

# Melanie Cairns

Barrister

Alinea Chambers

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## Key Practice Areas

- Commercial and Corporations
- Consumer protection
- Insurance
- Professional negligence
- Construction law
- Equity & Trusts
- Intellectual property
- Real property

## Professional Experience

### Barrister (since 2008)

With 11 years' experience at the Bar, I appear in the NSW Supreme Court and District Court and the Federal Court of Australia, led and unled, at first instance and on appeal.

I have experience in a wide range of commercial law disputes acting for clients including AIG, AMP Capital, AMP Life, Boulderstone, Care Pharmaceuticals, Camden Council, Landcom, OnePath Life Insurance, Perpetual, QBE, Sunsuper, NSW Health and Tenix Defence. I also regularly appear for small to medium sized entities and individuals.

### Clayton Utz (2000 to 2008)

- Senior Lawyer and Senior Associate, Commercial Litigation & Dispute Resolution
- Lawyer, Intellectual Property & Technology Litigation

## Case Examples

1. *Management Services Australia Pty Ltd v PMWorks Pty Ltd* [2019] NSWCA 107– Acted against Senior Counsel to successfully defend this appeal (3-0) on contractual construction, breach and wrongful termination, that concluded litigation spanning 3½ years with a 7 day hearing below before McDougall J where we successfully defended allegations of breach of fiduciary duty and contract, misrepresentation, unconscionability and estoppel (Unled, instructed by Resolve Litigation Lawyers).
2. *Gazcorp Pty Ltd v Woolworths Group Limited*, Supreme Court of NSW Proceedings No. 2018/314968 – Acting for Woolworths in a dispute with a property developer involving an agreement for lease with allegations including amongst other things, contractual construction and estoppel (Unled, instructed by Clayton Utz).
3. *Re AMP Capital Funds Management Ltd (as Responsible Entity of the AMP Capital China Growth Fund)* [2016] NSWSC 986 – Acted for AMP Life in an application as to the proper construction of s 253E of the *Corporations Act 2001*, governing AMP Life's right to vote on a resolution to wind up an AMP Capital managed fund dually listed in Australia and China (Led by Bret Walker SC, instructed by Clayton Utz).
4. *Sydney Local Health District v Bolzan & Ors*, NSW Supreme Court Proceedings No. 2017/172475 – Acted for SLHD in professional negligence proceedings against its former legal representatives in a long running dispute with the developer of a new private hospital (Led by J Stoljar SC, instructed by Clayton Utz).

Liability limited by a scheme approved under *Professional Standards Legislation*

5. *Hampshire Assets & Services Pty Ltd v Blackman & Ors* [2018] NSWSC 1096 – Acted for the plaintiff who was the former majority shareholder in ASX listed company, Hunter Hall Ltd, in a dispute alleging negligent tax advice on an off-market share buy-back (Led by A Leopold SC, instructed by Resolve Litigation Lawyers).
6. *Camden Council v Lippmann Partnership Pty Ltd & Anor*, NSW Supreme Court Proceedings No. 2002/385159 (Construction List) – Acting for the Council in its claim for breach of contract and negligence regarding the architectural and structural design of its swimming pool complex (Led by M Henry SC, instructed by Swaab).
7. *EBC Services Pty Ltd & Ors v Aland Financial Planning Pty Ltd & Ors*, Qld Supreme Court Proceedings No. 4513 of 2013 – Acted for the insurer in a dispute involving alleged fraudulent non-disclosure (Unled, instructed by ANZ in-house counsel).
8. *OnePath Life Limited ats Harkin*, NSW District Court Proceedings No. 2012/120396 – Acted for the life insurer in disputing liability under an income protection policy valued at \$5 million (Unled, instructed by ANZ in-house counsel).
9. *NMMT Ltd ats Douglas & Ors* [2015] NSWSC 1403 – Acted for NMMT (an AMP subsidiary) as the operator of an investment platform, in successfully defending an application including an alleged breach of trust (Unled, instructed by Clayton Utz).
10. *Priestley v Estate of the Late Gordon Priestley* [2017] HCATrans 266 (on appeal from [2017] NSWCA 155) – Acted for the son of the deceased who had worked the family farm for most of his life. Obtained monetary relief by restitution at first instance but in the Court of Appeal we obtained transfer of the farm by proprietary estoppel, which was then successfully upheld by the High Court in refusing special leave (Led by T Alexis SC, instructed by Cole & Butler Solicitors in Moree).

\* Please ask if you would like further case examples.

## Qualifications

### University of New South Wales

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| 2008 | Master of Laws (Corporate & Commercial/ Intellectual Property) |
| 2000 | Combined Bachelor of Laws / Arts (Political Science)           |

## Lecture examples

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| 2019 | College of Law Litigation CLE on <i>“Solicitor Advocacy, Objections and the Business records exception, and Strategic use of Senior and/or Junior Counsel”</i> |
| 2013 | UNSW Postgraduate Law litigation course, lecture on Legal Professional Privilege   |
| 2012 | Newcastle Law Society lecture, <i>“Insurance Law – A practitioner’s guide to making a claim and objecting to a decision not to insure”</i>                     |
| 2006 | Master of Laws Course Lecturer, <i>“Intellectual Property: Regulation and Policy”</i> .  |

## Professional associations

Bar Association, Professional Conduct Committee Member  
 Bar Association, Diversity and Equality Committee Member

Member of the Intellectual Property Society of Australia and New Zealand (IPSANZ)  
 Member of the Copyright Society of Australia