

# CLAIRE M ROBERTS

roberts@elevenwentworth.com | 02 8066 0883

## OVERVIEW

---

Claire was admitted in 2011 and has practised as a barrister since 2019. She is briefed led in large, complex and appellate matters, and has appeared unled in various courts and tribunals including on appeal. She accepts briefs in most areas of law, with a particular focus on those listed below. Examples of recent matters in each of these areas are listed on the following pages. In addition to appearance work, Claire also maintains a broad advisory practice.

Claire holds an NV2 security clearance.

## PRINCIPAL AREAS

---

Appellate	Class actions	Commercial / equity / regulatory
Industrial / employment	Inquests / inquiries	Media
Public / administrative	Trade practices / competition	

## ADMISSIONS & EDUCATION

---

2019	Admitted as an Australian barrister
2018	<b>Columbia University, New York, United States</b> <i>Master of Laws (James Kent Scholar – equivalent of First Class Honours)</i>
2017	Admitted in England and Wales, following completion of Qualified Lawyers Transfer Scheme
2011	Admitted as an Australian solicitor
2010	<b>University of Melbourne</b> <i>Bachelor of Laws (Honours) / Bachelor of Arts (Media and Communications)</i>

## PROFESSIONAL HISTORY

---

2019	AMP Capital, Sydney - <i>Senior Legal Counsel, as Allens Senior Associate secondee</i>
2018	Kaplan Hecker & Fink LLP, New York, United States - <i>Law Clerk</i>
2017	Knight First Amendment Institute, New York, United States - <i>Legal Intern</i>
2015 – 2017	Linklaters LLP, London, United Kingdom - <i>Associate, Dispute Resolution</i>
2014 – 2015	Federal Court of Australia - <i>Associate to the Honourable Justice Jacobson</i>
2011 – 2014	Ashurst, Melb and Sydney - <i>Graduate then Lawyer, Disputes, inc secondment to UBS AG, Sydney</i>

## CURRENT PROFESSIONAL POSITIONS

---

Councillor	Bar Council, New South Wales Bar Association (elected for 2023)
Committee Member	Education Committee, New South Wales Bar Association
Reporter	New South Wales Law Reports
Editorial Board	<i>Internet Law Bulletin</i> (LexisNexis)
CPD Co-Coordinator	Women Barristers Forum, New South Wales Bar Association
Committee Member	Young Lawyers' Committee, Communications and Media Law Association

## SELECTED MATTERS

---

### Appellate

- *FJE20 v Minister for Home Affairs* [2022] FCAFC 45, for respondent re questions regarding jurisdiction of the (then) Federal Circuit Court, **unled**, instructed by AGS
- *Iqbal v Hotel Operation Solutions Pty Ltd* [2022] NSWCA 138, for respondent re alleged error pursuant to s 353 of the *Workplace Injury Management and Workers Compensation Act 1998* (NSW), **unled**, instructed by Hicksons
- *Sydney Cosmetic v Hu* [2022] NSWCA 1, for appellants re strike out of particulars and summary dismissal decision, led by A Cheshire SC, instructed by Dentons
- *Hastwell v HCCC* [2021] NSWCA 22, for respondent re alleged breach of procedural fairness in assessment of complaint, led by B Tronson, instructed by Health Care Complaints Commission
- *Sleiman v Gadalla* [2021] NSWCA 236, for employer re statutory interpretation question re the *Workplace Injury Management and Workers Compensation Act 1998* (NSW), led by B Tronson, instructed by Turks Legal
- *Almona v Parklea* [2021] NSWCA 171, for first respondent / cross-appellant re breaches of duties / fraud, led by K Andronos SC, S Keizer, instructed by Norton Rose Fulbright
- *Jackson v R* [2020] HCASL 142; [2020] NSWCCA 5, for appellant re use of tendency evidence, led by I E Davidson SC, instructed by Blake Lawyers
- *Secretary, Commonwealth Attorney General's Department & Bashir* [2021] FamCAFC 137, for appellant re jurisdiction to order parentage testing under the *Child Support (Assessment) Act 1989* (Cth), led by B Kaplan, instructed by AGS

