

## **PAUL MOORHOUSE**

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Clerk:  
Gary Rootsey  
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I specialise in all aspects of workplace law, including discrimination. I also practice in a range of other civil areas, listed below, across all courts and tribunals. I enjoy working with solicitors and clients to achieve a favourable outcome. I am proud of my attention to detail and thorough preparation, as well as my excellent written and oral advocacy skills.

### **Education and awards:**

BSc, LLB from University of New South Wales, completed in 1987.

- Credit average in LLB

LLM from University of Southampton, completed September 1996.

- Joint winner, Blackstone Prize for outstanding results across all subjects in Southampton Law School, 1996.
- Sally Kiff prize for displaying outstanding merit in the study of human rights
- Richard Nevitt Award for best academic dissertation

Australian Bar Association Advanced Trial Advocacy Course, January 2016.

## **Employment history:**

CCH Australia Ltd 1989-1995

- Editor, industrial law publications, including writer and editor of the *Australian Labour Law Reporter*

Allen, Allen & Hemsley 1996-1998

- Solicitor, employment and industrial law group

University of Sydney 1998-2000

- In-house industrial lawyer and senior industrial officer

Allens Arthur Robinson, 2000-2003

- Senior associate, employment and industrial law group

Barrister, self-employed, February 2003 - current

- Commenced practice at the New South Wales bar February 2003

## **Areas of practice**

I specialise in industrial and employment law, and discrimination law.

I also work regularly in other civil areas, including contract law, commercial disputes, equity matters, home building and construction disputes, administrative law, inquiries and investigations, and children's care and protection matters.

## **Publications**

*Law of Employment*, Punch (4<sup>th</sup> ed), 1989 (part-author and co-editor)

*Guidebook to Equal Opportunity Law and Practice*, 1992 (co-author)

*Australian Industrial Law*, Punch, 1994 (part-author)

*Termination of Employment – The New Federal Law*, Moorhouse and Punch, 1994 (co-author and editor)

*Occupational Health & Safety Update – Prosecutions and Enforcement under the New OHS Laws*, paper delivered to the State Legal Conference, August 2011

*Employment Law Guide and Employment Contract Precedent Suite*, subscription based online services published by Smokeball, 2011-2015 (co-author)

*Costs in Fair Work Proceedings and the Value of Settlement Offers*, Law Society Journal, issue 27, October 2016

*Enforcing post-employment restraints after an employer's breach of contract*, Law Society Journal, issue 34, June 2017

*Directors take note: employees can recover unpaid entitlements directly from you*, Law Society Journal, issue 37, September 2017

*Federal Court divided on which 'complaints' give rise to unlawful adverse action*, Law Society Journal, issue 74, February 2021

*When does dishonesty provide a valid reason for dismissal?*, Law Society Journal, issue 80, August 2021

*More than a contractual promise: requirements for a guarantee of annual earnings*, Law Society Journal, September 2022

### **Practice details**

Since coming to the NSW bar in 2003, my primary area of practice has been workplace law. I appear regularly before the Fair Work Commission (and formerly the Australian Industrial Relations Commission), and also have a long history of appearances before the Industrial Relations Commission of New South Wales (including the Industrial Court of New South Wales). My appearances include successfully bringing and defending unfair dismissal claims, as well as acting in a variety of industrial matters. I have appeared in a number of appeals before Full Benches of the Fair Work Commission (and previously the AIRC).

I have also advised and appeared in employment-related matters in the Local Court, District Court, Supreme Court, Federal Court and Federal Circuit Court. These have included general protections claims and claims for and against ex-employees who are alleged to have breached confidentiality or restraints of trade, including appearing in order to obtain or resist urgent injunctions in such matters.

I have conducted hearings before the Federal Court, Federal Magistrates Court (now the Federal Circuit Court) and the Administrative Decisions Tribunal (now NCAT) involving claims of sexual harassment and/or discrimination.

In the area of administrative law, I have appeared before the Supreme Court, NSW Civil and Administrative Tribunal (formerly the ADT) and the Federal Administrative Appeals Tribunal in relation to reviews of decisions of inferior tribunals.

I advise and appear in commercial, contractual, equity and building matters, including appearances in the Local Court, the District Court, the Supreme Court and the NSW Civil and Administrative Tribunal. I have appeared both led and unled in the Court of Appeal.

I have appeared in both the Children's Court and the District Court in children's care and protection matters, both for parents and for Department of Community Services (now Family and Community Services). I have also appeared for DoCS in the Family Court.

Since coming to the bar I have conducted or assisted with several inquiries into alleged misconduct by employees, including in one instance being solely responsible for conducting such an inquiry in respect of a University employee, and providing the University with a detailed investigation report. I am familiar with the appropriate procedure and standards to adopt in the conduct of such inquiries.

