

JODI STEELE SC

— BARRISTER

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Bringing over 25 years' experience to the resolution of her clients' disputes, Jodi has been consistently recognised as a leading barrister in her commercial practice in *Doyle's Guide*, *Who's Who Legal* and *Best Lawyers in Australia* in Litigation, Insurance, Construction Law, Employment and Industrial Relations and Alternative Dispute Resolution.

Jodi's expertise across a broad range of commercial practice areas has seen her act and advise international and multi-national corporations, as well as high-profile individuals. Her clients include Allianz Australia Limited, Suncorp, CGU, IAG, QBE, Chartis, Chubb, various Lloyds syndicates, LawCover, Queensland Investment Corporation, Bank of China, TAL, Cbus, Transport for NSW, Sydney Catchment Authority, Murrumbidgee Irrigation Corporation and renowned, bestselling novelist, Kate Morton. Maintaining a significant government practice, Jodi has also appeared in class actions and in highly confidential and sensitive matters, where there are potential reputational consequences.

Jodi's considerable list of long-standing clients commend her on her commercial and strategic advice, as well as her advocacy skills and judgment. Complementing her reputation as an accomplished advocate, Jodi is also a highly skilled negotiator and communicator when appearing as counsel at mediations, and when acting as a mediator. Jodi regularly authors articles, delivers papers and tailored seminars to solicitors on topical legal issues and legal developments.

ADMISSIONS TO PRACTICE

- 2020 Appointed Senior Counsel
- 2002 Admitted to the Bar of New South Wales
- 1993 Admitted as a Solicitor of the Supreme Court of New South Wales
(and entitled to practise in all Australian jurisdictions)

PROFESSIONAL QUALIFICATIONS

- 2015 Accredited Mediator, National Mediator Accreditation System (NMAS)
- 1992 Bachelor of Laws and Bachelor of Arts: University of New South Wales

PROFESSIONAL EXPERIENCE

- 2002 - present Barrister and Senior Counsel
- 1998 - 2000 Senior Legal Officer, Australian Broadcasting Corporation (ABC)
- 1997 - 1998 Solicitor, Construction Department, Allens Arthur Robinson (now Allens Linklaters)
- 1993 - 1997 International Manager (Contract Negotiation and Business Development) for a boutique Australian advertising firm - Asia Pacific and Latin America regions

PRINCIPAL AREAS OF PRACTICE

- Administrative Law
- Building and Construction Law
- Class Actions
- Commercial Law
- Employment Law
- Equity and Trusts
- Inquests, Inquiries and Royal Commissions
- Insurance and Professional Indemnity
- Mediation
- International Commercial Arbitration
- Professional Liability (including medical negligence and directors and officers liability)
- Trade Practices and Competition
- Work, Health and Safety

RECENT ACCOLADES

- 2022 *Best Lawyers in Australia: Alternative Dispute Resolution, Insurance Law and Litigation*
(awarded in April 2021)
- 2021 *The Best Lawyers in Australia: Alternative Dispute Resolution, Insurance Law and Litigation*
(and as published in the Australian Financial Review)
Doyles Guide: Recommended Leading Construction and Infrastructure Senior Counsel - NSW
Who's Who Legal: Australia & New Zealand - Construction (WWL says "Jodi is celebrated as a top Silk in construction in New South Wales"; "she is highly intelligent, tactical, committed and hard-working"; "Jodi is excellent in the testing of expert evidence").
- 2020 *The Best Lawyers in Australia: Alternative Dispute Resolution, Insurance Law and Litigation*
(and as published in the Australian Financial Review)
Doyles Guide: Recommended Leading Construction and Infrastructure Junior Counsel - NSW
- 2019 *Who's Who Legal - Construction* ("Jodi is a well-regarded construction barrister at the Australian bar. She is described as being "excellent with expert evidence" and is credited with "a high intellect and wide experience"")
Who's Who Legal: Australia - Construction ("Jodi Steele is a standout barrister with substantial experience acting for clients in high-value construction disputes")
The Best Lawyers in Australia: Litigation, Insurance and Alternative Dispute Resolution (ADR)
(awarded in April 2018)
Top 100 Women in Construction and Development
- 2018 *Who's Who Legal - Construction* (WWL says sources have praised Jodi as "incisive, hardworking and with a great understanding of construction law and principles")
Who's Who Legal: Australia - Construction (WWL says "Jodi Steele is a highly regarded barrister who stands out for her strong expertise in construction claims and insurance matters")
Best Lawyers in Australia
Top 100 Women in Construction and Development

