



**David S Allen**  
Barrister

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<b>Areas of practice</b>	Commercial, Building & Construction, Corporations, Equity, Banking and Finance, Financial Regulation, Insolvency, Trusts, Real Property, Employment	
<b>Professional</b>	<p>Called to the Bar (2020)</p> <p>Senior Associate, Ashurst – Sydney (2018-2020); Allen &amp; Overy – London (2015-2017); Allens – Sydney (2011-2014)</p> <p>Admitted as a solicitor in England and Wales (2016)</p> <p>Admitted as a solicitor in New South Wales (2011)</p>	
<b>Education</b>	<p>Master of Economics (Finance, Economics), University of Sydney (2011)</p> <p>Bachelor of Laws (Hons I), University of Sydney (2009)</p> <p>Bachelor of Arts (Hons I), University of Sydney (2007)</p>	
<b>Selected cases</b>	David has experience appearing in all New South Wales courts and the Federal Court of Australia (including the Full Court).	
<b>Commercial – Corporations</b>	<i>Vulpes Distressed Fund v Balamara Resources Ltd</i> [2023] NSWSC (Black J)	<p>Corporations – oppression – ability to participate in capital raisings – conduct of directors’ meetings – acting for independent directors</p> <p>Minority shareholder’s claim against directors dismissed and company transactions preserved by settlement</p> <p>Led by Dr R P Austin AM; instructed by Blackwall Legal</p>
<b>Commercial – Trusts and Partnerships</b>	<i>Merwar v Dhillon</i> [2023] NSWSC	<p>Trusts – trustees - duty to account – duty to provide information – suit for an account - acting for beneficiary</p> <p>Substantial distributions made to beneficiary by settlement</p> <p>Unled; instructed by Hickey Lawyers</p>
	<i>Cowie v Eames</i> [2021] NSWSC	<p>Business partners – partnership – exclusion from profits – appearing for excluded partner</p> <p>Substantial distribution to excluded partner by settlement</p> <p>Led by P Lane; instructed by Mbt Lawyers</p>

<b>Building and Construction</b>	<i>Owners – Strata Plan No. 102137 v Galileo Phillip Street JV Pty Limited</i> [2023] NSWSC	<p><i>Home Building Act 1989</i> – statutory warranties – appearing for developer</p> <p>Ongoing</p> <p>Led by D Sibtain SC; instructed by Mills Oakley</p>
	<i>Render Bros Pty Ltd v Elcham</i> , Security of Payment Act adjudication	<p>Building contract – payments by principal – quantum – acting for contractor</p> <p>Adjudication certificate for amount claimed by contractor plus costs</p> <p>Unled; instructed by Hilton Bradley Lawyers</p>
	<i>Owners – Strata Plan No. 81376 v Insurance Australia Limited t/as Lumley Insurance</i> [2023] NSWSC (Darke J)	<p><i>Home Building Act 1989</i> – limitation of actions – appearing for owners</p> <p>Owners’ application to amend claim and join insurer allowed</p> <p>Led by M Ashhurst SC; instructed by Bannermans Lawyers</p>
<b>Commercial - Contract and Misleading or Deceptive conduct</b>	<i>Poseidon Animal Health Pty Ltd v MF Pharma Pty Ltd &amp; Anor</i> [2024] FCA	<p>Contract – manufacture and supply agreement – animal products – breach and misleading or deceptive conduct – acting for distributor</p> <p>Director of manufacturer entered bankruptcy</p> <p>Unled; instructed by Maguire &amp; McInerney</p>
	<i>Lefevre v Empassion Natural Pty Ltd; Andrew Keely &amp; Mark Neveceral</i> [2022] NSWLC	<p>Misleading or deceptive conduct – accessory liability of defendant directors – appearing for franchisee plaintiff</p> <p>Judgment for franchisee plaintiff against directors personally</p> <p>Unled; instructed by AMK Law</p>
<b>Commercial - Employment</b>	<i>Integrate AV Pty Ltd v Simon Gordon</i> [2023] FCA	<p>Corporations – fiduciary duties – use of information – restraint of trade – former employee and contractor – acting for company</p> <p>Substantial payment to company by settlement</p> <p>Unled; instructed by Antunes Lawyers</p>
	<i>Kalmar Equipment (Australia) Pty Ltd v PortxGroup Pty Ltd</i> [2022] FCA (Luxton JR)	<p>Preliminary discovery – former employees - confidentiality – appearing for employee respondents</p> <p>Application for preliminary discovery dismissed with costs</p> <p>Unled; instructed by Holding Redlich</p>
	<i>Joseph v Parnell Corporate Services Pty Ltd</i> (2021) 284 FCR 546; [2021] FCAFC 67 (Logan, Katzmann and Snaden JJ)	<p>Executive employment – Fair Work Act 2009 – costs of a cross-claim – appearing for employer</p> <p>Employee appeal dismissed</p> <p>Led by D Barnett SC; instructed by Atanaskovic Hartnell</p>

