

ELEVEN WENTWORTH



Elisa Holmes

Elisa is an experienced trial and appellate advocate, and has practised as a barrister for 14 years, including 8 years in London, before returning to the Bar in Sydney in 2012.

Elisa has a busy commercial and equity practice, with particular expertise in corporations, banking, insolvency, company, insurance, trade practices, contract and competition. She appears regularly in the Supreme Court and Federal Court.

Elisa is also a leading sports lawyer, and sits on sporting tribunals, panels and judiciaries, as well as appearing as an advocate for players, sporting associations and clubs.

The majority of Elisa's practice in the UK was in the High Court and the Court of Appeal, where she appeared in a large number of significant commercial, equity and regulatory cases, including many of the most significant competition law cases.

Contact details:

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Admission to the Bar:

1998 (South Australia) | 2003 (England & Wales) | 2012 (New South Wales)

Principal areas of practice:

Commercial / equity
Corporations
Banking
Insolvency / administration
Class actions
Insurance
Trade Practices / competition
Regulation
Sport

Career summary

Barrister – Sydney
2005-2012 Barrister – London
2004 Visiting Research Fellow, Columbia University, New York
2003-2004 Pupillage, London
2002-2003 University of Oxford, MPhil (First Class)
2001-2002 University of Oxford, BCL (First Class)
1999-2001 Barrister – Adelaide
1998 Reader, Adelaide (Tom Gray QC and Lindy Powell QC)
1994-1997 University of Adelaide, LLB(Hons)(First Class)(University Medal)

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Examples of current and recent cases:

Corporations, including managed investment schemes, insolvency

ASIC v Vocation & ors (Federal Court NSD 1679/2016)

AMP Life Ltd v AMP Capital Funds Management Ltd [2016] NSWCA 176

HP Mercantile Pty Limited v Hartnett & Ors [2015] NSWSC 1475; [2017] NSWCA 79

In the matter of Eastmark Holdings Pty Limited (receivers and managers appointed) and 1 Denison Street Holdings Pty Ltd (receivers and managers appointed; In the matter of Eastmark Holdings Pty Limited (receivers and managers appointed) (subject to a deed of company arrangement) & ors [2015] NSWSC 2070

Ausbil Investment Management Limited in its capacity as responsible entity of the Australian Emerging Leaders Fund v PriceWaterhouseCoopers and Ors (Federal Court, No. NSD 1147 of 2015)

Lantern Hotel Group Limited v Millinium Asset Services Pty Limited (Supreme Court (Equity Division) 2014/72776)

DSG Holdings Australia Pty Ltd v Helenic Pty Ltd (No 2) [2014] NSWCA 142 [2014] NSWCA 96; *Helenic Pty Ltd as trustee of the Mastrantonis Family Trust v Retail Adventures Pty Ltd (Administrators Appointed)* [2013] NSWSC 1973

Strawbridge, in the matter of Retail Adventures Pty Ltd (Administrators Appointed) v Retail Adventures Pty Ltd (Administrators Appointed) [2013] FCA 891

Banking and finance

Commonwealth Bank of Australia v Brick & Block Company Pty Ltd (in Liq) [2016] NSWSC 1931; [2017] NSWCA 96

Commonwealth Bank of Australia v Rafidi and Brick & Block Company Pty Limited (In Liq) ([2016] NSWSC 1239) (judgment for the Bank on claim against it for \$183 million following withdrawal of that claim in fourth week of trial); also [2016] NSWSC 1277

Westpac Banking Corporation v CBRE Pty Ltd (Supreme Court (Equity Division) 2016/00143939)

Swiss Re v Westpac Banking Corporation (Supreme Court (Equity Division) 2016/00146650)

Commonwealth Bank of Australia v New South Wales Trustee and Guardian (Supreme Court (Common Law) 2016/00071969)

Citadel Property Group (Rockdale No 1) Pty Ltd & Ors v Capital Financial Australia Ltd & Ors [2016] NSWSC 890; (Costs) [2016] NSWSC 1182