APPOINTMENTS

- Director, Counsel Chambers Limited (since 2016)
- Lieutenant, Royal Australian Navy Reserve (RANR) (since 2007)
- Sydney Navy Legal Panel

- Commonwealth Department of Public Prosecutions (CDPP) External Senior Counsel Panel

PROFESSIONAL MEMBERSHIPS AND ASSOCIATIONS

- Member, Australian Insurance Law Association (AILA)
- Member, New South Wales Bar Association
- Member, Alternative Dispute Resolution Committee of the New South Wales Bar Association

PUBLICATIONS

- *Compromise and Settlement, Court Forms, Precedents and Pleadings*, Lexis Nexis

SPEAKING ENGAGEMENTS

- *Advocacy in Mediation*: NSW Bar Association conference in Orange, New South Wales
- *9th Annual Advanced Evidence and Advocacy Masterclass*: presented at UNSW for Legalwise Seminars
- *DO'S and DON'TS of Running a Case in Equity*: co-presented with The Honourable Justice Stephen Robb and chaired by Nick Kidd SC, at the NSW Bar Association
- *How to Plead Proportionate Liability to Ensure it Covers the Concurrent Wrongdoer*: Commercial Litigation Conference for Legalwise
- *Review of Defects and Contractual Remedies – Defect Liability and Cladding Claims*: UNSW Continuing Legal Education
- *Expert Witnesses – Effective Briefing and Giving Evidence in Court*: Society of Construction Law Australia (SOCLA)

SELECT RECENT CASES

Jodi has considerable experience appearing for clients in complex hearings and appeals in a wide variety of jurisdictions. Significant matters in which she has appeared are as follows.

Supreme Court of New South Wales and Federal Court of Australia

- *Michael Keuhn & Jennifer Keuhn v Masterton Homes (NSW) Pty Ltd t/as Masterton Homes (NSW) Pty Ltd* [\[2020\] NSWSC 1049](#). This case concerned the determination of whether there was a binding settlement which arose as part of a broader dispute where it was claimed that Jodi's client, a solicitor, was professionally negligent. Instructed by K & L Gates.
- *Sally Jones v Murrumbidgee Irrigation Limited (No 2)* [\[2020\] NSWSC 613](#). Successfully appeared in this four-week case, leading J Thompson. The case concerned unconscionability, contract, negligence and misleading and deceptive conduct and turned on Jodi's successful cross-examination of lay and expert witnesses. Instructed by Thompson Cooper Lawyers.
- *Mistrina Pty Limited v Australian Consulting Engineers Pty Ltd* [\[2020\] NSWSC 130](#). Appeared leading R Thrift in this case concerning misleading and deceptive conduct. Instructed by Gillis Delaney Lawyers
- *Anthony v Morton* [\[2018\] NSWSC 1884](#). Appeared with I Jackman SC for a best-selling author against her literary agent who alleged an oral contract as well as terms implied by custom; issues included tendency and business practice evidence, estoppel, fiduciary duties, negligence and limitation periods. Instructed by Frankel Lawyers.
- *Commonwealth v Searle* [\[2018\] NSWSC 1017](#). Appeared with G Sirtes SC for the Commonwealth in a class action involving approximately 280 navy sailors who claim damages based upon the alleged failure of the Commonwealth to provide a particular qualification. My client, the Commonwealth, successfully defended the action brought by the class. Instructed by Norton Rose Fulbright.

