

# JODI STEELE

Barrister

## THIRTEEN WENTWORTH SELBORNE CHAMBERS

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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 (commercial law and equity) in *Doyles 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, QBE, Chartis, Chubb, various Lloyds syndicates, Queensland Investment Corporation, Bank of China, TAL, Cbus, Transport of NSW, Sydney Catchment Authority, Murrumbidgee Irrigation Corporation and renowned, bestselling novelists, including Kate Morton and Tim Winton. 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.

Often a barrister of choice in large-scale litigation, Jodi regularly leads junior counsel and has also been led by some of Australia's most highly-esteemed Senior Counsel in complex disputes in the High Court of Australia and NSW Court of Appeal. She also regularly appears unled in significant matters in the Supreme Court of NSW and Federal Court of Australia, and where the matter warrants, with a junior barrister.

Jodi has a considerable list of long-standing clients who 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.

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### ADMISSIONS TO PRACTICE

- 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: University of New South Wales
- 1992 Bachelor of Arts: University of New South Wales

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## 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
- Wills and Probate (including succession and family provision)
- Work, Health and Safety

## PROFESSIONAL EXPERIENCE

- 2013 - present Barrister, 13 Wentworth Selborne Chambers
- 2002 - 2013 Barrister, Seven Wentworth Chambers
- 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

## ACCOLADES

- 2019 **Best Lawyers in Australia:** Litigation, Insurance and Alternative Dispute Resolution (ADR) (awarded in April 2018)  
**Who's Who Legal: Construction**  
**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** (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**
- 2017 **Doyles Guide:** Leading Construction Barrister  
**Best Lawyers in Australia:** Commercial Litigation, Insurance and Dispute Resolution
- 2016 **Doyles Guide:** Leading Junior Counsel in Construction Law, Employment, Industrial Relations and WHS barristers  
**Best Lawyers in Australia:** Commercial Litigation, Insurance, ADR
- 2015 **Doyles Guide:** Leading Construction Barrister  
**Best Lawyers in Australia:** Litigation and ADR
- 2014 **Best Lawyers in Australia:** ADR

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## APPOINTMENTS

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

## PROFESSIONAL MEMBERSHIPS AND ASSOCIATIONS

- Member, Australian Insurance Law Association (AILA)
- Member, New South Wales Bar Association
- Co-Chair Arbitration, ADR Committee of the New South Wales Bar Association
- Appointed to the Alternative Dispute Resolution Committee of the New South Wales Bar Association
- Panel Member, Sydney Legal Navy Panel
- Adoption of the Law Council of Australia's National Model Gender Equitable Briefing Policy

## PUBLICATIONS

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

## SPEAKING ENGAGEMENTS

- *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
- *Implementing the Gender Equitable Briefing Policy*: 13 Wentworth Selborne Chambers
- *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)
- *Negotiation and Without Prejudice Communications*: co-presented with Raphael Perla to various law firms
- *Understanding Privilege*: co-presented with Lucy Robb-Vujcic to various law firms
- *Proportionate Liability*: co-presented with Mark Dempsey SC to various law firms

## SELECT CASES

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

### High Court of Australia

- *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
- *Jeffery & Katauskas 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
- *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

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## New South Wales Court of Appeal

- *Manfate Pty Limited v Peter Krahe & Paula Krahe* [2016] NSWCA 363 – appeared leading a junior on an appeal from a case concerning an alleged oral building contract
- *Firedam Civil Engineering Pty Ltd v Shoalhaven City Council* [2010] NSWCA 59 – appeared unled in an appeal concerning the validity of an expert determination against G Inatey SC
- *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
- *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

## 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 unled as Counsel Representing in the HMAS Success Inquiry

## Supreme Court of New South Wales

- *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 Doueihy & 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
- *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
- *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 unled against Mr Ian Roberts SC and the matter settled at mediation. Instructed by Colin Biggers & Paisley Lawyers
- *Marvoe Management Pty Ltd v Plantation Management Services (WA) Pty Ltd & Ors* – advised and appeared in a case involving complex expert evidence about the cause of an agricultural disease. The case was listed for hearing for three weeks and settled on the first day. Instructed by Thompson Cooper Lawyers

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- *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
- *Re North Coast Transit Pty Limited* [2013] NSWSC 1912 – appeared for Transport for New South Wales in a case centering on confidential information and subpoenas. Instructed by Norton Rose Fulbright
- *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 in a claim for \$30 million dollars against an executor in equity in devastavit who failed to sell shares which were ultimately worthless during the global financial crisis. Instructed by Moray & Agnew Lawyers
- Advice and preparation of evidence into various professional indemnity cases against valuers, certifiers, architects, engineers and accountants
- Regularly appears on interlocutory injunctions for breach of employment contract, restraint of trade and breach of confidence

### Federal Court of Australia

- *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
- *Bradley Duncan v Villaworld* – class action for building defects and an action against an insurer who denied indemnity based on exclusion clauses. Establishing indemnity involved proving that certain chemical reactions occurred. The case ultimately settled, approval of which was granted by the Court. Instructed by Colin Biggers & Paisley Lawyers
- Regularly appears with respect to interlocutory injunctions for breach of employment contract, misleading and deceptive conduct and restraint of trade

### District Court of New South Wales

- *SafeWork NSW v Confeta Pty Limited; SafeWork NSW v Cleo Antoniou* – 13 December 2018 – 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

### Fair Work Commission

- *National Aboriginal and Torres Strait Islander Health Worker Association (NATSIHWA)* – currently appearing unled to amend the award of the National Aboriginal and Torres Strait Islander Health Workers which will ultimately involve a hearing before the Full Bench in mid 2019. Instructed by Kennedys Lawyers

### International Arbitrations

- SIAC Arbitration concerning a dispute in connection with a landmark development between an Australian structural steel contractor and Korean supplier and fabricator involving claims in the order of AUD \$30 million. Instructed by Norton Rose Fulbright
- 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

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### **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