### Class actions

- *Prygodicz v Cth of Australia* FCA VID1252/2019 (*settled first day of trial*), for Commonwealth regarding alleged 'robodebts' – questions re intersection of administrative decisions made under the *Social Security Act 1991* (Cth), torts and principles of unjust enrichment, led by M Hodge QC, Z Maud, M Costello, N Bentley, instructed by AGS
- *Thomas v Commonwealth Financial Pl* FCA VID559/2020 ([2021] FCA 665, *ongoing*), for applicants and group members (litigation funded) re claimed breaches of duties in advice given by financial advisors for respondents to renew or acquire insurance policies, led by A Martin SC, T Bagley, instructed by Shine Lawyers
- Takata Airbags Class Action (ats Toyota, Subaru, Honda, BMW, Nissan, Mazda), for plaintiffs (litigation funded) (*settled*), led by E Holmes, B Hancock, instructed by Quinn Emanuel Urquhart & Sullivan
- *Kelly v Scenic Tours* NSWSC 2022/238642 (*ongoing*) for plaintiffs (litigation funded), led by J Hogan-Doyle SC, instructed by Somerville Legal

### Commercial / equity / regulatory

- *Metal Storm (in liq)* [2019] NSWSC 1667; [2019] NSWSC 1682; (*settled part-way through trial*), for cross-claimant re failure to appoint controller during "decision period" within meaning of ss 9 and 441A of the *Corporations Act 2001* (Cth), led by I M Jackman SC, D Klineberg, instructed by Atanaskovic Hartnell
- *Woolworths v Twentieth* [2021] NSWSC 344, for plaintiff in dispute re operation of force majeure clause following train derailment, led by N Owens SC, instructed by Mills Oakley
- *Daiwa v Rubenstein* NSWSC 2020/207158 (*ongoing*), for plaintiffs in dispute regarding adequacy of disclosures ahead of entry into contract, led by J Stoljar SC, J Hutton, instructed by Clayton Utz
- *Boyded v Gateway* [2020] NSWSC 1368, for plaintiff, regarding termination of deed to call option, claim of unlawful penalty, led by G Farland, instructed by HWL Ebsworth

### Commercial / equity / regulatory – *continued*

- *McMillan v Coolab Home Base* 2020/44327 for respondents regarding various interlocutory motions, some appearances led by B Walker SC or S Free SC, other appearances unled, instructed by Mid-West Legal
- *Choras v Farmakidis* [2020] NSWSC 367, for defendant, opposing extension of time to commence proceedings under the *Succession Act 2006* (NSW), led by I E Davidson SC, instructed by Sparke Helmore
- *Ashkani v Arnold* 2020/00179934 (*unreported*), for defendant re loan made to business, setting aside of default judgment, **unled**, instructed by Cockburn & Co
- *In the matter of HIH (in liq)* NSWSC 58663/2001 (*unreported*), for applicants for directions to effect payments to unpaid shareholder creditors, led by M Izzo SC, instructed by Ashurst

### Industrial / employment

- *Nicholls v Commonwealth Bank* FCA NSD786/2021(*settled*), for worker re claims of contraventions of *Corporations Act 2001* (Cth) and s 340 of the *Fair Work Act 2009* (Cth), led by J Kirk SC, A Britt, instructed by Harmers
- *Howell v Network Strata Services Pty Ltd* FCA NSD60/2022 (*settled*), for worker re adverse action and contractual claims, **unled**, instructed by Harmers
- *Deidun v Nordson* [2021] FWC 6040, for employer regarding extension of time related jurisdictional objection, **unled**, instructed by Coleman Greig
- *Application by Ms W (a pseudonym)* [2022] FWC 1627, for worker regarding application for order to stop bullying, **unled**, instructed by Harmers
- *Alipate Tovuka v TQM Design and Construct* FCC SYG1386/2021 (*settled*), for employee seeking pre-action discovery, **unled**, instructed by Marrickville Legal Centre

### Inquests / inquiries

- Inquest into death of Cpl Ian Turner (2021), for Commonwealth during 2021 hearing dates of coronial inquest, led by J Single SC with J Edwards and S Love, instructed by AGS

