

## Kate Williams SC

Kate commenced practice at the Bar in 2001 and was appointed senior counsel in 2016.

Kate advises and appears in a wide range of commercial and equity matters, including company law matters, financial services matters, trade practices matters, contractual disputes, professional liability claims, disputes relating to the enforcement of guarantees and mortgages, restraint of trade disputes and matters arising under the *International Arbitration Act* and *Commercial Arbitration Act*.

This aspect of Kate's practice includes matters arising in a regulatory context.

Kate also advises and appears in intentional tort cases.

Kate has been a member of a Professional Conduct Committee of the Bar Council since 2010 and regularly advises and appears in professional disciplinary matters concerning barristers and solicitors.

Kate also appears in commissions of inquiry. In particular, she is an experienced advocate in the Independent Commission Against Corruption, having appeared at compulsory examinations and public inquiries on many occasions since 2010, in counsel assisting roles on occasions and representing persons the subject of the inquiry on other occasions.

Kate's current and recent clients include Australia and New Zealand Banking Group Limited, GPT Funds Management Limited, Tenix Holdings Limited, NBN Co Limited, Omega Air Inc, O'Brien Glass Industries Limited, Commonwealth Minister for Education and Training, NSW Department of Health, Roads and Maritime Services, Australian Securities and Investments Commission, Australian Federal Police, NSW Police Force, and the Council of the New South Wales Bar Association.

**Selected recent matters** in which Kate has appeared or advised include:

- Currently advising ASIC in relation to two separate ongoing investigations concerning the conduct of financial services licensees and company directors.
- Advised the responsible entity of a registered managed investment scheme on issues relating to the construction of various contracts.
- Appeared for the State of New South Wales defending a claim for damages for alleged assault and false imprisonment arising out of an arrest made by officers of the New South Wales Police. The hearing concluded in June 2017 and judgment is reserved.
- Represented ASIC in three matters arising from banning and disqualification orders made against former directors of Provident Capital Limited following the collapse of that company. In one matter, the Tribunal affirmed the ASIC's decision to make a banning order against the former director. The decision of the Administrative Appeals Tribunal in a second matter is reserved. The third matter was resolved shortly before hearing in September 2017.
- Represented the plaintiff (led by Bret Walker SC and Michael Jones SC, with Christian Bova and Louise Hulmes) in a claim for indemnity under a professional indemnity insurance contract arising out of the design and construction of ships for the New Zealand Navy: *Tenix Holdings Pty Ltd v Olis Insurance Pte Ltd*, no. 2013/381728. Kate undertook the principal work involved in preparing a very large volume of lay evidence over a period of approximately four months immediately after being briefed in the matter. The defendants withdrew significant aspects of their defence shortly after that evidence was served. The matter then settled immediately prior to the commencement of an eight week hearing in October 2016.
- Appeared for the plaintiff in a successful application to wind up a company in insolvency, after successfully resisting a secured creditor's application to adjourn the winding up proceedings to allow creditors to consider a proposed deed of company arrangement: *In the matter of Denham Constructions Pty Ltd* [2016] NSWSC 1425.

