

# NOLA PEARCE

YEAR OF CALL: 2018

Nola has nearly 20 years' experience handling civil claims and disciplinary inquiries involving high-level professionals and their insurers or defence unions. Her busy commercial law practice also incorporates contractual and consumer law disputes, insurance, administrative law, negligence and commissions of inquiry. Nola's depth of experience is demonstrated through her quality legal advice, combined with a practical, strategic and sensitive approach to civil disputes.

Before being called to the Bar, Nola practised as a solicitor in a number of mid- and top-tier firms. For many years before being called, she was special counsel in the Brisbane office of a mid-tier firm, where she acted for barristers, judges, solicitors and a range of medical, financial services and construction professionals in defence of matters involving allegations of professional negligence, breach of contract or statute, consumer law issues, disciplinary/conduct breaches, and fraud. As such, Nola is well placed to represent the interests of these professionals in the civil Courts of most State, Territory and Commonwealth jurisdictions, including at various disciplinary tribunals, professional bodies, commissions of inquiry and coronial inquests.

Nola is well recognised for her passionate contribution to the legal profession, having been bestowed honours such as the inaugural President's Medal Outstanding Contribution Award 2016 by the Queensland Law Society; listed by *Australasian Lawyer* in its 2016 Hot List; and being named a Woman Lawyer of the Year Award 2016 Finalist by Women Lawyer's Association of Queensland. She is also the immediate past Chair of the Queensland Law Society's Ethics Committee, and a contributing editor to the QLS's first edition commentary to the *Australian Solicitors' Conduct Rules*. Nola is a part time lecturer in Professional Ethics at the College of Law in Brisbane.

## AREAS OF PRACTICE

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Banking, Class Actions, Competition & Consumer, Contract, Corporate Insolvency & Bankruptcy, Corporations, Employment & Industrial, Inquiries & Coronial Inquests, Insurance, Judicial Review & Administrative, Land Law & Property, Professional Discipline & Regulatory, Professional Negligence, Resources & Energy, Sport.

## CASES

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***Bunney v Workers' Compensation Regulator* [2020] QIRC 210**

LEVEL

TWENTY  
SEVEN

CHAMBERS



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December 2020, Employment & Industrial

***Australian Securities and Investments Commission v Youi Pty Ltd***[2020] FCA 1701

November 2020, Insurance

***Faamate & Ors v Congregational Christian Church in Samoa-Australia (Ipswich Congregation) & Ors***  
**[2020] QCA 87**

April 2020, Corporate Insolvency & Bankruptcy

***The Blaze Agency Pty Ltd & Anor v PSC Insurance Brokers (Aust) Pty Ltd***[2019] QCA 4366

August 2019, Insurance

***Higginbotham v Star Stone Corporate Capital Ltd & Ors***[2019] QDC 35

March 2019, Insurance

***LSC v XBV***[2018] QCAT 332

October 2018, Professional Negligence, Professional Discipline & Regulatory

***Ritchie v Ikea Pty Ltd***[2018] QDC 143

August 2018, Employment & Industrial

## **EXPERIENCE**

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### **CLASS ACTIONS**

> *Acting (jointly with Roger Traves QC) for the defendant to two Federal Court class actions, including advising as to the entitlement of the defendant to policy coverage. The proceedings concerned allegations of misleading or deceptive conduct and breach of contract.*

### **COMMERCIAL/COMPETITION & CONSUMER/CONTRACTS**

> *Successfully acting for the purchaser of a defective second-hand tower crane component, to recover from the supplier damages for breach of contract and pursuant to the Australian Consumer Law. The sums ordered by the Court exceeded formal offer made some year before trial.*

> *Acting (with Paul McQuade QC) to obtain urgent interim injunctive relief to restrain misleading or deceptive conduct in connection with the supply or possible supply of property management services, and the misuse of confidential information.*

> *Advising as to the legal consequences of four purported terminations of a contract for the sale and purchase of residential real estate, and the strategic and risk consequences for the purchasers.*

> Acting for various franchisees in State and Federal Court litigation involving breach of contract and breach of Code of Conduct obligations.

> Acting for the designer and manufacturer of certain goods and devices used in the mining industry. Following a series of negotiations and due diligence for the sale of the business to another entity, the entity breached the terms of an agreement governing the negotiation period, and misused the confidential information provided as part of the due diligence.

