

VERA CULKOFF



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TERTIARY QUALIFICATIONS

LLB (UTS), First Class Honours, University Medal

Academic prizes include the Freehill Hollingdale & Page Prize in Commercial Transactions; the Dean's Prize and the Butterworth's Book Prizes over numerous semesters.

Dux – Arncliffe Girls High School

Dux – St George College (1 year accounting/secretarial course)

Admission as a Barrister: 2000

MAIN AREAS OF PRACTICE:

Commercial law and equity, including Appellate, with an emphasis in:

- (1) **Building and construction disputes:** such proceedings have commonly involved complex contractual disputes and misleading and deceptive conduct, negligence and the application of the *Building and Construction Industry Security of Payment Act 1999 (NSW)*.
- (2) **Wills, probate and family provisions disputes:** involving complex issues and large estates.

PREVIOUS EXPERIENCE AS A SOLICITOR

1999 – 2000: Equity Partner, Maurice Blackburn Cashman

1995 – 1999: Equity Partner, Cashman & Partners

1990 – 1994: Solicitor, Clayton Utz

Experience in commercial litigation, including large scale litigation against Westpac, ANZ, AMP and GIO; mass tort litigation/class actions.

PRESENTATIONS/SEMINARS AND OTHER LEGAL ACTIVITIES:

- Chairing Building & Construction Seminars for Legalwise Seminars over the last 8 years (2 seminars per year, the last seminar March 2022).
- Regular participation in mentoring programs, including: judging 2019 Baker McKenzie National Women's Moot at Sydney University; female barristers' program at the Bar mentoring potential female barristers; UNSW and UTS Mentoring Programs and the Herbert Smith Freehills Women's Mentoring Program; mock trials at Sydney University. Currently facilitating 2 – 4 UTS mentees per annum, latest two in April 2022.
- Reporter for the *Building and Construction Law Journal: Ian Street Developer Pty Ltd v Arrow International Pty Ltd* [2018] VSCA 294; *Aalborg CSP A/S v Ottoway Engineering Pty Ltd* [2017] SASCFC 158.
- Article in *Precedent, the Journal of the Australian Lawyers Alliance*, issue 148, published October 2018, headed: "Ageing Baby Boomers – Pitfalls with Estate Management".
- Member of Editorial Panel of the *Australian Product Liability Reporter* (from 2006 to 2011).
- Prior to coming to the Bar, conducting presentations at seminars on product liability litigation, "class actions", the then *Trade Practices Act* and, whilst at the Bar, presentations at seminars on the *Building and Construction Industry Security of Payment Act 1999 (NSW)*.

NOVEL ARGUMENTS RAISED IN THE SUPREME COURT IN BUILDING AND CONSTRUCTION LITIGATION

Falgat Constructions Pty Limited v Equity Australia Corporation Pty Limited [2007] 23 BCL 292; [2006] NSWCA 259 (Handley JA, Hodgson JA, Hunt AJA) the question of service was determined; and whether successive payment claims, claiming the same amount, can be served; whether s.109X of the *Corporations Act 2001 (Cth)* applies to provision of payment schedule to a corporation; the effect of s.29 of the *Acts Interpretation Act 1901 (Cth)*; and whether "provide" means anything different from "serve" in the *Building & Construction Industry Security of Payment Act 1999*, and is governed by s.31 of that Act (**Security of Payment Act**).

Timwin Construction v Façade Innovations [2005] 21 BCL 383; [2005] NSWSC 548 (McDougall J), the notion of "good faith" was first argued by Vera and accepted by the Court in the context of the *Building and Construction Industry Security of Payment Act 1999 (NSW)* (**Act**).

Vince Schokman v Xception Construction Pty Limited [2005] NSWSC 297 (Einstein J), the question of election under the same Act was first raised and resolved in favour of the argument put forward by Vera.

Aldoga Aluminium Pty Ltd v De Silva Starr Pty Ltd [2005] NSWSC 284 (Palmer J), the interplay between the Act and the *Corporations Act*, in the context of a statutory demand, was determined.

OTHER NOTEWORTHY CASES

- *Yesilhat v Calokerinos* [2021] NSWCA 110: estate and debt proceedings, as below