- *Construction Technologies Australia Pty Limited v Doueibi & Ors* [\[2018\] NSWSC 294](#) – led by J Lockhart SC in a contested Notice of Motion regarding a commercial tenant to force the landlord to sign a development consent. The issues included construction of a lease, equitable remedies, anshun estoppel, abuse of process and issue estoppel. Instructed by Clayton Utz.
- *Elias v Alloha Formwork & Construction Pty Ltd* [\[2017\] NSWSC 1546](#) – appeared leading a junior in a 10-day matter regarding a professional negligence suit against an engineer. It concerned questions of retainer, causation and loss and involved complex expert evidence from geotechnical, structural engineers and quantity surveyors. Instructed by Gilchrist Connell.
- *Kate Morton v Bolinda Publishing Pty Limited* [\[2017\] FCA 187](#) – appeared with a junior in proceeding concerning repudiation, breach of copyright and relief against forfeiture of audio publishing agreements. After various interlocutory disputes, including service of foreign subpoenas and privilege the case settled on the second day of the hearing. Instructed by Frankel Lawyers.
- *Ambican Pty Limited v Primas Gale Constructions Pty Ltd* 2016/341560 – acted for an architecture company, on behalf of Vero Insurance, in relation to a fire cladding dispute in the order of about \$20 million. I appeared at a mediation against Mr Ian Roberts SC and the matter settled at mediation. Instructed by Colin Biggers & Paisley Lawyers.
- *Body Corporate for HQ Apartments Community Titles Scheme 39869 v Jadecorp Constructions Pty Ltd* BS 2100/2015 – acted for the supplier of cladding in subrogated proceedings brought on behalf of QBE, in the order of about \$26 million. This matter settled at mediation, at which I appeared with Duncan Miller SC. Instructed by Colin Biggers & Paisley Lawyers.
- *UGL Pty Limited v Wilkinson Murray* [\[2014\] NSWSC 1959](#) – appeared with M Jones SC in a professional indemnity case concerning an acoustic engineer involving complex expert evidence. Instructed by DLA Piper.
- *Balderstone Hornibrook v Queensland Investment Corporation* – advised and appeared in \$200 million dispute about construction of a shopping centre involving issues of delay, defects and responsibilities of a superintendent. The case ultimately settled. Instructed by Allens Linklaters.
- Advice and preparation of evidence into various professional indemnity cases acting for solicitors, valuers, certifiers, architects, engineers and accountants.
- Regularly appears on interlocutory injunctions for breach of employment contract, restraint of trade and breach of confidence.

Fair Work Commission

- *National Aboriginal and Torres Strait Islander Health Worker Association (NATSIHWA)* [\[2020\] FWCFB 3827](#) – successfully appeared before the Full Bench of the Fair Work Commission leading N Avery-Williams to amend the award of the National Aboriginal and Torres Strait Islander Health Workers, including by increasing coverage.
- *Bashir v Alex Perry Pty Limited* [\[2019\] FWC 2041](#) – successfully defended an unfair dismissal claim made by a former employee against my client, internationally renowned fashion designer and creator, Alex Perry. Instructed by Davidson Legal and Consulting.

Appellate

- *Mistrina Pty Limited v Australian Consulting Engineers Pty Ltd* [\[2020\] NSWCA 223](#) – appeared with M Christie SC and Ms R Thrift on appeal in respect of the case Jodi ran at first instance before Hammerschlag J concerning a loss of opportunity arising from misleading and deceptive conduct. The Court of Appeal found that Hammerschlag J erred in failing to draw the overwhelming inference that Jodi had contended for at first instance. The Court also found that the assessment of damages for loss of opportunity exhibited many characteristics of a discretionary judgment and that the loss of opportunity was foreseeable in a general way.

