

MATTHEW MOIR

BARRISTER

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CAREER OVERVIEW

I was called to the NSW Bar in 2004, having practised as a solicitor since 1999.

Prior to coming to the Bar I was a solicitor at the Australian Industry Group, the Australian Chamber of Manufactures and the Association of Professional Engineers, Scientists and Managers Australia.

I have appeared as Junior Counsel in numerous work health and safety proceedings conducted in New South Wales, including in trials, sentencing hearings, interlocutory hearings and appeals. I have also appeared both led and un-led in cases relating to industrial relations, termination of employment, underpayment claims, discrimination and bullying matters, administrative law and commercial disputes.

EDUCATION

- BA (Hons), University of Sydney
- LLB (Hons), University of Sydney
- LLM, University of Sydney

AREAS OF PRACTICE

- Administrative Law
- Commercial Law
- Criminal Law
- Disciplinary Inquiries
- Discrimination / Human Rights
- Employment / Industrial
- Workplace Health and Safety

SELECTED CASES

Employment / Industrial Law

Application by the Shop, Distributive and Allied Employees Association (Retail, Fast Food and Pharmacy Industries Junior Rates Case) [2026] FWCFB 75 (Full Bench of Fair Work Commission - appeared for employers in the fast food and retail industries in a test case arising from union applications to abolish and/or increase rates of pay for junior employees (15 to 20 year old employees) under the General Retail Industry Award 2020, the Fast Food Industry Award 2010 and the Pharmacy Industry Award 2020; the hearing involved witness evidence from approximately 80 employee/employer witnesses and 6 expert witnesses with economic backgrounds; the Commission decided to retain junior rates for employees aged below 18, and to phase out/abolish junior rates for those aged 18 and over; led by Matthew Follett KC)

Construction, Forestry and Maritime Employees Union v Australian Industry Group (Union Delegates' Rights Case) - [2025] FCAFC 187, (2025) 314 FCR 187, (2015) 346 IR 90 (Full Federal Court – appeared un-led for employers across the building and construction and manufacturing industries, opposing two applications for judicial review of a decision by a Full Bench of the Fair Work Commission to draft and insert a model union delegates' rights clause into modern awards; the Full Court found jurisdictional error and overturned the Fair Work Commission's original clauses)

Dr Andrew Sarson v Health Secretary in respect of Nepean Blue Mountains Local Health District [2025] NSWIRComm 1084 (Industrial Relations Commission of NSW - appeared for the Health Secretary in opposition to an application by a resident medical officer employed by the Secretary for an interim order under section 89(7) of the Industrial Relations Act that the Health Secretary not dismiss the applicant until a final hearing; the case involved allegations of serious misconduct and contested factual matters; the Commission held the balance of convenience weighed in favour of the Health Secretary and dismissed the application)

Marelize Donaldson v Humanity Health Group Pty Ltd [2025] FedCFamC2G 696 (Federal Circuit and Family Court (Division 2) – appeared un-led on behalf of a former employee in a general protections court application filed 22 days late under the Fair Work Act 2009; successfully obtained an extension of time for the application to continue, following a contested hearing involving witnesses being called to give evidence)

Fast Food Industry Junior Rates Application [2025] FWC 2906 (Fair Work Commission – appeared for fast food industry employers, including McDonalds and Hungry Jacks, concerning orders sought by retail industry union for the employers to produce financial records and other commercially sensitive documents; successfully narrowed down the documents to be produced and obtained confidentiality orders; led by Matthew Follett KC)

Transit Systems West Services Pty Ltd v Rail, Tram and Bus Union [2018] FWC 7527 (Fair Work Commission - successfully appeared un-led on behalf of a company to prevent its employed bus drivers from continuing to take unprotected industrial action under the guise of sick leave)

Australian Manufacturing Workers Union v Agilent Technologies Australia Ltd [2014] FWC 2813 (Fair Work Commission – appeared for an employer in the arbitration of a classification dispute under an enterprise agreement; the Fair Work Commissioner observed in his judgment that my cross-examination of the union witnesses was “very useful” and “skilful but respectful”)

Ace Insurance Ltd v Trifunovski [2013] HCATrans 190 (High Court – led by Steven Crawshaw SC and successfully resisted an employment law special leave application)

Ace Insurance Ltd v Trifunovski [2013] FCAFC 3, (2013) 209 FCR 146 (Full Federal Court – led by Adam Hatcher SC (as his Honour then was) and succeeded in arguing that sales representatives were employees, not independent contractors and therefore owed substantial sums for employee entitlements; the decision is a landmark authority on the distinction between employees and independent contractors under the Fair Work Act 2009)

