

# TIMOTHY SMARTT

Tenth Floor Chambers  
Level 10, 180 Phillip Street, Sydney NSW 2000  
T: (02) 8915 2337 | E: [smartt@tenthfloor.org](mailto:smartt@tenthfloor.org)

## 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’ (Forthcoming), <i>Journal of Nonverbal Behavior</i> (Special Issue of the Science of Laughter).
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 matters

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### Led

#### High Court

- *Garlett v Western Australia* [2022] HCA 30 – constitutional challenge to the *High Risk Serious Offenders Act 2020* (WA) (for the amicus curiae, led by G McIntyre SC and S Hartford Davis)

#### Full Federal Court

- *Hanson v Burston* (FCAFC, ongoing) – appeal from primary judgment on a defamation claim against Senator Hanson (for the appellant, led by S Chrysanthou SC)

#### Federal Court

- *Russell v Australian Broadcasting Corporation* (FCA, ongoing) – claim of defamation arising from reports of murder of a prisoner of a war during the War in Afghanistan (for the applicant, led by S Chrysanthou SC)
- *Edwards v Nine Network Australia Pty Ltd* (FCA, ongoing) – claim of defamation over *A Current Affair* program that allegedly carried imputation of theft of a celebrity dog (for the applicant, led by S Chrysanthou SC and N Olson)
- *Rabul Goyal & Jennifer Anne Nettleton in their capacities as joint and several (special purpose) liquidators of ACN 154 520 199 Pty Ltd (in liq) and Anor v Phillip George Cochineas & Ors* (FCA, ongoing) – claim of breach of directors' duties (for the plaintiffs, led by C Withers SC and S Hartford Davis)
- *Burston v Hanson* [2022] FCA 1235– claim of defamation against Senator Hanson (for the respondent, led by S Chrysanthou SC)

#### Supreme Court

- *Els & Ors v Commissioner of Police & Anor* (NSWSC, ongoing) – test case challenge to penalty notices issued in NSW for COVID-19 related offences (for the plaintiffs, led by K Richardson SC)
- *Pure Metals Pty Ltd v Hawsons Iron Ltd & Anor* (NSWSC, ongoing) – claim arising from alleged misappropriation of shares (for the plaintiff, led by C Withers SC and S Hartford Davis)
- *Anjoul v Woodhams & Ors* (NSWSC, ongoing) – claim for the return of deposit under a contract for the sale of land (for the plaintiff, led by S Lawrance SC)
- *Gumbleton v Unity (NSW) Pty Ltd & Ors* (NSWSC, ongoing) – claim of negligence arising out of an electrical accident (for the first defendant, led by D Lloyd SC)
- *Employers Mutual Ltd v Heise* [2022] NSWSC 465 – appeal from private prosecution under the *Workplace Injury Management and Workers Compensation Act 1998* (for the plaintiff, led by N Chen SC)
- *Employers Mutual Ltd v Heise (No 2)* [2022] NSWSC 663 – application for costs in criminal proceedings (for the plaintiff, led by N Chen SC)
- *Campbell v Murray Irrigation Ltd; Murray Irrigation Ltd v Campbell* (NSWSC, settled) – application for judicial advice and application by beneficiary for trust documents (for the beneficiary, led by D Sulan SC)

### District Court

- *Coombes v State of New South Wales* (NSWDC, ongoing) – claim of intentional torts allegedly committed by police against a criminal defence lawyer (for the defendant, led by David Humes)

### Local Court

- *Heise v Employers Mutual Ltd* (NSWLC, determined) – private prosecution under the *Workplace Injury Management and Workers Compensation Act 1998* (for the defendant, led by N Chen SC)

### **Unled**

### Federal Court

- *Evans v Commonwealth Bank of Australia* (FCA, ongoing) – claims against the Bank arising out of fraudulent use of the applicant's account (for the applicant)
- *AMD Resources v AU Gold & Ors* (FCA, ongoing) – claims of misleading or deceptive conduct and inducing breach of contract arising out of statements made during the applicant's capital raising (for the respondents)
- *In the matter of Defugo Group Australia Pty Ltd* (FCA, ongoing) – application for winding up and application to stay winding up based on breach of exclusive jurisdiction clause (for the respondent)
- *Walsh v TAL Life Limited* (FCA, settled) – appeal on a question of law from a decision of the Australian Financial Complaints Authority (for the respondent)