<b>Commercial, Insolvency</b>	<i>Stone (liquidator), in the matter of Ironbark Blacksmithing Pty Ltd (in liq) v Mizzi</i> [2024] FCA 696 (Halley J)	Corporations – recovery of shareholders loans – breach of director’s duties – insolvent trading – limitation of actions – acting for directors  Judgment against directors for part of the liquidator’s claim  Unled; instructed by Circle Bridge Legal
	<i>Equitable Financial Solutions Pty Ltd (in liquidation) v Summiya Usman</i> [2020] NSWSC (Ball J)	Application for judgment on settlement deed – appearing for liquidator  Judgment entered  Unled; instructed by Hall & Wilcox
	<i>Future Invented Pty Ltd v Gebaut Environment</i> [2021] FCA NSD65 (Registrar Segal)	Winding up application – application for leave under s 459S - appearing for company  Winding up application dismissed  Unled; instructed by Home Legal
<b>Financial Regulation, Trusts</b>  Judicial advice - Superannuation Industry (Supervision) Act 1993 (Cth) – construction of trust deeds – application of the Superannuation Industry (Supervision) Regulations 1994 – reserves and unit pricing – appearing for APRA	<i>Re Legal Super Pty Ltd</i> [2023] VSC 545 (Lyons J)	Judicial advice given – trustee proposals altered following engagement with APRA
	<i>Application by SCS Super Pty Limited atf Australian Catholic Superannuation and Retirement Fund</i> [2022] NSWSC 686 (Hallen J)	Led by B J Doyle KC; instructed by APRA
	<i>Application by United Super Pty Ltd atf Construction and Building Unions Superannuation Fund</i> [2021] NSWSC 1679 (Henry J)	Judicial advice given  Led by S Cooper QC (as his Honour then was); instructed by APRA
	<i>Application by Motor Trades Association of Australia Superannuation Fund Pty Ltd atf Spirit Super</i> (2021) 113 ATR 868; [2021] NSWSC 1672 (Henry J)	
	<i>Re HEST Australia Ltd</i> (2021) 66 VR 338; [2021] VSC 809 (Button J)	Judicial advice given  Led by Dr R P Austin AM; instructed by APRA
	<i>Re Care Super Pty Ltd</i> [2021] VSC 805; (No 2) [2021] VSC 845 (Lyons J)	
<b>Real Property and strata schemes</b>	<i>Oziris Investments Group Pty Ltd v Malabar Headlands Pty Ltd; Malabar Headlands Pty Ltd v Oziris Investments Group Pty Ltd</i> [2024] NSWCATAP 73; [2023] NSWCATCD 113	Real property – construction of Covid regulations – rent review clause – repudiation – estoppel by convention – reliance damages – appropriation of payments – costs – appearing for landlord  Challenge to landlord’s re-entry and tenant’s claim for damages dismissed with costs  Unled; instructed by Gladwin Legal
	<i>Owners Strata Plan 80877 v Lannock Capital 2 Pty Ltd (No 2)</i> [2024] NSWSC 618	Real property – strata title – termination of strata scheme – position of lessee – appearing for lessee  Application to terminate strata scheme dismissed and lease preserved  Led by S Robertson SC, instructed by Colin Biggers & Paisley
	<i>Linguist Testamentary Trust v Ku-ring-gai Council</i> [2022] NSWLC	Nuisance – tree roots – appearing for owners  Judgment for owners by settlement  Unled; direct access brief

