

# ELLY LOUISE PHELAN

## Barrister

**Nine Wentworth Chambers** | A 9/180 Phillip Street, Sydney NSW 2000  
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### Admissions

- 2021 Called to the New South Wales Bar
- 2016 Admitted to the legal profession
- 2016 Admitted to the High Court of Australia

### Education

- 2018 Advanced Certification in Insolvency, Australian Restructuring Insolvency and Turnaround Association/ University of Technology, Sydney
- 2015 Bachelor of Laws with First Class Honours, Griffith University, Queensland
- Highest mark: International Arbitration
  - Dean's List: 2011-2012
  - Academic Excellence Award: 2011-2015
- 2015 Bachelor of Politics, Government and International Relations, Griffith University, Queensland

### Employment history

- 2020-2021 Commonwealth Director of Public Prosecutions, Sydney  
Federal Prosecutor, *Commercial, Financial & Corruption and Revenue & Benefits Fraud*
- 2018-2020 Gilbert + Tobin, Sydney  
Lawyer, *Disputes + Investigations*
- 2017-2018 Rostron Carlyle Rojas Lawyers, Brisbane  
Associate (from 1 July 2018), *Insolvency and Restructuring*
- 2016-2017 MinterEllison, Brisbane  
Graduate/ Lawyer, *Corporate and Energy and Resources*
- 2014-2017 Griffith University, Queensland  
Research Assistant to Dr Roshan de Silva-Wijeyeratne
- 2013-2016 Mills Oakley Lawyers, Brisbane  
Paralegal, *Commercial Disputes and Insolvency*

## Publications and presentations

Elly Phelan, 'Bystander policies and their importance in combating sexual harassment and bullying', (Presentation, NSW Bar Association Newcastle CPD Conference, 12 March 2022).

Kai Luck and Elly Phelan, 'Employee Entitlements: Legal Update: A New Liability Landscape for Employee Entitlements in Liquidation' (2019) 31(3) *Australian Restructuring Insolvency & Turnaround Association Journal* 32, 32-35.

## Memberships

Elly is a committee member of the Bar Association Diversity and Equality and New Barristers committees.

Elly is a current member of the Australian Restructuring Insolvency and Turnaround Association (ARITA) and the Women's Insolvency Network Australia (WINA).

Elly is a member of the Junior Counsel Panel for the Commonwealth Director of Public Prosecutions (appointed 2021).

## Selected cases as counsel

Led: *Application by SCS Super Pty Limited atf Australian Catholic Superannuation and Retirement Fund* [2022] NSWSC 686 (Hallen J), led by Dominique Hogan-Doran SC [application for judicial advice].

*Exp No 1 National Park Street Pty Ltd v Abe Froman Pty Ltd, Foleys Music Pty Ltd and Sandra Lindsay*, led by Greg McNally SC (Supreme Court of New South Wales Proceeding No.: 2021/00290691, 22 October 2021, Sackar J) [obtained an order for expedition that was contested by all defendants].

*In the matter of Hydrodec Group Plc (No 2)* [2021] NSWSC 1491, led by Emma Beechey [costs].

*In the matter of Hydrodec Group Plc* [2021] NSWSC 755, led by Emma Beechey [successfully opposed an order for recognition of an application for recognition of a UK moratorium proceeding under the UNCITRAL Model Law on Cross-Border Insolvency].

Unled: *Perpetual Trustees Victoria Limited v Babasa* [2021] NSWSC 1062 [obtained an order for possession and release of mortgage for a third party].

*Guo Hui Zhong v Galleria Suv Pty Ltd and Hoang Vincent Tran* (District Court of Queensland Proceeding No.: 1996/21, 6 August 2021, Dick SC DCJ) [obtained an order for possession and seizure of collateral pursuant to s 123 of the *Personal Property Securities Act 2009* (Cth)].

*Polyfone Telecom Pty Limited v Enseco Services Pty Limited* (Federal Court Proceeding No.: NSD375/2021, 9 July 2021, Lee J) [obtained an order pursuant to s 1322(4)(b) of the *Corporations Act 2001* (Cth) requiring the removal of a Form 519 from the ASIC company register].

### Selected cases as solicitor

As advocate: *R v Karen Williams* (Local Court of New South Wales, 9 April 2021, Magistrate Farnan) [Prosecutor without counsel, obtained extradition order and successfully opposed bail].

*Nathan Wright v R* (District Court of New South Wales, April 2021, Williams J) [Prosecutor without counsel, severity appeal dismissed].

*Kelly, in the matter of Halifax Investment Services Pty Ltd (In Liquidation) (No 9)* [2020] FCA 925 [Solicitor without counsel, appeared for a class of investors].

As solicitor: Acted for an investor in the Halifax Investment Services Pty Ltd (In Liquidation) Federal Court proceedings in relation to the distribution of client monies.

Acted for New Hope Corporation Limited and a number of its subsidiaries in proceedings in the Supreme Court of New South Wales against Wiggins Island Coal Export Terminal Pty Ltd in connection with a contract claim for A\$155million.

Acted for BB Retail Capital Pty Limited, Honey Birdette (Aust) Pty Ltd and other shareholders in legal proceedings in the Supreme Court of Queensland against a minority shareholder in connection with a shareholder oppression and unconscionable conduct claim.

Acted for various insolvency practitioners in relation to:

- unfair preference and voidable transaction claims;
- insolvent trading claims;
- remuneration approvals;
- applications to extend convening periods;
- the appointment and removal of receivers;
- deeds of company arrangement;
- pooling applications under s 579E of the *Corporations Act 2001* (Cth);
- proceedings in the Family Court of Australia; and
- applications for court directions.

Acted for liquidators and examinees in various examinations under Part 5.9 of the *Corporations Act 2001* (Cth) and s 81 of the *Bankruptcy Act 1966* (Cth).