

ELEVEN WENTWORTH

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Kelly Rees SC



Kelly has been at the bar for 18 years (silk for 4 years).

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

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:

1998

Appointment as Senior Counsel:

2012

Principal areas of practice:

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

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.