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MEDIA RELEASE

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LAWYERS LOSE IN LEASE DISPUTE MONOPOLY

The NSW Law Society has failed to prevent Stephen Spring, one of Australia's leading retail leasing specialists representing tenants in the Retail Leases Division of the NSW Administrative Decisions Tribunal.

In the Supreme Court, Justice Barr rejected the Law Society's argument that only lawyers and barristers have "...the necessary legal knowledge and [are] of good character and are otherwise fit and proper...", upholding Stephen Spring's claim the intent of the Retail Leases Act required the Tribunal to deal "...as simply and as cheaply as possible" including allowing non-lawyer retail specialist agents to assist retailers.

Stephen Spring said, "COSBOA (Council of Small Business of Australia), the Retail Traders and Shopkeepers Association and other retailers I represent would be pleased this industry test case means non-lawyer retail experts can continue to provide cost effective mediations and representations, without employing an army of less experienced lawyers, barristers and non-industry experts in claims against retail landlords. The Law Society's plan to restrain the website www.retaillease.com.au also failed miserably." he said.

Justice Barr noted the role of the Tribunal was to "...deal with special classes of business by parties to be represented by agents other than Australian legal practitioners...The intention stated in the enabling legislation referred to the cost and the time to hear cases, simplicity vs complexity, law vs fact and any amount likely to be an issue." His Honour noted Hansard and case law from the Tribunal that reflected this approach.

Stephen Spring said, "The cartel behavior sought by the Law Society advocated a complex, costly and time consuming regime, excluding many small businesses' access to justice, hardly the whole point of the Retail Leases Act. Work in the Tribunals allows small business associations to keep tabs on what really goes on at the coalface, ultimately benefiting all retailers. We now await the outcome of the Productivity Commission."

The Court ordered the Law Society to pay Stephen Spring's costs.