

# MICHAEL ELLIOTT SC

## QUALIFICATIONS AND POSITIONS

Degrees	BA, LLB (Hons) (University of Queensland) 1991
2017 to date	Senior Counsel, 8 <sup>th</sup> Floor Selborne Chambers, Sydney
2002 - 2017	Barrister, 8 <sup>th</sup> Floor Selborne Chambers, Sydney
1992 - 2001	Solicitor and Senior Associate, including 4 years in London: Firms - Herbert Smith; Mallesons Stephen Jacques.

## CORE PRACTICE

**Insurance** – coverage and other disputes, for parties and as expert determinator

**Professional negligence, Warranty & Indemnity, and Directors/Officers claims**

**Corporations law** including by way of example:

- breach of fiduciary, statutory and other duties by directors
- oppression suits, just and equitable winding up and derivative actions
- insolvent trading claims; financial products and service actions; whistleblower actions

**Commercial disputes**, including by way of example:

- contractual disputes
- misleading and deceptive conduct and other ACL claims
- full range of actions in equity and trust law
- shareholder and partnership disputes
- building and construction claims
- real property and securities enforcement
- restraint of trade, employment, adverse action
- succession

**Royal commissions and inquiries**

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## **Overview of practice**

I represent clients in a wide range of commercial disputes, typically in the Supreme and Federal Courts, both at first instance and appellate level. I have done so for the last 25 years at the bar, including across the last 10 years as a Silk (described in this jurisdiction as a ‘Senior Counsel’ and in other jurisdictions a KC or King’s Counsel).

I have a balanced practice in terms of clientele; representing large multi-national corporations through to individuals, acting for both plaintiffs and defendants, appellants and respondents, and insurers and insureds. This enables me to provide informed, objective and independent advice to each client in respect of each matter.

My approach to cases is to seek to obtain a detailed understanding of matters in which I am briefed, to apply focused attention upon the real issues, and to exercise keen forensic judgment in the presentation of a party’s case, including through submissions and cross-examination of witnesses.

Some examples of recent matters include:

*Wilkinson v Network Ten; re Lehrmann* [2024] FCA 102  
*Salmon v Albarran* [2025] NSWCA 42; [2023] NSWSC 1238  
*Aurora Australasia v Hunt Prosperity* [2025] NSWCA 15  
*TerraCom Ltd v ASIC* [2025] FCA 1017; related [2022] FCAFC 151  
*Nest Insurance v Resilium Insurance* [2025] NSWCA 221; [2024] NSWSC 1190  
*Atanaskovic Hartnell v Kelly* [2024] FCAFC 137  
*Li v Ye* [2024] NSWSC 1176  
*Mir v Mir* [2023] NSWSC 408  
*Soulos v Pagones* [2023] NSWCA 243; [2022] NSWSC 1507  
*Zurich Australian Insurance v CIMIC* [2024] NSWCA 229; [2022] NSWSC 999  
*Flanagan v Nadic Brokers* [2022] NSWSC 381  
*Twigg v Twigg* [2022] NSWCA 68; [2020] NSWSC 1159  
*Delor Vue v Allianz* [2022] HCA 38; [2021] FCAFC 121; [2020] FCA 588  
*Argo v Quintis* [2022] FCAFC 86; [2021] FCA 19 & 327  
*Muriniti v Lawcover* [2022] NSWSC 1683  
*Allianz Australia v Rawson Homes* [2021] NSWCA 224; [2020] NSWSC 1654  
*Salmon v Albarran* [2020] NSWSC 675  
*Secure Logic v Noble* [2021] NSWSC 675  
*Angelis & Ors v Pemba Capital* [2019] NSWSC 1759  
*Marketform v Amashaw* [2018] NSWCA 70; [2017] NSWSC 612  
*Weir v AXA* (2018) 359 ALR 314 (NSWCA); [2017] NSWSC 259  
*Maled Falek Islamic School v AFIC* [2017] NSWSC 1712  
*AAI (Vero) v Kalnin* [2017] NSWSC 548

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**Matters I conduct generally fall into one or more of the following categories:****Professional negligence, W&I and D&O claims**

- Professional indemnity matters across a wide range of professions, including architects, engineers, valuers, external administrators, auditors, accountants, barristers, solicitors, insurance brokers, private building certifiers and financial service providers.
- Claims against directors and officers for breaches of statutory, fiduciary and other duties.
- Claims made under warranty and indemnity policies of insurance.

**Insurance and reinsurance**

- Advising on and appearing for parties in insurance matters. These include policy disputes in relation to the scope of cover, exclusions, aggregation, subrogation, allocation, defence costs, deductibles and other policy issues; disputes concerning the nature and effect of policies of insurance in relation to relations between commercial parties; joinder applications against insurers of insolvent insureds; policy interpretation, contribution and other disputes as between insurers and as between insurers and reinsurers.

**Commercial disputes**

- Actions on a wide range of commercial contracts, including for example claims with respect to distributorship agreements, consultancy agreements, joint venture agreements and building contracts.
- Claims under the various provisions of consumer protection legislation, including in particular claims relating to misleading and deceptive conduct. These claims include claims for damages or the avoidance of contracts, as well as claims for injunctive relief in comparative advertising or passing off cases.
- Claims in respect of contraventions of the corporations and securities law, including claims against directors, financial services licencees, oppression suits, cases concerning the exercise of powers by liquidators, receivers and administrators, and actions in respect of contraventions of the whistleblowing protections regime.
- Claims involving the application of principles of tracing and following, and for the imposition of resulting or constructive trusts arising out of a variety of circumstances including, by way of example, fraud, joint contributions towards the purchase of property, partnership disputes and misappropriation of trust property.
- Other claims concerning the application of a range of different equitable doctrines, including for example estoppel, specific performance, unconscionable conduct,

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undue influence, breach of confidence, contribution, subrogation, rectification, taking accounts and set off.

- Actions involving allegations of breach of trust or fiduciary duty by trustees.
- A range of finance law cases, including in particular claims involving the enforcement of mortgages, guarantees, charges and other securities.
- Various insolvency matters under the *Corporations Act* and the *Bankruptcy Act*, including insolvent trading claims, applications to set aside statutory demands, liquidators' examinations and the like.
- Claims concerning allegations of breaches of equitable and/or contractual obligations of confidence, including actions to restrain firms from acting for parties in circumstances where there is a risk of a breach of confidence and/or a conflict of interest.
- Restraint of trade cases, claims for the enforcement of negative covenants in senior executive employment contracts, and other employment related claims including adverse action and whistleblowing protection claims.
- Class action litigation in the Federal and Supreme Courts.
- Various claims consequent upon the collapse of partnership and joint venture relationships.
- Claims for breaches of building contracts.
- A range of property related matters, including disputes over contracts for the sale of land, leases and easements.
- Obtaining or resisting applications for mareva (freezing) orders and a wide range of interlocutory injunctions.

### **Royal Commissions and Inquiries**

- Appearing for government instrumentalities, private enterprise and individuals in various Commissions of Inquiry, including as:
  - counsel for an interested party in the AFL inquiry into the Hawthorn Football Club
  - counsel assisting in the Royal Commission into Trade Union Funds and Corruption
  - senior counsel for an interested party and its witnesses in the Royal Commission into the Banking and Financial Sector

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- counsel for the State Rail of NSW in the Waterfall Commission of Inquiry
  - counsel for a major stakeholder in the Commission into the Sale of NSW Electricity Assets
  - counsel for interested parties in a wide range of ICAC inquiries.