<b>Banking and Finance</b>	<i>Ut Ian v Macquarie Bank Limited</i> [2023] FCA	Banking – ‘debanking’ – denial of account access without notice – acting for customer  Access restored by settlement  Unled; instructed by James & Jaramillo
	<i>King v Yeak</i> [2022] NSWDC	Consumer credit – business purpose – consumer credit code – acting for borrower  Settlement for principal amount of loan only  Unled; instructed by ClarkeKann Lawyers
	<i>Casaceli v Westpac Banking Corporation</i> [2022] NSWSC	Mortgages – duty of mortgagee exercising power of sale – negotiation of settlement deed – misrepresentation – calculation of debt – limitation – appearing for borrowers and guarantors  Acted up to mediation  Unled; direct access brief
<b>Interlocutory relief and injunctions</b>	<i>Generate Group Pty Limited v Harris</i> [2022] FCA (Stewart J)	Search order – Norwich Pharmacal orders for disclosure – acting for defendant  Access to materials seized not allowed pending discovery and Norwich Pharmacal order for disclosure of customers discharged by consent  Led by S Docker SC; instructed by Thomson Geer
	<i>Galileo Phillip Street JV Pty Limited v Austech Facades Aust Pty Ltd</i> [2023] NSWSC	Freezing order - change of company name – acting for cross-claimant  Cross-defendant’s liquidation brought on  Led by D Sibtain SC; instructed by Mills Oakley
	<i>Russell v Desi Nominees Pty Limited</i> [2023] FCA 1249 (Cheeseman J)	Interlocutory injunction – balance of convenience – adequacy of damages – apprehended breach by mortgagee of duty in exercising power of sale – acting for mortgagor  Injunction refused; mortgagee sold at market value  Unled; instructed by Baker Deane & Nutt
	<i>Galileo Miranda Nominee Pty Ltd v Capitol Property Services Pty Limited (formerly Duffykennedy Pty Limited)</i> [2020] NSWSC (Hammerschlag J)	Security for costs – building and construction – claim by developer against builder – cross-claim by builder  Security for costs of cross-claim awarded  Led by D Sibtain SC; instructed by Mills Oakley

<b>Presentations and Publications</b>	<i>‘Equity, mate’ – Equitable principles limit the effect of general words in releases</i> , Law Society Journal (2022)
	<i>LexisNexis Practical Guidance: Insolvency – Retention of Title</i> (2022)
	“Recent Banking and Finance Cases”, City of Sydney Law Society (2022)
	“Liability of officers for misleading or deceptive conduct”, Arnold Bloch Leibler (2022)
	"Recent Banking and Finance Cases", Ross Parsons Centre, University of Sydney (2021)
	<i>LexisNexis Practical Guidance: Personal Property Securities</i> , co-author (2014)
<b>Awards</b>	First place, University of Sydney Senior Moot (Equity) before Gummow J (2008)
	Blake Dawson Prize for Personal Taxation (2008)
	Walter Reid Memorial Prize for Honours in Ancient History and Classics (2007)
	UAI 100 and Dux of Sydney Grammar School (2003)
<b>Pro bono and Not for profit</b>	Advice to NSW RSL Hunters Hill Sub-Branch, Macquarie University Greek Studies Foundation, Aboriginal Elders & Community Care Services Inc, Nature Conservation Trust of NSW and Not for Sale Australia
	Signatory to the National Pro Bono Target (since 2020)
	David is the company secretary of University Chambers