Discrimination / Human Rights Law

***Thomas Schwedler v Secretary, Department of Health* [2026] NSWCATAP 21** (Appeal Panel of NCAT – appeared un-led for the Health Secretary in respect of an appeal brought by the appellant against the dismissal of his application alleging disability discrimination by the Tribunal below: see [2025] NSWCATAD 181; the Appeal Panel found there was no error in the Tribunal’s decision below and dismissed the appeal)

***Thomas Schwedler v Sydney Local Health District* [2025] NSWCATAD 181** (NCAT – successfully defended the Health District against a claim of disability discrimination by a social worker employed by the District; the claim alleged disability discrimination on the ground of schizophrenia in the steps taken by the employer following an annual Performance Development Review meeting to review the work of the applicant; appeared un-led before the Tribunal and cross-examined the applicant; the two Tribunal members dismissed the applicant’s claim of disability discrimination)

***Monica Dunne v Rail Corporation, New South Wales* [2006] NSWADT 273 and (No 2) [2006] NSWADT 335** (successfully appeared for the applicant who had epilepsy; the applicant’s complaint of disability discrimination in her employment was upheld by the three Tribunal members; the applicant was awarded compensation (\$14,000) and her costs (75 per cent))

Administrative Law - Work Health and Safety

***Secretary, Department of Education v SafeWork NSW (No 2)* [2026] NSWIRComm 1014** (Industrial Relations Commission of NSW – appeared un-led for the regulator SafeWork in an external review under section 229 of the Work Health and Safety Act 2011 of two psychosocial improvement notices issued by a SafeWork inspector, with the Department of Education arguing that the notices should be revoked or set aside; the notices were directed toward improving the Department’s system of work when conducting workplace investigations due to the risks of exposure to psychosocial hazards and risks; following a six-day hearing, the Commission largely rejected the Department’s challenge, upholding both notices with one limited variation)

***SafeWork NSW v Lipman Pty Ltd* [2023] NSWIRComm 1034** (Full Bench of Industrial Relations Commission of NSW – appeared for the regulator SafeWork NSW in an appeal which clarified and confirmed the principles relevant to the test of “reasonable belief” for the issuing of improvement notices and prohibition notices by SafeWork inspectors under the Work Health and Safety Act 2011; led by Ingmar Taylor SC (as his Honour then was))

***Sydney Local Health District v SafeWork NSW* [2019] NSWIRComm 1072** (Industrial Relations Commission of NSW – appeared un-led for the regulator SafeWork NSW in an external review of a prohibition notice issued by a SafeWork inspector to stop the proposed removal of a staff security counter in an intensive psychiatric care unit; the Commission dismissed the external review and accepted SafeWork’s case that the removal of the counter would expose workers in the unit to a serious risk of occupational violence, upholding the notice in its entirety)

Criminal Law - Work Health and Safety

SafeWork NSW v SMB Australia Car Transport Employment Pty Ltd; SafeWork NSW v SMB Australia Car Transport Pty Ltd; SafeWork NSW v Andrew Mytkowski [2026] NSWDC 90 (District Court of NSW – advised and appeared un-led for the prosecutor SafeWork NSW after a 53 year old worker was manually closing a large industrial gate which overran its end vertical support and fell onto him, resulting in serious injuries; the defendants were the two companies which employed the worker and owned the gate respectively, as well as the director of these two companies; following extensive plea negotiations, the defendants pleaded guilty to the charges under sections 19(1)/32, 21(2)/32 and 27(1)/32 of the Work Health and Safety Act 2011, however the defendants disputed many of the particulars of the charges and the underlying facts; after conducting a disputed facts hearing, the Court made factual findings and findings of breach of duty largely consistent with SafeWork’s submissions)

SafeWork NSW v Hanna Nsaire [2026] NSWIC 19 (Industrial Court of NSW – advised and appeared for the prosecutor SafeWork NSW after a 33 year old woman and her 3 young children were walking along a footpath when a 200-kilogram sliding gate overran its supports and fell onto them; the defendant was the director of the company (in liquidation) which manufactured and installed the gate; following extensive plea negotiations and shortly before a trial, the defendant pleaded guilty to breaching his duty of due diligence under section 32/27(1) of the Work Health and Safety Act 2011; the Industrial Court held the defendant had limited capacity to pay a fine, however a fine of \$50,000 was imposed, together with a conviction and costs order)

