

ELEVEN WENTWORTH

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Kelly Rees SC



Kelly has been at the bar for 19 years (silk for 5 years).

Kelly was selected by her peers for inclusion in *Best Lawyers in Australia*® 2015, 2016 and 2017 in Litigation.

Kelly was described in the Chambers & Partners Guide (2018) as "a very experienced commercial litigator who is very well regarded by both silks and juniors, regularly briefed by top tier firms, more than one source identifying her status as a fantastic cross-examiner of really good directness as a key asset."

Kelly is Chair of the Education Committee of the NSW Bar Association and was a member of the Silk Selection Committee (2017).

Before coming to the bar, Kelly was a Senior Associate at Mallesons Stephen Jaques in Commercial Disputes. Kelly has also worked in London for a boutique firm, Kingsley Napley, specialising in corporate fraud and white collar crime.

Kelly is a graduate of The University of New South Wales, where she was awarded the Sir Kevin Ellis Prize for the best performance by a student in the combined Bachelor of Commerce and Bachelor of Laws Course.

Kelly also has a Master of Laws (First Class) from the University of Cambridge.

Contact details:

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Admission to the Bar:
Appointment as Senior Counsel:

1998
2012

Principal areas of practice:

- General commercial disputes
- Property (including Strata Title)
- Insurance
- Professional negligence and disciplinary
- Inquiries

Qualifications:

B Com LLB (UNSW)
LLM (Cantab)

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Examples of recent cases:

General commercial disputes

- *Horticulture Innovation Australia Ltd v Westley* NSWSC, obtaining freezing order against fraudulent employee. Briefed by DLA Piper.
- *Westpac v Lee* NSWSC, obtaining freezing order against fraudster, who spent \$4m obtained on handbags and shoes! Briefed by DLA Piper.
- *Westpac v Sayah* [2015] NSWSC 1167 –acting for bank against guarantor and defending receiver. Briefed by DLA Piper.
- *City of Swan v McGraw-Hill Companies Inc.* [2014] FCA 442; [2014] FCA 665; [2014] FCA 931 - representative action, defending Standard & Poors, New York. Briefed by Clifford Chance.
- *RPR Maintenance Pty Ltd v Marmax Investments Pty Ltd* [2014] FCA 409; [2015] FCAFC 127 – breach of franchise agreements. Briefed by Newhouse & Arnold.
- *Amaca Pty Limited v Messrs A G McGrath & C J Honey* [2012] NSWSC 176; [2012] NSWSC 1523; [2013] NSWSC 2014; [2013] NSWSC 2015; [2014] NSWSC 484; [2015] NSWSC 923 - applications under section 562A(4) of *Corporations Act 2001* for payment of reinsurance receipts by HIH liquidator to James Hardie companies. Briefed by Henry Davis York.
- *Sydney Water Corporation v McGrath & Anor as liquidators of HIH Casualty & General Insurance Ltd* [2013] NSWSC 741; [2014] NSWCA 197 - unsuccessful application and appeal under section 562A(4) of *Corporations Act 2001*. Briefed by Clayton Utz.
- *Tyco (Australia) Pty Ltd t/as ADT Security v Signature Security Group Pty Ltd* [2009] FCA 1029, (No 2) [2010] FCA 395; (No 3) [2010] FCA 442; (No 4) [2010] FCA 758; (No 5) [2010] FCA 1266; (No 6) [2010] FCA 1322; (No 7) [2011] FCA 615 - claim against competitors for misappropriation and unauthorised use of confidential client lists. Briefed by DLA Piper.

Property (including Strata Title)

- *Construction Technologies Australia Pty Ltd v Doueihy* [2014] NSWSC 1717; *Doueihy v Construction Technologies Australia Pty Ltd* [2016] NSWCA 105 - successful claim for equitable estoppel for an unwritten lease of commercial factory premises. Briefed by FD Commercial Lawyers.

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Examples of recent cases:

- *The Owners – Strata Plan 74602 v Eastmark Holdings Pty Ltd* [2015] NSWSC 1981; [2016] NSWSC 558 – successfully defended strata managing agent on claim for breach of contract and negligence; obtained indemnity costs order. Briefed by Kennedys.
- *The Owners - Strata Plan No 70798 v Bakkante Constructions Pty Limited* [2014] NSWCA 410 - acted for lot owner in successful application to stay proceedings brought by Owners Corporation without authority. Briefed by Jane Crittenden.
- *Murray & Murray* [2016] FCCA 1330 - successfully opposed property being included in matrimonial pool of assets on basis of resulting or constructive trust. Briefed by MatthewsFolbigg.
- *Gadaleta v Gadaleta* (Unreported, FamCA, 12 April 2013, Collier J) - successfully opposed property being included in matrimonial pool of assets on basis of resulting trust, obtained indemnity costs order. Briefed by MatthewsFolbigg.

Insurance

- *Lend Lease Project Management & Construction (Australia) Pty Ltd v Kellogg Brown and Root Pty Ltd* [2013] NSWSC 1142 – construction of insurance policies. Briefed by King + Wood Mallesons.

Professional negligence and disciplinary

- *Bendigo & Adelaide Bank Ltd v Carnemolla* [2011] NSWSC 1202; [2013] NSWCA 122 - mortgage fraud - appeared for mortgage originator. Briefed by Moray & Agnew.

Inquiries and inquests

- Royal Commission into Institutional Responses to Child Sexual Abuse (2014) Appeared for Swimming Australia. Briefed by Griffin Legal, A.C.T.
- Inquest into the death of Edna Whalen (2013) Counsel Assisting the Coroner in inquest into death of a patient at Kempsey District Hospital. Briefed by Crown Solicitor.
- Inquest into the death of Roisin Fraser (2012) Counsel Assisting the Coroner in inquest into death of baby in an unassisted home birth. Briefed by Crown Solicitor.

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Examples of recent cases:

- Inquiry under section 143 of Casino Control Act 1992 (2012) Inquiry by Casino Liquor & Gaming Control Authority into the circumstances surrounding the dismissal of Sid Vaikunta, Managing Director, Star Casino. Briefed by King + Wood Mallesons.
- Special Commission of Inquiry into Electricity Transactions (2011) Appeared for the State of NSW (Department of Premier & Cabinet, NSW Treasury and Department of Trade and Investment, Regional Infrastructure & Services). Briefed by Crown Solicitor.
- Operation Winjana (2011) Police Integrity Commission Appeared for the Solicitor to the NSW Crime Commission. Briefed by Sparke Helmore.
- Special Commission of Inquiry into Acute Care Services in NSW Public Hospitals (Garling Inquiry) (2008) Counsel Assisting. Briefed by Crown Solicitors.

Publications:

Various articles on confiscation of proceeds of crime published in *New Law Journal*, *Journal of International Banking Law*, and *Insolvency Bulletin* in the United Kingdom

Background:

Kelly has a long-standing interest in advocacy and oratory, and:

- represented the Cambridge Union at the World Universities Debating Championships (Princeton University);
- was National Debating Champion, England & Wales (1994/95);
- represented The University of New South Wales at 3 World Universities Debating Championships (Princeton University, Glasgow University and University of Toronto, at the last of which Kelly was ranked:
 - top female debater,
 - top Australian debater and
 - top ranked debating team; and
- represented The University of New South Wales Law Faculty in the Evatt, ALSA and Jessup mooting competitions.

Kelly continues to participate in advocacy training in the Bar Readers' Course.