### Media

- *Edwards v Nine Network* NSD129/2022 ([2022] FCA 509; (*ongoing*)) for respondents regarding defamation claims re broadcast on *A Current Affair*, led by D Sibtain, instructed by Bird & Bird
- *R v Lehrmann (No 2)* [2022] ACTSC 92, for media intervenors opposing application for take-down order, injunction ahead of criminal trial, led by D Sibtain, instructed by Thomson Geer
- *Murphy v Nationwide* [2021] FCA 381; (*No 2*) [2021] FCA 432, for respondents regarding defamation claims re publications in the *Telegraph*, led by D Sibtain, instructed by Ashurst
- *Hafertepen v Channel 10* [2020] FCA 1456, for media regarding performance of settlement in connection with broadcast on *The Project*, led by B Tronson, instructed by Macpherson Kelley
- *Kermani & Ors v Seervai* [2021] NSWDC 449, for plaintiffs at objections hearing (briefed after pleading filed), questions re defamatory capacity, **unled**, instructed by Prakash Lawyers
- *Ghasemi v GT Law* NSWDC 2020/352024 (*discontinued*), for defendants re alleged defamation in solicitor correspondence, led by D Sibtain, instructed by Sparke Helmore
- *O'Shanassy v Turland* [2021] NSWDC 642, for plaintiff re subpoenas in proceedings re statements made at public Council meeting, led by R Rasmussen, instructed by Agility Legal

## Public / administrative

- *NSW Electoral Commissioner v Kempsey Shire Council (No 1)* [2022] NSWSC 164; *(No 2)* [2022] NSWSC 282; *(No 3)* [2022] NSWSC 409, for Electoral Commissioner in claim for declaratory relief that council election contests void for want of compliance with regulation under *Local Government Act 1993* (NSW) following “ivote” irregularity, led by J Emmett SC, with S Puttick, instructed by CSO
- *North East Forest Alliance v Commonwealth* NSD773/2021 (*reserved*), for applicant re whether agreement is a “regional forest agreement” within the meaning of the *Regional Forest Agreements Act 2002* (Cth), led by J Kirk SC, instructed by Environmental Defenders Office
- *MN Builders v Secretary of the Department of Customer Service* 2022/ 00251738, for Secretary regarding challenge to decision regarding registration. Successfully obtained hearing of separate question (*upcoming*) re whether Court should refuse relief on the basis of an unexercised right of review elsewhere, led by J Emmett SC, instructed by CSO
- *Graeme Grant (a pseudonym) v Secretary, Department of Home Affairs* [2022] FCA 261, for respondent, led by N Wood SC, instructed by Australian Government Solicitor
- *Bos v East Coast Security Dogs Pty Ltd* [2022] NSWSC 1282, for employer, claim for judicial review of decision made by Personal Injury Commission regarding deduction for pre-existing injury, **unled**, instructed by Gair Legal
- *Field-Whittaker v Thomas & Naaz Pty Ltd* [2022] NSWSC 666, for employer, judicial review on grounds regarding new evidence, categorisation of activities, **unled**, instructed by Rankin Ellison Lawyers
- *Hala Pharmacy Pty Ltd v Australian Community Pharmacy Authority* [2022] AATA 2155, for Authority, review of decision to refuse application to supply pharmaceutical benefits, **unled**, instructed by AGS
- *Marcello v National Disability Insurance Agency* [2022] AATA 162, for Agency regarding supports for Scheme participant in persistent state of unconsciousness, **unled**, instructed by Clayton Utz
- *Kempe v Complete Community Services Pty Ltd* [2022] NSWSC 1095, for employer, judicial review on grounds regarding adjustment for treatment effects and adequacy of reasons, **unled**, instructed by Hicksons
- *Lancaster v Foxtel Management* [2022] NSWSC 929, for employer, claim for judicial review of decision made by Personal Injury Commission, questions of powers and functions of Appeal Panel, **unled**, instructed by Moray & Agnew
- *Sakr v Merrylands Christian Preschool Association Inc* [2022] NSWSC 768, for employer, judicial review regarding Workers Compensation Commission finding on scope of referral, **unled**, instructed by Bartier Perry
- *FJU20 v Minister for Home Affairs* [2022] FedCFamC2G 427, for respondents, re whether personal consent required from Minister pursuant to s 6A of *Immigration (Guardianship of Children) Act 1946* (Cth), **unled**, instructed by AGS
- *FCZ20 v Minister for Home Affairs* [2022] FedCFamC2G 15, for respondent, re claimed obligation to conduct a non-refoulement assessment under the *Migration Act 1958* (Cth), **unled**, instructed by AGS
- *Lancaster v Foxtel Management Pty Ltd* [2021] NSWSC 745, for employer regarding application for judicial review, led by B Tronson, instructed by Barker Henley
- *Windley v Nominal Insurer* [2021] NSWSC 1125, for employer, claim for judicial review of decision made by Personal Injury Commission on grounds involving fresh evidence and adequacy of reasons, **unled**, instructed by Hicksons
- *FJI20 v Minister for Home Affairs* [2021] FedCFamC2G 88, for respondent, claim regarding interaction between the *Racial Discrimination Act 1975* (Cth) and *Migration Act 1958* (Cth), **unled**, instructed by AGS