> Acting for a Chinese logistics company against a local freight forwarder in relation to the damage of a large and valuable piece of cargo. Issues include the incorporation of online terms into the written contract, and the effectiveness of limitation clauses.

> Acting for a luxury yacht builder in defence of a claim for breach of contract and breach of the Australian Consumer Law (particularly, misleading or deceptive conduct, and unconscionable conduct) in relation to a custom build commission.

## **CORPORATIONS**

> Acting (led firstly by Phillip O'Higgins, and later by Paul McQuade QC) for the committee members of a congregational church group in Supreme Court proceedings to wind up the association on the just and equitable and insolvency grounds, and later in the appeal from the decision at first instance. Nola also acted and appeared unled in the applications for stay of the judgment at first instance (successfully resisted) and security for costs of the appeal (successfully obtained).

## **INSURANCE (GENERAL)/FINANCIAL SERVICES**

> Representing a major insurer in the Federal Court (led by John McKenna QC) in proceedings brought by ASIC for alleged breach of section 13 Insurance Contracts Act 1984 (Cth). The proceedings arose from events which emerged in the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and for the insurer the outcome of the proceedings was limited to a single declaration.

> Advising (jointly with John McKenna QC) a major insurer in respect of legal outcomes and strategic approach to the outcome of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

> Acting for an insurance broker in defence of a claim for negligence in the arrangement of insurance for a professional rugby player and in pursuit of a third party claim against the player's agent. Nola's work included successfully obtaining orders in the District Court to strike out key aspects of the third party's defence, and successfully resisting an appeal to the Court of Appeal from those orders.

> Appearing for the host employer in response to an application for orders pursuant to s.43 Personal Injuries Proceedings Act 2002 (Qld), to advance the argument that that Act did not apply because the injury was one within the Workers' Compensation and Rehabilitation Act 2003 (Qld).

> Advising (jointly with Roger Traves QC) as to coverage issues arising for the defendant to two class actions, in relation to characterisation of loss under the policy, the operation of an allocation clause, and strategic advice as to negotiations with the underwriter.

> Advising (jointly with Matthew Jones) insured farmers in coverage disputes arising from the effect of certain capital works on stormwater runoff effects and a neighbouring property.

> Acting for a travel insurer in defence of a claim under the policy, where the proper construction of the insured loss is in issue.

> Acting for a life insurer in defence of a claim for breach of the policy (by failure to make payments due under TPD coverage provisions), where the insurer asserts the avoidance of the policy from inception by reason of fraudulent non-disclosure.

### **PROFESSIONAL NEGLIGENCE**

> Acting (with Damian Clothier QC) for a large Queensland law firm in defence of a claim arising from advice given in a large-scale pastoral family dispute. Proceedings involved issues of valuation of assets, trust entities, taxation implications upon valuation, estate assets, the scope of the solicitors' retainer and causation issues arising in a claim for professional negligence.

> Acting for two multi-million dollar construction companies against their former accountant who failed to advise of significant taxation and capital asset acquisition consequences over successive financial years.

> Advising a major insurer in respect of prospects and strategic response to allegations of misconduct made against its inhouse counsel in the course of the appeal by a former insured of a first instance decision as to coverage.

> Advising a plaintiff pursuing a medical negligence claim as to the prospects of obtaining an order that she had obtained expert medical evidence to satisfy s. 9A(9)(d) of the Personal Injuries Proceedings Act 2002 (Qld).

> (As a solicitor) acting in the defence of professional negligence claims in Courts and Tribunals in most Australian jurisdictions against numerous professionals including lawyers, medical practitioners, accountants, financial advisers and construction professionals.

### **PROFESSIONAL DISCIPLINE & REGULATORY**

> Advising an independent oversight body as to the ethical and fiduciary obligations of a major trustee body, in light of ongoing investigations into possible misconduct.

> Advising (both led and unled) a leading professional regulatory body on various occasions as to its obligations arising under the disciplinary provisions of the relevant legislation, including advice as to substantive issues and the effect and requirement of procedural fairness provisions.

> Acting for a professional regulatory body as a respondent to applications in various matters for review of its decisions to either suspend or remove the practitioner's entitlement to practise.