Geitonia Pty Ltd v Westpac Banking Corporation [2015] NSWSC 419

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| | <p><i>CBA v Colliers International Consultancy & Valuation Pty Limited</i> (subject to a DOCA)(CA 201 511 84423)</p> <p><i>Nitopi v Westpac Banking Corporation</i> (Supreme Court (Equity Division)) 2014/00295948)</p> |
| Trade practices / restraint of trade / breach of confidence | <p><i>Healthcare Australia Pty Ltd v Randstad Pty Ltd</i> [2016] NSWSC 1407</p> <p><i>Truck Moves Australia Pty Ltd v S Brady Industries Pty Ltd</i> (Supreme Court of NSW (Equity Division) 2016/00079825)</p> <p><i>Pandapak Pty Limited t/as Northwest Packaging v Robert Way & Ors</i> (Supreme Court of NSW (Equity Division) 2014/239397)</p> <p><i>McCarthy v Ramsay Health Care</i> (Federal Court no ACD 85 of 2012)</p> <p><i>Dawson v Ramsay Health Care</i> (Federal Court no 1149 of 2014)</p> <p><i>Smith & Nephew Surgical Pty Ltd v Day</i> [2014] NSWSC 1409</p> <p><i>Novartis Pharmaceuticals Australia Pty Ltd v Bayer Australia Ltd</i> [2013] FCA 929; (No 2) [2013] FCA 1201 (No 3) [2013] FCA 1323; (6 December 2013) (No 4) [2015] FCA 35</p> <p><i>Lantern Hotel Group Limited v Millinium Asset Services Pty Limited</i> (Supreme Court (Equity Division) 2014/72776)</p> <p>Many leading competition/anti-trust cases in the UK, including BSkyB/News Corporation merger case, Lloyds / HBOS merger case, the appeal against the Competition Commissions findings in its market investigation into payment protection insurance and the appeal against the Office of Fair Trading's decision in relation to anti-competitive agreements in the tobacco industry</p> |
| General commercial /equity / contract | <p><i>HP Mercantile Pty Limited v Hartnett & Ors</i> [2015] NSWSC 1475; [2016] NSWCA 342</p> <p><i>Donau Pty Limited v ASC AWD Shipbuilder Pty Limited</i> (Supreme Court of NSW (Equity Division) 2016/163292)</p> <p><i>Meehan v Dawe</i> (Supreme Court (Equity Division) 2016/183294)</p> <p><i>Owners Strata Plan 74602 v Eastmark Holdings Pty Ltd</i> [2015] NSWSC 1981; [2016] NSWSC 496; [2016] NSWSC 558</p> <p><i>Springfield Property Consulting Pty Limited v Secured Global Opportunity Limited & Ors</i> (Supreme Court of NSW (Equity Division) 2015/38134)</p> <p><i>Greenhill Developments Pty Limited v Cutajar & Ors</i> (Supreme Court of NSW (Equity Division) 2015/295713)</p> <p><i>HP Mercantile Pty Limited v Hartnett & Ors</i> [2015] NSWSC 1475; (Court of Appeal 2015/325153)</p> <p><i>Gas price arbitration - Construction of Gas Sales Agreement</i> (confidential)</p> |

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| | <p><i>Steak Plains Olive Farm Pty Ltd v Australian Executor Trustees Limited</i> [2015] NSWSC 42; [2015] NSWSC 289</p> <p><i>Ren v Jiang (No 3)</i> [2014] NSWCA 204</p> <p><i>Partington v Newcastle City Council</i> [2014] NSWSC 352</p> |
| Class actions | <p><i>Younger v Westpac Banking Corporation</i> [2016] NSWSC 1186; [2016] NSWSC 1905</p> <p><i>Stanford and Dunsmore v DePuy International Ltd and Johnson & Johnson Medical Pty Ltd</i> (Federal Court of Australia, Proceeding NSD 213 of 2011) (advised group members in respect of proceedings and settlement)</p> |
| Negligence /defamation / other common law | <p><i>Anderson v The Council of Trinity Grammar School</i> (Supreme Court (Common Law Division) 2016/00029572)</p> <p><i>Prince Alfred College Incorporated v ADC</i> [2016] HCA 37</p> <p><i>Rodgers Reidy (Qld) Pty Limited v Google Australia Pty Limited</i> (Federal Court NSD126 of 2017)</p> <p><i>Perera v Genworth Financial Mortgage Insurance</i> (District Court (Defamation List) 2014/00320843)</p> <p><i>Westpac v CBRE Pty Limited</i> (Supreme Court (Equity Division) 2016/00143939)</p> |
| Insurance | <p><i>Perera v Genworth Financial Mortgage Insurance Pty Limited</i> [2016] NSWCA 53; [2015] NSWSC 1357; [2017] NSWCA 19</p> <p><i>ACN 0768481/2 Pty Ltd (administrators app - subject to DOCA) & anor ats Commonwealth Bank of Australia</i> (CA 201 511 84423)</p> <p><i>Perera v Genworth Financial Mortgage Insurance Pty Limited</i> [2016] NSWCA 53; [2015] NSWSC 1357; [2017] NSWCA 19</p> <p><i>Insurance Australia Ltd v Motor Accidents Authority of NSW</i> [2013] NSWSC 1439</p> <p><i>Hahn v Commissioner of Police</i> [2014] NSWIRComm 13</p> <p>Advise Law Claims in South Australia in respect of significant professional indemnity policy matters</p> |
| Sport | <p>Chair, North Eastern Australian Football League (NEAFL) Tribunal</p> <p>AFL NSW Advocate</p> <p>Australian Olympic Committee, London 2012, Team Advocate</p> <p>Court of Arbitration for Sport (CAS), frequent advocate, including anti-doping, disciplinary and selection disputes</p> <p>Director, Sport NSW</p> <p>Port Adelaide Football Club (AFL) Eastern Advisory Board</p> |

