

Emily C Graham

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EDUCATIONAL AND PROFESSIONAL QUALIFICATIONS – OVERVIEW

Lawyer of the New South Wales Supreme Court

Called to the NSW Bar August 2016

Admitted 12 February 2010

Tertiary Education

BA/LLB (Hons I)

University of Sydney

Bachelor of Combined Laws (Hons I)

2005-2008

Date conferred: 22 May 2009

Bachelor of Arts

Major: Australian Studies

2004-2006

Date conferred: 1 June 2007

Graduate Diploma of Legal Practice

Australian National University

Completed November 2009

EMPLOYMENT HISTORY

August 2016-Present: Barrister, 8 Wentworth Chambers

Links to a selection of judgments as counsel:

- [White v Redding \[2019\] NSWCA 152](#)
DAMAGES – non-economic loss – eye injury resulting from hit by tennis ball – whether primary judge erred in assessment of non-economic loss
DAMAGES – future economic loss – impairment of earning capacity – extent of evidence required in case of adolescent – State of New South Wales v Moss (2000) 54 NSWLR 536 considered
- [CHF16 v Minister for Immigration and Border Protection \[2017\] FCAFC 192](#)
MIGRATION – whether primary judge erred in finding that the Immigration Assessment Authority (Authority) did not misconstrue or misapply the phrase “exceptional circumstances” in s 473DD(a) of the *Migration Act 1958* (Cth) and so made a jurisdictional error
- [Leamey v Evatt \[2018\] NSWSC 498](#)
COSTS — Interpleader proceedings — solicitor stakeholder — distribution of costs paid by unsuccessful party to successful party for barristers’ fees to barristers briefed by the successful party — entitlement of three barrister claimants to fund held on trust as between the three claimants – whether the claimants expressly or impliedly agreed how the fund should be divided
EQUITY — General principles — Rules and maxims of equity — “equity is equality” — fund to be distributed in fair proportions between three claimants
- [Walker v Government Service of New South Wales State Transit Authority Division \[2018\] NSWSC 30](#)
COSTS – party/party – bases of quantification – ordinary basis – indemnity basis – specified gross sum cost orders – offers of compromise/Calderbank offers – where plaintiff did not accept genuine offer
- [Fanous v Chief Commissioner of State Revenue \[2019\] NSWCATAD 64](#)
TAXES and DUTIES – land tax
- [Khatiz v Chief Commissioner of State Revenue \[2019\] NSWCATAD 121](#)
TAXES AND DUTIES-land tax-objections- out of time- no extension- must be in writing-time limits on power to reassess

Since being called to the Bar in August 2016, I have appeared and advised in a variety of areas of law in both civil and criminal jurisdictions of NSW Courts and Tribunals, the Full Federal Court of Australia and the Federal Circuit Court. I appear in NCAT frequently, particularly in the Administrative and Equal Opportunity Division.

I appear at hearings at first instance and on appeal, on motions and short matters and at mentions, directions hearings, taking judgment and on return of subpoena in all NSW courts including in the NSW Court of Appeal, the Supreme Court family provision list, commercial list and real property list, the District Court’s criminal and civil jurisdiction and in the Local Court’s criminal and civil jurisdiction.

Examples of matters in which I have recently been briefed to advise and appear:

- Frequently advising and appearing as junior in common law, equity and administrative law proceedings at first instance and in the Court of Appeal
- Frequently advising and appearing on motions and shorter applications in the Supreme Court, District Court, Federal Court and Federal Circuit Court, including in relation to dismissal/strike out applications and subpoena arguments
- Appearing at mediations and informal settlement conferences including in personal injury, intentional torts, family provision and general commercial litigation claims
- Advising and appearing for the Chief Commissioner of State Revenue in respect of land tax, First Home Owners Grant and other State Revenue matters
- Advising and appearing in NCAT matters relating to risk assessment under the *Child Protection (Working with Children) Act 2012*
- Advising and appearing for private clients and government agencies on costs issues after resolution of substantive proceedings
- advising and appearing in the Full Federal Court (unled) in respect of an appeal from the FCC on an application for judicial review.

In addition to my general practice at the Bar, I volunteer for Rugby Australia on the disciplinary panel conducting hearings as a judicial officer, most recently for the Super W Competition and the Sydney Club Rugby competition in 2019. In January 2019, I attained accreditation with World Rugby as a Judicial Officer and have received commissions to conduct judicial hearings for Women's International matches, including Wallaroos v Japan in July 2019. I have also assisted the Chair of the Disciplinary Committee with the conduct of judiciary hearings, most recently at the HSBC World Series 7's in Hamilton, NZ, in January 2019.

Since 2018, I have been appointed a member and Secretary of the NSW Bar Association's New Barristers' Committee.

August 2010-August 2016: Solicitor, New South Wales Crown Solicitor's Office ("CSO")

In my six years at the CSO, I worked as a solicitor in three Practice Groups: Community Law; Torts Service and Regulatory Agencies and Commercial/Property Litigation.

Examples of some of the matters I was involved in at the CSO:

- Applications for protective orders for undercover operatives and witnesses
- Medical negligence claims against Local Health Districts and VMOs
- Claim against the State by former electorate officer (see [Sneddon v The Speaker of the Legislative Assembly \(Supreme Court\)](#) & [Sneddon v SNSW \(Court of Appeal\)](#)).
- Class action brought by former child migrants against State and Commonwealth governments and the private organisation for abuse in children's home.
- Appearing in NCAT representing government agencies in discrimination claims
- State revenue administrative review proceedings and Land Valuation appeals
- Advising on claims of public interest immunity and non-publication or suppression orders for numerous government agencies, including NSW Police, in court proceedings, Inquests and Standing Order 52 matters.
- Various defamation proceedings against Ministers and agencies
- Intentional tort claim against Community Services (See e.g. [Darcy v State of New South Wales \(District Court\)](#) & [Darcy \(bht Diane Aldridge\) v State of New South Wales \(Court of Appeal\)](#)).

January 2009 – December 2009: Tipstaff/Researcher to Mr Justice Young AO, Court of Appeal, New South Wales Supreme Court