- > *Advising a barrister in respect of show cause correspondence issued from the Bench.*
- > *Acting for migration solicitors in respect of regulatory issues which span the dual regimes of the Legal Profession Act 2007 (Qld) and the Migration Act 1958 (Cth).*
- > *Acting for legal practitioners (solicitors and barristers) in respect of various regulatory matters arising under the Legal Profession Act 2007 (Qld), such as responses to show cause notices issued by the professional bodies, and mandatory notifications to those bodies.*
- > *Advising legal practices and legal practitioners as to professional indemnity insurance notification obligations.*
- > *Advising legal practitioners as to contested applications for admission to practice, and appearing on the application where necessary.*
- > *(As a solicitor) acting in the defence of conduct enquiries and disciplinary proceedings against solicitors, barristers, Judges, in Courts and Tribunals across Australia.*

### **JUDICIAL REVIEW/ADMINISTRATIVE/COMMUNITY**

- > *Acting for a professional regulatory body as a respondent to applications in various matters for review of its decisions to either suspend or remove the practitioner's entitlement to practise.*
- > *Acting for a member of Surf Lifesaving Queensland in a successful application to review a decision to refuse the issue of a Blue Card.*
- > *Acting for and advising the owners of companion animals in response to proposed regulatory action by various local Councils.*
- > *Acting for a severely disabled and disadvantaged applicant to secure extension of critical assistance previously denied by the NDIS.*

### **RECOMMENDATIONS**

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#### **The Australian Financial Review's Best Lawyers®**

2021 – Professional Malpractice Litigation

### **APPOINTMENTS**

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**2015 to present** *Voluntary appointment to the Barristers' Animal Welfare Panel*

**2011 to 2018** *Immediate past Chair of the Queensland Law Society's Ethics Committee (of which she was a member from January 2011 to May 2018), which assists the profession and the QLS in the development and consideration of lawyers' ethical rules of conduct. She was credited for her drafting role in the first edition*

*commentary to the new Australian Solicitors Conduct Rules.*

## **MEMBER**

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*Bar Association of Queensland*

*Women Lawyers' Association of Queensland*

## **CAREER**

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**2018** *Barrister*

**2007 to 2018** *Solicitor (from 2010, Special Counsel) Carter Newell Lawyers*

**1999 to 2007** *Solicitor, Queensland mid-tier and top-tier firms including Clayton Utz, Hunt & Hunt and Flower & Hart*

**1996 to 1997** *Law clerk, Commonwealth Director of Public Prosecutions*

## **EDUCATION**

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**Bachelor of Laws (Hons), University of Queensland**

**Bachelor of Arts (Political Science), University of Queensland**

## **AWARDS**

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**2016** *Named as a Finalist by Women Lawyer's Association of Queensland in its Woman Lawyer of the Year Award 2016.*

**2016** *Named by Australasian Lawyer in its 2016 Hot List as one of the year's hottest private practice lawyers working in the Australian Legal Market; Nola was recognised for her passionate and energetic commitment to the high ethical standards of the legal profession and its role in justice administration, August 2016.*

**2016** *Awarded the inaugural President's Medal Outstanding Contribution Award 2016 by the Queensland Law Society in recognition of her high standing in the legal profession in Queensland and her significant contribution to community access to justice, significant service and support to Queensland lawyers, and upholding the rule of law and the administration of justice, February 2016.*

**2015** *Named by Australasian Lawyer as one of Australia and New Zealand's Top 50 Women to Watch, as an*

*Expert in her Field [Professional Legal Ethics], April 2015.*

## **PUBLICATIONS**

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***A Lighthouse in the Fog? Impacts of the New Financial Accountability Regime on Policy Interpretation & Coverage***

*April 2020, Insurance*

***Impacts of the New Financial Accountability Regime on Policy Interpretation & Coverage***

*April 2020, Insurance*

***Ethics of Lawyers in the Media***

*February 2020*

***Does a Stitch in Time Really Save Nine? Issues Surrounding Mitigation Costs Under a Policy of Liability Insurance***

*December 2018, Insurance, Contract*

***Professional and Management Liability Guide***

*June 2017, Professional Negligence*

***QCAT Disciplinary Orders – Look beyond the QCAT Act***

*May 2016, Judicial Review & Administrative*

*Liability limited by a scheme approved under professional standards legislation*