SafeWork NSW v Steel Line Garages Pty Ltd [2026] NSWIC 7 (Industrial Court of NSW – advised and appeared for the prosecutor SafeWork NSW after a young female worker was walking at the front of a forklift carrying a door; the forklift caught the worker’s foot running over her legs and resulting in serious injury; following extensive plea negotiations, the defendant employer pleaded guilty to an offence under section 32/19(1) of the Work Health and Safety Act 2011; the defendant was convicted by the Industrial Court and fined \$450,000)

SafeWork NSW v SFS Management (Aust) Pty Ltd [2025] NSWIC 18 (Industrial Court of NSW – advised and appeared for the prosecutor SafeWork NSW after seven workers were on the roof of an industrial cool room, moving equipment, when the roof gave way; the workers fell approximately 5 metres into the cool room and most suffered serious injuries; after extensive plea negotiations, the defendant pleaded guilty to an offence under section 32/19(1), and an offence under section 46, of the Work Health and Safety Act 2011; the defendant was convicted by the Industrial Court and fined \$480,000 and \$20,000 respectively)

SafeWork NSW v Hilltop Meats Pty Ltd [2025] NSWDC 363 (District Court of NSW – advised and appeared for the prosecutor SafeWork NSW after a 32 year old worker was filling bags of meal when the main auger became blocked; another worker turned on the switch which was not isolated, entangling the worker’s leg in the auger screw resulting in traumatic amputation of his leg; after extensive plea negotiations, the defendant employer pleaded guilty to an offence under section 32/19(1) of the Work Health and Safety Act 2011; the defendant was convicted and fined \$750,000; both the [sentencing hearing](#) and [decision](#), as well as [the impact on the victim](#), attracted [considerable publicity](#))

SafeWork NSW v Aria Carpentry and Construction Pty Ltd [2025] NSWDC 301 (District Court of NSW – advised and appeared for the prosecutor SafeWork NSW after a 40 year old worker was seriously injured when he fell approximately 7 metres off an incomplete and unsafe scaffold to the ground below; after extensive plea negotiations, the defendant pleaded guilty to an offence under section 32/19(1) of the Work Health and Safety Act 2011; the defendant was convicted by the District Court and fined \$135,000 with an adverse publicity order made)

SafeWork NSW v 465 Leichhardt Pty Ltd [2025] NSWIC 5 (Industrial Court of NSW – related matter to *SafeWork NSW v Hanna Nsaire [2026] NSWIC 19* following incident involving 200-kilogram sliding gate overrunning its supports and falling onto a 33 year old woman and 3 small children resulting in serious injuries; the defendant company was a small developer in control of the gate; after extensive negotiations, the defendant pleaded guilty to an offence under section 32/20(1) of the Work Health and Safety Act 2011; the defendant was convicted by the Industrial Court and fined \$180,000)

SafeWork NSW v Bede Burke [2025] NSWDC 29 (District Court of NSW – appeared for the prosecutor SafeWork NSW after two workers were performing maintenance and repair work on a manure conveyor when one of the workers had his hand pulled into the pinch roller when he placed it on the conveyor belt for support; the defendant employed the two workers on his egg farm; following extensive plea negotiations, the defendant pleaded guilty for offences under sections 32/19(1), 38(1) and 39(1) of the Work Health and Safety Act 2011; the defendant was convicted on each of the offences; he was fined \$30,000 for the section 32/19(1) offence with no other penalty imposed for the section 38(1) and 39(1) offences under section 10A of the Crimes (Sentencing Procedure) Act); the defendant’s Order of Australia was subsequently [revoked](#) by the Governor-General)

SafeWork NSW v Orica Australia Pty Ltd [2024] NSWDC 140 (District Court of NSW – successfully acted for the prosecutor SafeWork NSW in relation to the exposure of two workers between 2014 and 2019 to cobalt dust, a known respiratory sensitising agent, which left one worker developing occupational asthma; following extensive plea negotiations, the defendant company pleaded guilty to a Category 1 offence, the highest category under the Work Health and Safety Act 2011; the defendant was convicted and a fine of \$1.2 million was imposed; led by John Agius SC; the decision attracted [considerable publicity](#))

