal Court) – acting for the publisher of *Lawyers Weekly* and *HR Leader* in defending against defamation claims arising out of online articles it published (unled)
- *Rafashah Nominees Pty Ltd v Kavanagh & Ors* (Supreme Court of NSW) – acting for the defendants to a claim by a high-profile couple that they were induced to enter loans through unconscionable conduct and economic duress (unled)
- *Civiltrak Sydney Pty Ltd & Anor v Orange Equipment Pty Ltd* (Supreme Court of NSW) – acting for a construction company in its appeal against the Local Court’s judgment arising out of a dispute with an equipment rental company (unled)
- *Ashby Mining Ltd v AU Gold Pty Ltd & Ors* (Federal Court) (settled) – acting for respondents in defending against claims of misleading or deceptive conduct arising out of statements made during the applicant’s capital raising (unled)
- *Veale v Coleman* [2024] FCAFC 83; 304 FCR 182 – acting for the respondent in an appeal concerning the construction of exchange rate requirements in the *Bankruptcy Regulations 2021* (Cth) (unled)
- *Emde v State of New South Wales* [2024] NSWDC 268 – acting for the State of NSW in defending against a claim that police officers unlawfully arrested a person for breaching an AVO issued against him (unled)
- *Woolf v Brandt* [2023] NSWCA 290 – acting for the successful respondent in an application for leave to appeal from a decision that held that defamation proceedings were an abuse of process, maintained with the purpose of continuing contact with the respondent and maintaining pressure on him as a part of a recriminatory process following the break-up of the parties’ relationship (unled)
- *Evans v Commonwealth Bank of Australia* (Federal Court) (settled) – acting for a customer of the Commonwealth Bank in his claim against the bank arising out of the fraudulent use of his account (unled)
- *SC v DC* (District Court, unreported) – acting for a sex worker who successfully sued his former client in battery and breach of contract after she fraudulently induced his consent with representations that she intended to pay for his services (unled)
- *Newman v Whittington* [2022] NSWSC 249; (2022) Aust Torts Reports ¶82–793 – acting for the defendant in proceedings that generated the first Australian superior court authority construing the serious harm requirement introduced into the Australian Uniform Defamation Laws (unled)