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- Advised and appeared for the Minister for Education and Training in proceedings in the Administrative Appeals Tribunal in which Malek Fahd Islamic School Limited applied for review of the Minister's decision to revoke its approved authority status under the *Australian Education Act 2013* (Cth) which affected Commonwealth funding for the school of approximately \$20 million annually. The Minister's decision was affirmed: *Malek Fahd Islamic School Limited v Minister for Education and Training* [2016] AATA 1087. The school has appealed to the Federal Court and judgment is reserved.
- Advised and appeared for the Commissioner of the Australian Federal Police in 2016 in proceedings in the Supreme Court in which the plaintiff was suing the Commonwealth and the State of New South Wales for alleged breach of duty of care, trespass and malicious procurement of a search warrant: *CH v Commonwealth of Australia*, no. 2014/356440. The plaintiff's claims against the Commonwealth were resolved after the Commonwealth filed a defence that included a detailed account of what had occurred.
- Appeared for the Bar Council resisting an appeal against a decision of the Civil and Administrative Tribunal that a barrister engaged in unsatisfactory professional conduct: *BRJ v Council of the New South Wales Bar Association* [2016] NSWSC 146 (and in the Tribunal below [2015] NSWCATOD 73 and [2015] NSWCATOD 140).
- Appeared for the successful defendant, who was held not to have breached a restraint of trade covenant in his contract with his former employer: *Veda Advantage (Australia) Pty Ltd v de Beer* [2016] NSWSC 37 (led by Andrew Bell SC).
- Advised and appeared for a solicitor who was a cross-respondent in Supreme Court proceedings involving alleged negligence and breach of retainer in failing to provide certain advice about the terms of a contract for sale of business. The matter settled on the first day of the trial in March 2016.
- Advised in 2015 and 2016 in matters concerning unregistered managed investment schemes and proposed trust schemes of arrangement.
- Appeared for the plaintiff in Supreme Court proceedings claiming damages for breach of contract, negligence and misleading or deceptive conduct. The proceedings settled following a contest about amendments to pleadings: *Omega Air Inc v CAE Australia Pty Limited* [2015] NSWSC 802.
- Appeared for the Bar Council in its successful application to remove the name of a barrister from the roll: *Council of the New South Wales Bar Association v Dwyer* [2015] NSWCA 302.
- Appeared for the Bar Council in its successful application to remove the name of a barrister from the roll: *Council of the New South Wales Bar Association v Harkin* [2015] NSWCATOD 111.
- Advised in 2015 relation to the construction of a contract relating to the provision of and payment for health services, in the context of the legal and regulatory arrangements for public funding of local health districts (led by Ian Pike SC).
- Advised in 2015 relation to potential claims arising from alleged breaches of a long-term contract for the design, supply and commissioning of complex equipment, and potential claims for alleged pre-contractual misleading or deceptive conduct (led by Alan Sullivan QC).
- Advised and appeared for defendant directors in Supreme Court proceedings successfully resisting an application for interim injunctions under s 1324 of the *Corporations Act* to restrain alleged breaches of directors' duties and obtaining a stay of the proceedings and referral to arbitration pursuant to ss 7 and 16 of the *International Arbitration Act 1974* (Cth) (led by Peter Braham SC): *In the matter of Ikon Group Limited* [2015] NSWSC 980 and [2015] NSWSC 981.

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- Advised and appeared for the former company secretary and general counsel of a listed company in Supreme Court proceedings involving alleged misleading representations said to have been relied on by the plaintiff in underwriting the issue of a prospectus for \$600m convertible unsecured notes (led by David Williams SC). The matter settled following interlocutory hearings in relation to the pleadings (*Commonwealth Bank of Australia Limited v ZYX Learning Centres Limited* (2014) 103 ACSR 476, [2014] NSWSC 1676).
- Advised and appeared for the Commonwealth Bank in proceedings to enforce a guarantee and mortgage, in which the defendant guarantor alleged that the bank had acted unconscionably contrary to the *ASIC Act* and/or the *Competition and Consumer Act* in the manner in which it had applied payments made by the defendant's co-guarantor to various different loans. The matter settled in December 2014 following mediation.
- Advised and appeared for a cross-respondent in Federal Court proceedings relating to the Clem 7 tunnel in Brisbane (with Ian Pike SC). The cross-claim was a claim for contribution in respect of any liability the respondent may have for misleading or deceptive conduct or negligence in relation to a traffic forecast. The cross-respondent successfully applied to strike out the cross-claim in July 2014: *RiverCity Motorway Finance Pty Limited (Administrators Apptd) (Rcvrs and Mgrs Apptd) v AECOM Australia Pty Limited (No. 2)* [2014] FCA 713.
- Appeared for a director of Australian Water Holdings Limited at ICAC's public inquiry in Operation Credo in 2014. No findings of corrupt conduct were made against the director.

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