SafeWork NSW v Qantas Ground Services Pty Ltd (No 3) [2023] NSWDC 468 (District Court of NSW – successfully acted for the prosecutor SafeWork NSW in first-of-its-kind action after the defendant company unlawfully stood down a Health and Safety Representative (HSR) during the COVID-19 pandemic after he raised concerns about workers being exposed to COVID-19; the defendant was found guilty of discriminatory conduct for a prohibited reason under the Work Health and Safety Act 2011; led by Trish McDonald SC; the decision attracted [considerable publicity](#))

SafeWork NSW v Qantas Ground Services Pty Ltd (No 4) [2024] NSWDC 53 (District Court of NSW - appeared un-led for the prosecutor at the sentencing hearing; the defendant was convicted and a fine of \$250,000 imposed for the defendant’s breach in unlawfully standing down the HSR; a personal compensation order to the HSR of \$21,000 was also agreed; both the [sentencing hearing](#) and [decision](#) attracted [further publicity](#))

***H D Projects Pty Ltd v SafeWork NSW* [2022] NSWCCA 212** (NSW Court of Criminal Appeal - successfully defended an appeal against conviction and sentence, after appearing as the prosecutor in the trial below resulting in the conviction; conviction arose from the injury of two workers at a large construction site when they were struck by panels falling from a crane; led by Ingmar Taylor SC)

***Landmark Roofing Pty Ltd v SafeWork NSW* [2021] NSWCCA 95** (NSW Court of Criminal Appeal - successfully defended an appeal against conviction and sentence, after appearing as the prosecutor in the trial below resulting in the conviction; conviction arose from the death of a young apprentice who fell from a roof; led by Ingmar Taylor SC)

***Landmark Roofing Pty Ltd v SafeWork NSW* [2021] HCASL 209** (High Court - special leave application to the High Court refused; led by Ingmar Taylor SC)

***SafeWork NSW v BOC Limited* [2020] NSWCA 306; (2020) 103 NSWLR 214; (2020) 302 IR 168** (NSW Court of Appeal - appeared for SafeWork NSW in an application for judicial review of a verdict of acquittal; led by John Agius SC)

***SafeWork NSW v Investa Asset Management Pty Ltd* [2019] NSWDC 76** (District Court of NSW - successfully acted for the prosecutor SafeWork NSW in a catastrophic injury case; the proceedings involved contested expert (engineering) evidence over causation; led by John Agius SC)

***SafeWork NSW v KD & JT Westbrook Pty Ltd* [2018] NSWDC 255** (District Court of NSW - appeared un-led for the prosecutor SafeWork NSW in a lengthy trial; first-ever prosecution to establish that an employer breached its duty under section 19(1) of the Work Health and Safety Act 2011 by failing to enforce the wearing of motorbike helmets on farms; the defendant was a pastoral company which employed a young jackaroo to ride motorbikes while not wearing a helmet; the jackaroo died from head injury while chasing a dingo on his motorbike; the defendant was found guilty)

***SafeWork NSW v KD & JT Westbrook Pty Ltd (No 2)* [2019] NSWDC 15** (District Court of NSW - again appeared for the prosecutor at the sentencing hearing; successfully achieved the first-ever adverse publicity order made under the Work Health and Safety Act 2011, in addition to a conviction, a fine of \$180,000 and costs)

***Attorney General (NSW) v Unity (NSW) Pty Ltd* [2018] NSWCCA 266** (NSW Court of Criminal Appeal - appeared for both the Attorney General and SafeWork NSW in appeals against conviction and sentence; led by John Agius SC; successfully defended against the conviction appeal; while the sentence appeals were dismissed due to delay, the appeal court upheld the Attorney's submissions that errors were made by the sentencing judge)

WorkCover NSW v Khaled Maarbani Unreported, June 2014 (Local Court of NSW – this was the first successful prosecution brought under the Explosives Act 2003; appeared un-led for the prosecutor; the defendant was convicted and fined for numerous offences including illegal storage of fireworks and allowing another person to have unsupervised access to an explosive; the defendant's security clearance under the Explosives Act 2003 was subsequently refused: *Maarbani v WorkCover NSW* [2015] NSWCATAD 122)

PEER-REVIEWED PUBLICATIONS

Individual and Collective Bargaining in Australian Labour Law: The CRA Weipa case Sydney Law Review Vol 18, No 3, pp 350-371 (September 1996)

Discretion, Good Faith and Employer Control over Executive Remuneration Australian Journal of Labour Law Vol 24, No 2, pp 121-140 (August 2011)

Recovery of Damages for Wrongful Resignation Australian Journal of Labour Law Vol 24, No 2, pp 173-181 (August 2011)