- *Weisbord v Rodny* [2020] HCASL 191
- *Rodny v Weisbord* [2020] NSWLR 403; [2020] NSWCA 22: validity of informal will
- *Weisbord v Rodny* (No. 3) [2021] NSWSC 458: adducing additional evidence on family provisions claims after Judgment reserved
- *Grandview Ausbuilder Pty Ltd v Budget Demolitions Pty Ltd* [2020] NSWSC 1307: setting aside statutory demand in building and construction context; see also [2020] NSWSC 343
- *Angius v Salier* [2020] NSWSC 1171; [2020] NSWSC 764; [2020] NSWSC 594; [2020] NSWSC 114; [2019] NSWSC 1698; [2019] NSWSC 1648; [2019] NSWSC 682: complex estate issues involving powers of Trustee for Plaintiff; powers of Receiver appointed for Companies, striking of accounts, liquidation of Company assets, distribution of Company monies to shareholders.
- *Grandview Ausbuilder Pty Ltd v Budget Demolitions Pty Ltd* [2019] 99 NSWLR 397; [2019] NSWCA 60: setting aside a statutory demand arising under the Security of Payment Act; see also [2018] NSWSC 1713.
- *Weisbord v Rodny* (No. 2) [2019] NSWSC 739: estate; grant of interim costs order from estate to Plaintiff and principles involved; see also [2018] NSWSC 1866; informal will, revocation of earlier grant of probate and family provisions claims – currently awaiting Judgment from the Court of Appeal.
- *Angius v Salier* (No. 2) [2019] NSWSC 682: contested application for leave to amend Statement of Claim
- *Yesilhat v Calokerinos, Executor of the Estate of the late George Sclavos* (No. 2) [2019] NSWSC 584; [2019] NSWSC 1752: complex issues arising from estate and debt proceedings; see [2017] NSWSC 666: will dispute, allegations of de facto relationship under *Succession Act*, debt proceedings
- *Angius v Salier* [2019] NSWSC 184: clam against estate for reimbursement of alleged payments made on behalf of estate
- *Grandview Ausbuilder Pty Ltd v Budget Demolitions Pty Ltd* (No. 2) [2018] NSWCA 341: application for stay of orders; see also [2018] NSWCA 336.
- *Jenny Angius v Gordon Salier* [2018] NSWSC 995: successful application for joinder by main beneficiary and \$1m interim distribution
- *John Angius v Gordon Salier* [2018] NSWSC 808: successful application for joinder by main beneficiary
- *Hanna v Raoul* [2018] NSWCA 201: competency, unconscionability, *Contracts Review Act*, life estate and remainderman
- *Robert Angius v John Angius* [2018] NSWSC 1772: sham mortgages, estoppel principles; see also [2018] NSWSC 1897 re costs arguments
- *Angius v Salier* [2017] NSWSC 198: s.66 Conveyancing Act re joint property

- *Suprema Bakeries Pty Ltd v Australian Weighing Equipment Pty Ltd* [2016] NSWSC 998: opposing application to set aside adjudication determination on jurisdictional grounds under *Security of Payment Act*.
- *Angius v Salier* [2016] NSWSC 1622: application to strike out parts of Statement of Claim
- *Russo v Desiatnik* (No. 2) [2015] NSWSC 256: bill of costs and operation of Pt. 11 *Legal Profession Act*; see also [2015] NSWSC 291
- *Gordon Salier v Robert Angius* [2015] NSWSC 853: construction of a will written in a foreign language; expert evidence
- *Yesilhat v Calokerinos* [2015] NSWSC 1028: successfully opposing application for summary dismissal, “couple living together” even where no common residence; *Succession Act*
- *Angius v Salier* [2015] NSWSC 1446: opposing application to set aside Deeds entered into between Plaintiff and deceased
- *Pioneer Energy Holdings v Seth* [2014] NSWSC 492: application for preliminary discovery, proceedings ultimately settled at a 2 – 3 day mediation held in Singapore before a former Judge of the High Court.
- *Di Francesco v Pioneer Energy Pty Limited* [2014] NSWSC 480
- *Di Francesco v Pioneer Energy Pty Limited* (No. 2) [2014] NSWSC 1923: application for consolidation of proceedings and for security for costs
- *Australian National Car Parks Pty Ltd v State of New South Wales* [2014] NSWCA 298: constitutional law and the validity of a prohibition in State legislation on preliminary discovery. The Writ of Summons was originally filed in the High Court and, by agreement, was remitted to the Court of Appeal by Gageler J.
- *Cazazure Pty Ltd v Murrumbidgee Estate Developments* [2010] NSWDC 142 (Gibson DCJ): against R Wright SC (now his Honour Justice Wright): construction of a contract relating to a multi-million dollar development and allegations of misleading and deceptive conduct.
- *Davies v Beyond Building Systems Pty Ltd* [2009] NSWSC 1282 (Brereton J): Contempt proceedings; oppression of a minority shareholder and various remedies under the *Corporations Act*, with numerous interlocutory applications, including restraining orders made by White J to which Brereton J made reference: see also [2009] NSWSC 1489 (Brereton J).
- *Frasers Lorne Pty Ltd v Joyce Goldworthy Burke* [2009] NSWSC 743 (Brereton J): successfully opposing an application for the modification of an easement.
- *Burke v Frasers Lorne Pty Ltd* [2008] NSWSC 988 (Brereton J): successful mandatory interlocutory injunction forcing the Defendant to return turfed carriageway/easement to asphalt surface where servient owner had replaced asphalt with reinforced turf.
- *John Holland Pty Ltd v Made Contracting Pty Ltd* [2008] NSWSC 374 (Nicholas J): construction of the *Security of Payment Act* and whether the withdrawal of an

adjudication application entitled the applicant to make a new adjudication application or whether the claimant was estopped from doing so.

- *McKeand v Thomas* [2006] NSW 1028 (Campbell J): resisting an easement over the Second Defendant's property. The matter also involved implied easements under the first rule in *Wheeldon v Burrows*; law of agency and ratification; law on licences; equitable and proprietary estoppel; and section 88K *Conveyancing Act*.

AUTHOR OF TWO BOOKS (UNRELATED TO LAW) INSPIRED PUBLICATION DURING COVID-19:

Freedom From Fear and An Ordinary Life



Freedom From Fear, 2020 Amazon Best Seller

An Ordinary Life, 2020 Amazon Best Seller

Podcast Interview with Lawyers Weekly: Freedom from Fear, December 2021