### **Community service**

Current Board member and former Chair (2004 - current), Mandala Community Counselling Service Inc – see [www.mandalacounselling.org.au](http://www.mandalacounselling.org.au)

Active patrolling member, Burning Palms Surf Life Saving Club (2013 - current)

### **Selected cases**

#### Employment and industrial law

*NTEU v University of Sydney* [2005] AIRC 495 (acted for University in award interpretation matter)

*Duhbihur v Transport Appeal Board* [2005] NSWSC 811 (acted for dismissed public sector employee in challenge to Board's decision)

*Cassis v NSW Department of Education and Training* [2006] NSWIRComm 164, and on appeal [2006] NSWIRComm 376 (obtained reinstatement for a dismissed teacher, including resisted appeal against decision)

*Presland v LHMU* [2007] AIRC 1023 (acted for employer in unfair dismissal proceedings)

*Arcus v SG Fleet Australia Pty Ltd* [2009] AIRC 32 (acted for employer in unfair dismissal proceedings)

*Bond v Director-General of Education and Training* [2010] NSWIRComm 178, and on appeal [2010] NSWIRComm 178 (acted for employee in unfair dismissal proceedings involving alleged sexual misconduct)

*King v Catholic Education Office Diocese of Parramatta* [2013] FWC 8914, and on appeal [2014] FWCFB 2194, and on remittal to a single Commissioner [2014] FWC 6413 (acted for employer in unfair dismissal proceedings)

*Applicant v Respondent* [2016] FWC 7077 (acted for employer in unfair dismissal proceedings in which employee's misconduct and harassment was established)

*Krav Maga Defence Institute v Markovitch* [2019] FWCFB 4258 (acted for employer in successful appeal from dismissal of objection to unfair dismissal claim)

*Dundoen Pty Ltd v Wills* [2020] NSWSC 1534 (successful claim against former employee to enforce post-employment restraints)

*JMB (NSW) Pty Ltd v West & Anor* [2020] NSWSC 1380 (application for interlocutory relief enforcing post-employment restraints and other obligations)

*Dodd v Thomas & Naaz Pty Ltd* [2020] FWC 6783 (successful objection to unfair dismissal claim on basis employee was not dismissed)

*Employsure Pty Ltd v McMurchy* [2021] NSWSC 139 (successful application for interlocutory relief enforcing post-employment restraint)

*Employsure Pty Ltd v McMurchy* [2021] NSWSC 1179 (successfully obtained final injunction to enforce post-employment restraint against former employee, and obtained finding of breach of contract)

*McMurchy v Employsure Pty Ltd* [2022] NSWCA 201 (appeal from decision immediately above – led by Peter Brereton SC)

*Muthu v Radeshar Pty Ltd* [2022] FCA 1157 (successful appeal from decision in employment matter in Federal Circuit Court)

*Heal v Sydney Flames Basketball Pty Ltd* [2024] FCA 401 (appeared for respondent in successfully resisting general protections claim)

### Discrimination

*Bishop v Takla* [2004] FMCA 74 (acted for employee in sexual harassment claim)

*Brown v Richmond Golf Club* [2006] ADT 104 (acted for employer in sexual harassment and victimisation claim)

*Sklavos v Australasian College of Dermatologists* [2014] FCA 476, and on appeal *Wong v Sklavos* (2014) 319 ALR 378; [2014] FCAFC 120 (application to set aside subpoenas in disability discrimination proceedings – on appeal with Ian Neil SC)

*Brown v Deloitte Touche Tohmatsu (A Partnership)* [2020] FCA 1747 (led by Ian Neil SC in resisting application to strike out misleading conduct claim associated with age discrimination claim)

*Leach v Commonwealth of Australia* [2021] FCA 158 (hearing of separate question as to whether Applicant was prevented by settlement agreement from bringing claim)

### Other civil matters

*Surfing Hardware International Holdings Pty Ltd v McCausland (No 3)* (2007) 161 IR 445; [2007] NSWIRComm 64 (appeal against decision restraining solicitors from acting, with Harry Dixon SC)

*Surfing Hardware International Holdings Pty Ltd v McCausland (No 6)* (2007) 169 IR 282; [2007] NSWIRComm 285 (application to re-open IRC proceedings, with Harry Dixon SC)

*East & Coulson (Anti-suit Injunction)* [2010] FamCA 641 (resisted anti-suit injunction brought against intervening creditor in family law property proceedings)

*Simpson Design Associates Pty Ltd v Industrial Court of New South Wales* [2011] NSWCA 316; (2011) 213 A Crim R 340; (2011) 214 IR 373 (judicial review of Industrial Court decision – led by Ian Neil SC)

*Campbell v RBV Builders Pty Ltd (Home Building)* [2011] NSWCTTT 446 (acted for respondent builder in claim by home owner)

*Director-General, Department of Family and Community Services v DJ & Ors*, Sydney District Court, 22.8.12 (care and protection proceedings resulting in children restored to natural parents)

*Ulman v Live Group Pty Ltd* (2018) 367 ALR 95; [2018] NSWCA 338 (appeal from decision finding contempt of court against Rabbis as a result of them threatening to impose religious sanctions – led by Ian Neil SC)

*Aldous v State of New South Wales* [2018] NSWCA 261 (appeal from District Court order requiring repayment of overpaid partial disability payment made to retired police officer)

*G and N Chedra v RBV Builders Pty Ltd* [2020] NSWCATCD (decision 24.01.20) (acted for builder in final hearing of NCAT proceedings alleging defective home building works)

*Bligh St Collective Pty Ltd v Soh & anor* [2020] NSWCATCD (decision handed down 30.03.20) (successful defence of claim under *Retail Leases Act* 1994 that landlords illegally withheld consent to assignment of lease)

*Owners SP 93543 v Zhang*; 2018/382960 (Supreme Court proceedings acting for developer in defending claim of multiple defects in strata development)

*Farrell v Super Retail Group Ltd* (Cross-Claim) [2024] FCA 1189 (led by Shane Prince SC)

*Farrell v Super Retail Group Ltd* (Specific Performance Claim) [2024] FCA 1515 (led by Shane Prince SC)