## Public / administrative – *continued*

- *CGP21 v Minister for Home Affairs* [2021] FedCFamC2G 11, for respondents re whether mandamus should issue, **unled**, instructed by AGS
- *Todd v South Eastern Sydney Local Health District* [2021] NSWSC 1288, for Health District in relation to urgent mandatory injunction sought by hospital inpatient’s family, **unled**, instructed by CSO
- *FGS20 v Minister for Home Affairs* [2021] FCA 874, for respondents regarding claim for interlocutory relief for administrative assistance and appointment of litigation guardian, **unled**, instructed by AGS
- *FST20 v Minister for Home Affairs* [2012] FCA 1484, for respondents re leave to appeal decision refusing writ of habeas, led by P Knowles SC with C Ernst, instructed by AGS
- Cohort of related first-instance matters (for the respondents, instructed by AGS): *FHE20 v Minister for Home Affairs (No 2)* [2021] FedCFamC2G 324; *ADM21 v Minister for Home Affairs (No 2)* [2021] FedCFamC2G 323; *FKO20 v Minister for Home Affairs* [2021] FedCFamC2G 7; *FJO20 v Minister for Home Affairs* [2021] FCCA 1497; *FDD20 v Minister for Home Affairs* [2021] FCCA 1495; *FHE20 v Minister for Home Affairs* [2021] FCCA 1492; *ADM21 v Minister for Home Affairs* [2021] FCCA 1488; *FKO20 v Minister for Home Affairs* [2021] FCCA 1487; *ADV21 v Minister for Home Affairs* [2021] FCCA 1486; *FJH20 v Minister for Home Affairs* [2021] FCCA 1480; *FJS20 v Minister for Home Affairs* [2021] FCCA 754; *FGS20 v Minister for Home Affairs* [2021] FCCA 753

## Trade practices / competition

- *ACCC v Oscar Wylee (settled, penalty)*: [2020] FCA 1340, for company regarding advertising regarding charity initiatives, led up to settlement by B Walker SC and V Brigden, instructed by Mid-West Law Practice
- *Grenke v Nicvic Pty Ltd* NSWLC 2019/163501 (*unreported*), for defendants re claim made in connection with issuing of business invoices, **unled**, instructed by Berger Kordos

## RECENT PUBLICATIONS

---

- ‘Internet searches and juror misconduct – motivation for search irrelevant: *Hoang v R*’ (2022) 25(2) *Internet Law Bulletin* 41
- ‘United Kingdom Supreme Court on data breach damage: individual evidence essential’ (2022) 18 (9) *Privacy Law Bulletin* 184
- ‘Joint Authorship and the Contribution of Ideas: English Lessons in *Kogan*’ (2021) 32 *Aust Intellectual Property Journal* 116
- ‘Case note: *Schlaepfer v Australian Securities & Investments Commission*’, (2021) 35(34) *Commercial Law Quarterly* 3
- ‘No comments? – High Court finds media “published” third-party comments’ (2021) 24(4) *Internet Law Bulletin* 72
- ‘Guidance from the Full Court on whether a mobile phone is a computer (yes, it is)’ (2021) 24(1) *Internet Law Bulletin* 9
- Persons Under Legal Incapacity (2021) *Court Forms, Precedents and Pleadings, New South Wales* (LexisNexis)
- ‘New York media law update’ (2020) 23 *Media & Arts Law Review* 369
- ‘Building rapport online: different, difficult, doable’ (2020) 5(4) *Australian Alternative Dispute Resolution Bulletin* 72
- Apologies (2020) *Encyclopaedia of Forms and Precedents* (LexisNexis)
- Letters of Comfort and Letters of Intent (2020) *Encyclopaedia of Forms and Precedents* (LexisNexis)
- ‘High Court clarifies meaning of “officer”’ [2020] (Winter) *Bar News* 19
- ‘Mediation and incapacity: whether an agreement should be set aside’ [2020] (Autumn) *Bar News* 22
- ‘Hyperlink hypervigilance: a lesson on what not to do’ (2020) 22(7) *Internet Law Bulletin* 101
- ‘Trouble in Paradise Papers: privilege may not found a cause of action’ [2019] (Summer) *Bar News* 26
- ‘Royals and the right to privacy’ (2019) 38(4) *Communications Law Bulletin* 2