- *The Owners-Strata Plan No. 76830 v Byron Moon Limited* [2020] NSWCATAP 186 – this appeal concerned the breadth of section 232 of the *Strata Scheme Management Act*. The Appeal Panel determined that in order to have power to make an order under section 232 it is necessary to have recourse to another provision which enables the Tribunal to make an order of the kind being contemplated.
- *Manfate Pty Limited v Peter Krabe & Paula Krabe* [2016] NSWCA 363 – appeared leading a junior on an appeal from a case concerning an alleged oral building contract.
- *Shoalhaven City Council v Firedam Civil Engineering Pty Ltd* [2011] HCA 38 (2011) 244 CLR 305 – appeared with D Jackson QC in a case concerning the validity of an expert determination in a construction contract.
- *Firedam Civil Engineering Pty Ltd v Shoalhaven City Council* [2010] NSWCA 59 – appeared in an appeal concerning the validity of an expert determination against G Inatey SC.
- *Jeffery & Katuskas Pty Ltd v SST Consulting Pty Ltd and Others* [2009] HCA 43; (2009) 239 CLR 75 – appeared with D Jackson QC in a case concerning whether it was appropriate to make a costs order against a non-party.
- *Rickard Constructions Pty Ltd v Rickard Hails Moretti Pty Ltd* [2008] NSWCA 283 – appeared in this appeal with M Dempsey SC which concerned whether it was appropriate to make a costs order against a non-party.
- *Tappoo Holdings Limited & Ors v Robert Arthur Stuchbery* [2007] Lloyd's Rep. IR Plus 391 – appeared with D Jackson QC in a case centering on the interpretation of an insurance policy.
- *Abigroup Contractors Pty Ltd v Sydney Catchment Authority (No 3)* [2006] NSWCA 282 (2006) 67 NSWLR 341 – led by T Bathurst QC and M Dempsey SC in an appeal concerning causation and damages in respect of misleading and deceptive conduct.
- *Rickard Constructions Pty Ltd v Rickard Hails Moretti Pty Ltd and Ors* [2006] NSWCA 356 – appeal concerning issues of duty of care and breach of contract.
- *Opal Group Holdings (Aust) Pty Ltd v Franklins* [2002] NSWCA 169 (2002) 54 NSWLR 565 – appeal concerning the interpretation of a commercial contract.

District Court of New South Wales

- *SafeWork NSW v Assign Blue Pty Ltd* [2020] NSWDC 756 – as Senior Counsel, successfully defended a work, health and safety prosecution which is now the leading authority with respect to work, health and safety obligations of labour hire companies. This is the most significant decision on this issue since *Drake Personnel Pty Limited* (1999) 90 IR 432. Leading S McIntosh. Instructed by HWL Ebsworth Lawyers.
- *SafeWork NSW v Confeta Pty Limited; SafeWork NSW v Cleo Antoniou* [2018] NSWDC 392 – sentencing of a company director for failing to exercise due diligence, together with a company for breaches of the Work Health and Safety Act, whether appropriate sentence by way of bond or training order. Instructed by HWL Ebsworth Lawyers.

Jury Trials

- *Captain King Trial* – appeared in this three-week hearing concerning whether Captain King fraudulently claimed entitlements wherein he faced up to 19 charges. This case was heard in the Court Martial before a military jury of 5 officers and attracted significant media publicity.

Commissions of Inquiry

- Appeared as Counsel Representing for the CEO of Greyhounds NSW in the Special Commission of Inquiry into the Greyhound Racing Industry in NSW led by D Hogan Doran SC. Instructed by Norton Rose Fulbright.
- Appeared as Counsel Representing in the HMAS Success Inquiry.

International Arbitrations

- SIAC Arbitration concerning the design and construction of a polymetallic processing plant in Asia and an international engineering consultant involving claims in excess of AUD \$165 million. Instructed by King & Wood Mallesons.