

# ELLY LOUISE PHELAN

## Barrister

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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, *Energy and Resources*
- 2014-2017 Griffith University, Brisbane  
Research Assistant to Dr Roshan de Silva-Wijeyeratne
- 2013-2016 Mills Oakley Lawyers, Brisbane  
Paralegal, *Commercial Disputes and Insolvency*

## Publications

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.

## Selected cases

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].

Appearing without counsel for the Commonwealth Director of Public Prosecutions in a number of sentences for fraud and dishonesty offences in the Local Court of New South Wales.

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

Appearing without counsel for various individuals and businesses in relation to contested creditor's petitions, contested winding up applications and setting aside statutory demands.

*Deputy Commissioner of Taxation v BSK Painting Services Pty Ltd (Administrators Appointed)* (Federal Court of Australia, Registrar Belcher, 8 September 2017) [Solicitor without counsel, successfully obtained adjournment of the winding up application pursuant to s 440A of the *Corporations Act 2001* (Cth)].

*Sherrin Rentals Pty Ltd v Tamzo Australia Pty Ltd (Administrators Appointed)* (Supreme Court of Queensland, Thomas J, 18 May 2017) [Solicitor without counsel, opposed the winding up application on behalf of the administrators of the defendant company].

As solicitor: Acted for the Commonwealth Director of Public Prosecutions in proceedings against an individual for a conspiracy to defraud the Australian Taxation Office in the amount of A\$20million.

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 an international mezzanine financier in a large multimillion-dollar dispute in the Supreme Court of New South Wales.

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).