

ELLY LOUISE PHELAN

Barrister

Nine Wentworth Chambers

A 9/180 Phillip Street, Sydney NSW 2000

T 02 8815 9295 | F 02 9233 4464 | E ephelan@ninewentworth.com.au

Principal areas of practice

Domestic and Cross-Border Insolvency, Building and Construction, Commercial and Equity, Superannuation Law, Crime and Inquests.

Admissions

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

Qualifications

- 2018 Advanced Certification in Insolvency, Australian Restructuring Insolvency and Turnaround Association, *UTS*
- 2015 Bachelor of Laws with First Class Honours / Bachelor of Politics, Government and International Relations, *Griffith University*

Employment history

- 2020-2021 Commonwealth Director of Public Prosecutions, Sydney
Federal Prosecutor, *Commercial, Financial & Corruption and Revenue & Benefits Fraud*
- 2018-2020 Gilbert + Tobin, Sydney (*Disputes + Investigations*)
- 2017-2018 Rostron Carlyle Rojas Lawyers, Brisbane (*Insolvency and Restructuring*)
- 2016-2017 MinterEllison, Brisbane (*Corporate and Energy and Resources*)
- 2014-2017 Griffith University, Queensland (*Research Assistant and Sessional Lecturer*)
- 2013-2016 Mills Oakley Lawyers, Brisbane (*Commercial Disputes and Insolvency*)

Publications and presentations

Elly Phelan, 'Dealing with Winding up Actions on behalf of both Creditors and Debtors: Where Proceedings Come Undone', (Presentation and Paper, Legalwise Seminar on Debt Recovery: A Practical Guide, Sydney, 30 August 2023).

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.

Panels and memberships

2024-current: Legal Aid Summary and Indictable Barrister Panel

2021-current: Junior Counsel Panel for the Commonwealth Director of Public Prosecutions

Elly is a former chair of the NSW Bar Association's New Barristers' Committee (2022-2024), a former member of NSW Bar Association's Diversity & Equality Committee (2021-2024) and a former vice president of Queensland Young Lawyers (2017). Elly is also a life member of the Griffith University Law Society (awarded 2015).

Selected cases as Counsel

Led: *ASIC v Joseph John Santangelo*, (Companies Auditors Disciplinary Board Matter No.: 03/NSW23, 9 December 2024), led by Greg McNally SC [appeared for ASIC in a company auditor disciplinary proceeding].

ASIC v Joseph John Santangelo, (Companies Auditors Disciplinary Board Matter No.: 03/NSW23, 9 December 2024), led by Greg McNally SC [decision on publicity].

Trafford-Jones v Liu, in the matter of the bankrupt estate of Liu [2024] FCA 998 (Cheeseman J), led by Christian Bova SC [freezing order].

Peter Gothard, James Dampney and William Colwell in their capacity as joint and several administrators of Tritium DCFC Limited ACN 650 026 314, Tritium Holdings Pty Ltd ACN 145 324 910, Tritium Pty Ltd ACN 095 500 280 (all administrators appointed) & Ors (Federal Court of Australia Proceeding No.: NSD583/2024, 10 May 2024, Cheeseman J), led by Emma Beechey [convening period extension and funding deed approval].

Patrick John Fox & Anor v XO Developments Pty Ltd & Ors (Supreme Court of New South Wales Proceeding No.: 2024/00096683, 20 March 2024, Hammerschlag J), led by Pouyan Afshar [injunction].

Spotpress Pty Ltd & Ors v Spotpress Newspapers Pty Ltd & Ors (Supreme Court of New South Wales Proceeding No.: 2023/00432453, 8 March 2024, Ball J), led by Christian Bova SC [injunction].

Greylag Goose Leasing 1410 Designated Activity Company v P.T. Garuda Indonesia Ltd [2023] NSWCA 134 (Bell CJ, Meagher JA and Kirk JA), led by Emma Beechey [upheld claim of foreign state immunity].

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 (Supreme Court of New South Wales Proceeding No.: 2021/00290691, 22 October 2021, Sackar J), led by Greg McNally SC [expedition].

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].

Zhang v R [2021] NSWCCA 266, led by Kieran Ginges [successfully opposed a permanent stay application].

Unled: *SPS Building Contractors Pty Ltd v Keith Dyer Plumbing Pty Ltd* [2024] NSWSC 1426 [summary dismissal application].

Secure Funding Pty Ltd v Courtney Close (Federal Circuit and Family Court of Australia Proceeding No.: SYG1664/2024, 27 September 2024, Cameron J) [National Credit Code and *Personal Property Securities Act 2009* application for possession of a motor vehicle].

New South Wales Cycling Federation Incorporated v Commonwealth Bank of Australia (Supreme Court of New South Wales Proceeding No. 2024/00310346, 22 August 2024, Slattery J) [injunction/freezing order].

In the matter of Personnel Concept Group Pty Limited (in liq) [2024] NSWSC 522 [order under s 509(2) of the *Corporations Act 2001* (Cth)].

Rose Ives Pty Ltd & Anor v City Garden Australia Pty Ltd & Ors (Supreme Court of New South Wales Proceeding No.: 2023/00461689, 22 March 2024, Hammerschlag J) [short service].

Patrick John Fox & Anor v XO Developments Pty Ltd & Ors (Supreme Court of New South Wales Proceeding No.: 2024/00096683, 13 March 2024, Parker J) [short service].

Inquest into the death of Jasmynd Gibbs (2021/129807) [2024] NSWCorC 7 [appeared for the family who petitioned for the inquest].

R v Beth Ngoc Stolyar (Local Court of New South Wales, 13 February 2024, Magistrate Manea) [prosecution under the *Bankruptcy Act 1966*].

Ronald Suharta v Builtcorp Group Pty Ltd (NSW Civil & Administrative Appeals Tribunal File No.: HB 23/00225, 24 May 2023, L Wilson) [successfully defended a builder in a claim under the *Home Building Act 1989*].

Charith Tharanga Fernando v Meg 52 Pty Ltd ACN 635 077 744 (Supreme Court of New South Wales Proceedings No.: 2022/00163044, 3 June 2022, Richmond J) [ex parte injunction to restrain the sale of a property].

Perpetual Trustees Victoria Limited v Babasa [2021] NSWSC 1062 [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) [order for possession and seizure of collateral pursuant to s 123 of the *Personal Property Securities Act 2009*].

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

Notable cases as solicitor

R v Karen Williams (Local Court of New South Wales, 9 April 2021, Magistrate Farnan) [Prosecutor without counsel, obtained extradition order].

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

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 in a joint hearing of Australian and New Zealand courts].