### Federal Circuit and Family Court of Australia

- *Maaz v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FedCFamC2G 92 – application for judicial review of migration decision (for the applicant, pro bono)
- *Samartis v Marsdens Law Group* [2021] FCCA 1630 – application to set aside bankruptcy notice and claim of estoppel (for the applicant, pro bono)

### Supreme Court

- *Newman v Whittington* [2022] NSWSC 249 – application to strike-out defamation pleadings, consideration of newly enacted serious harm to reputation threshold (for the defendant)
- *Newman v Whittington* [2022] NSWSC 1725 – application to strike-out defamation pleadings alleging serious harm to reputation (for the defendant)
- *Employers Mutual Ltd v Heise (No 3)* [2022] NSWSC 1364 – application for gross sum costs order in criminal proceedings (for the plaintiff)
- *Newman v Whittington* [2022] NSWSC 160 – privilege objections in response to notice to produce (for the defendant)
- *In the matter of DC Partners (Nominees) Pty Ltd* (NSWSC, determined) – application to set aside statutory demand (for the respondent)

### District Court

- *Matantia Developments Pty Ltd v Ronnie Zeait* (NSWDC, ongoing) – claim for trespass on the case arising out of alleged unlawful dumping of toxic waste on land (for the plaintiff)

- *Woolf v Brandt* [2022] NSWDC 623 – application for summary dismissal of defamation proceedings based on defective concerns notice and statement of claim (for the defendant)
- *Randell v McLachlain* [2022] NSWDC 506 – application for summary dismissal of defamation proceedings based on defective concerns notice and statement of claim (for the defendant)
- *Reliance Leasing Pty Ltd v Smith* [2022] NSWDC 505 – application for leave to file cross-claim (for the plaintiff)
- *Reliance Leasing Pty Ltd v Smith (No. 2)* [2022] NSWDC 535 – application for costs of motion to file cross-claim (for the plaintiff)
- *Newport v Li & Anor (No 2)* [2022] NSWDC 132 – application for indemnity costs (for the first defendant)
- *O'Shanassy v Turland* [2021] NSWDC 642 – application to set aside a subpoena in defamation proceedings (for a subpoenaed party)
- *Toyota Material Handling Australia Pty Ltd v Devinshire Investments Pty Ltd & Anor* (NSWDC, determined) – claim for breach of contract, conversion and detinue (for the plaintiff)
- *Big Scrub Food Science and Technology Pty Ltd v Defugo Group Australia Pty Ltd* (NSWDC, settled) – claim for payment of consulting services (for the defendant)

#### Local Court

- *Bilansky v Nadile* (NSWLC, ongoing) – claim by roofing contractor for breach of contract (for the plaintiff)
- *Davidson White Accountants Pty Ltd v White* (NSWLC, determined) – claim for recovery of unauthorised expenses against former employee (for the plaintiff)
- *Transocean Administration Services Pty Ltd v Marshall* (NSWLC, determined) – claim for recovery of money advanced pursuant to a loan (for the plaintiff)
- *Sanchez v Vargas* (NSWLC, determined) – claim in debt and defence under s 7 of the *Contracts Review Act 1980* (NSW) (for the plaintiff)
- *Xin Yan v Little Infinity Pty Ltd* (NSWSC, determined) – claim for repayment of loan (for the plaintiff)

#### NCAT

- *Peng v Chief Commissioner of State Revenue* [2022] NSWCATAP 378 – appeal from review of decision of Chief Commissioner to require repayment of First Home Owner Grant (for the respondent)
- *Peng v Chief Commissioner of State Revenue* [2022] NSWCATAD 212 – review of decision of Chief Commissioner to require repayment of First Home Owner Grant (for the respondent)
- *Rigby v Wilson and Bishop* (NCAT, determined) – consumer claim for defective construction (for the applicant, pro bono)