

DAVID CHARLES

EDUCATION

- 1987** **Master of Laws**
University of Sydney
- 1981** **Bachelor of Laws (Hons)**
University of Sydney
- 1979** **Bachelor of Arts**
University of Sydney

CAREER

- 2 August 1991** Admission as a Barrister of the Supreme Court of NSW and
Removal from the Roll of Solicitors
- 9 December 1988** Enrolment as a Barrister and Solicitor of the Supreme Court of the ACT
- 10 July 1981** Admission as a Solicitor of the Supreme Court of NSW

EMPLOYMENT

Ground Floor, Wentworth Chambers
April 1992 to date

13th Floor, Wentworth Chambers
Reader's Position
September 1991 to March 1992

Clayton Utz
1987 to July 1991

Allen Allen & Hemsley
1981 to July 1991

PRACTICE AREAS

- Commercial Litigation
- Equitable Remedies
- Probate/Trusts/*Family Provision Act*
- Litigation under Parts IV and V of the *Trade Practices Act*
- Banking Litigation
- Securities Enforcement
- Corporations Law matters
- Insolvency
- Professional Negligence

I have been in legal practice since 1981. As a junior solicitor at Allen Allen & Hemsley during the early 1980's, I was engaged in general commercial/corporate work and conveyancing. That period of my career provided me with a sound platform on which to develop a litigation practice from 1984; firstly, as a member of the litigation team of Allen Allen & Hemsley and from 1987, as a Senior Associate with Clayton Utz's litigation section. My desire for more exposure to general advocacy and appearance work in Courts and tribunals prompted my calling to the Bar in 1991.

Some of the areas of practice I have been involved in both as a litigation solicitor and as a barrister include:

- equitable remedies, including suits for specific performance, injunctions and other forms of urgent interlocutory relief;
- contested probate suits (for example, cases involving allegations of lack of testamentary capacity and/or undue influence);
- the law of wills and trusts including issues involving the construction of wills, the administration of trusts, breaches of trust and judicial advice to trustees;
- claims under the Family Provision Act;
- landlord/tenant disputes, including matters under the Retail Leases Act, and applications for relief against forfeiture;
- mortgagee/mortgagor matters such as actions for possession, and issues between unregistered mortgagees about priority of interest in secured property;
- other real property matters (for example, easements and restrictive covenants, applications to extend caveats, and issues involving legal and equitable interests in property);
- disputes involving the real property rights of individuals such as trustee sales for co-owners

under section 66G of the Conveyancing Act, claims under the Property (Relationships) Act, issues involving constructive and resulting trusts and proprietary estoppel;

- disputes involving the administration and application of the Strata Schemes Management Act;
- partnership disputes, including actions for the taking of accounts on dissolution of a partnership;
- insurance law, including disputes between insurer and insured;
- professional liability actions (for example, actions involving auditors, surveyors, solicitors, architects etc);
- corporations law including applications to set aside statutory demand notices, applications to reinstate companies and advice on reductions of capital;
- insolvency issues including bankruptcy and the winding up of companies, and the appointment of administrators;
- litigation relating to disputes between shareholders in a company (such as, cases involving fraud on the minority, oppression etc);
- breach of contract disputes, including building and construction cases;
- general debt recovery actions in the Local Court and the District Court;
- bank/finance company litigation (for example, enforcement of securities and guarantees, and issues involving letters of credit, cheques and performance bonds);
- remedies under the Trade Practices Act (Cwth) and Fair Trading Act (NSW), particularly issues involving misleading and deceptive conduct; and
- matters of practice and procedure in any litigation, such as costs' arguments, security for costs' applications, summary judgment and pleadings' issues.

PUBLICATIONS AND SEMINAR PRESENTATIONS

- Seminar Paper "Keeping Secrets – Banks and the Duty of Confidentiality", presented on 20th April, 1989 at a Seminar at the Menzies Holiday Inn, Sydney, conducted by International Business Communications.
- Seminar Paper "Constructive Trusts Today", presented on 18th February, 1994 at a Seminar at the Masonic Centre, Sydney, conducted by Legal and Accounting Management Seminars Pty Ltd and published as Chapter 3 in Trusts in Action, Blackstone Press, 1995.

- Article “Serving process on foreign defendants”, in Law Society Journal, July 1994, page 27.
- Contributor to Butterworths Court Forms Precedents & Pleadings – Original Precedent and revisions to text in “Contract” chapter and revisions to text in “Easements & Restrictive Covenants” chapter.
- Seminar paper “Applications for Specific Performance”, presented on 6 July 1995 at a Seminar at the Masonic Centre, Sydney, conducted by Legal & Accounting Management Seminars Pty Ltd.
- Seminar paper “Conduct ‘Unbecoming’ : Matters affecting the validity and enforceability of a contract” presented on 20 March 1996 at a Seminar at the Masonic Centre, Sydney, conducted by Legal & Accounting Management Seminars Pty Ltd.

GENERAL INTERESTS

- Reading historical fiction and history texts
- Sport (squash and tennis)
- Music
- Walking