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Appointments, memberships and committees:

Recommended as a leading barrister in Chambers UK and Legal 500 legal directories

"Elisa Holmes ... has been instructed in several significant cases ... She instils confidence as she provides acute legal thinking and has an elegant style in court. High-profile clients such as the BBC and the MoD are anxious to employ her services."

"Enthusiastic and clever."

"Committed, analytical and combative."

"A terrier-like desire to ensure that justice is done."

"An approachable and charming manner with the steel of a gritty and determined advocate".

Recommended insolvency barrister, Doyles Guide, Australia

Supreme Court Commercial List Users Group

Chair, North East Australian Football League (NEAFL) Tribunal, current

Director, Sports NSW, current

Adelaide Law School Advisory Board, current

Port Adelaide Football Club Eastern Advisory Board, current

Member, Australian Institute of Company Directors Committee

Member, Competition and Consumer Committee, Law Council of Australia

Team Advocate, Australian Olympic Committee – London 2012

Appeals adviser, Australian Olympic Committee – London 2012, Sochi 2014

Arbitrator, UK Sports Resolution Panel

Board Member, Directors Guild Trust of Great Britain

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Academic background: **Visiting Research Fellow**, Faculty of Law, Columbia University, New York, 2004

MPhil, University of Oxford (Magdalen College), 2002-2003 (First Class)

Overseas Research Scholar, Freshfields Scholar, Law Faculty, University of Oxford, **Oppenheim Scholar** (Magdalen College), **Commonwealth Scholar**

BCL, University of Oxford (Magdalen College), 2001-2002 (First Class)

Bachelor of Laws (Hons), University of Adelaide, 1995-1997 (First Class) (University Medal) The Thompson Playford Prize and Medal, The Angas Parsons Prize, David Murray Scholar, Law Society of South Australia Centenary Prize, John Bray Law Chapter of the Alumni Association Prize, several subject prizes

Bachelor of Arts (Journalism), University of South Australia, 1992-1994

Professional background:

Barrister, Eleven Wentworth, Sydney, current

Barrister, Monckton Chambers, Gray's Inn, London, 2005-2015

Visiting Research Fellow, Columbia University, New York City, 2004

Called to the Bar of England and Wales, 2003

BCL, MPhil, University of Oxford (Magdalen College), 2001-2003

Barrister, Howard Zelling Chambers, Adelaide, 1999-2001

Admitted to the Supreme Court of South Australia / High Court of Australia, 1998

Reader, Bar Chambers (Tom Gray QC and Lindy Powell QC), Adelaide, 1998

LLB (Hons) (University Medalist), University of Adelaide, 1995-1997

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Academic positions, papers and publications:

Speaker, Australian Bar Association Conference, 2017, London and Dublin: "Universal justice, different languages: Harmonising civil and common law approaches in international commercial arbitration"

Chapter in *Essays in Advocacy* (Barr Smith Press, 2012)

Dissertation supervisor, Faculty of Law, University College, London 2011

Chapter in *EU Competition Law: Procedures and Remedies* (OUP, 2006)

Contributing author, Vaughan and Robertson: *Law of the European Union* (OUP)

"Law's Moral Criterion" (with Prof. John Gardner) chapter-*Exploring Law's Empire* (OUP 2006)

"Anti-discrimination rights without equality" (2005) 68 MLR 175

Book Review, Fredman & Spencer eds, *Age as an Equality Issue* [2004] PL 913

Visiting Research Fellow, Lecturer, Faculty of Law, Columbia University, New York City, 2004

Tutor (contract law and tort), Balliol College, University of Oxford, 2002-2003

Young Researcher-International Association for Philosophy of Law & Social Philosophy, 2003

Paper, "Two Concepts of Law" (with Prof John Gardner) - Oxford Philosophy Colloquium, 2003

Research assistant to Professor Chris McCrudden, Lincoln College, Oxford, 2002

Tutor, Faculty of Law, University of Adelaide, 2000-2001

"Getting Notices Right", paper presented at Consumer Credit Laws Seminar on 26 August 1999, published by Legal and Accounting Management Services Pty Ltd

"Major Utility Failure – Class Actions", paper co-authored with Tom Gray QC, the Australian Mining and Petroleum Law Association Seminar, 22 June 1999