LIST G
BARRISTERS

Jenny Firkin KC



Jenny Firkin KC practises in Class Actions, Industrial, Employment and Discrimination Law, Regulatory proceedings, Torts and Public Law.

QUALIFICATIONS

Bachelor of Laws (Hons)(Melb)
Bachelor of Science (Monash)
Grad Diploma Labour Relations Law (Melb)

CORRESPONDENCE

P 03 9225 8558
E jenny_firkin@vicbar.com.au

CHAMBERS

Aickin Chambers
Room 07 Level 16
200 Queen Street
Melbourne VIC 3000

COMMERCIAL LAW

Appellate | Class Actions

EMPLOYMENT & INDUSTRIAL

Appellate | Confidential Information | Discrimination | Employment Contracts | Industrial Disputes | Public Sector Appeals | Restraint of Trade | Statutory Employment Rights | Work Health & Safety

TORT LAW

Class Actions | Major Torts

PUBLIC LAW

Appellate | Civil & Human Rights | Commissions & Inquiries | Discrimination | Judicial Review

She also has Royal Commission and Commission of Inquiry experience.

Jenny has significant expertise in complex trials as well as appellate advocacy, regularly conducting appeals in the Federal Court and High Court.

She is recognised as a leading senior counsel in the Doyle's Guides for Victoria and Australia, The Legal 500, Best Lawyers, and Who's Who Legal Australia & New Zealand.

Jenny is the President of the Victorian Bar's Industrial Bar Association.

A list of some of Jenny's cases can be viewed in the 'Recent Cases' tab below.

Liability limited by a scheme approved under Professional Standards legislation

Recent Cases

CLASS ACTIONS AND REPRESENTATIVE PROCEEDINGS

Rogers & Ors v McDonald's Australia Ltd & Ors, Federal Court class action regarding pre and post shift entitlements of managers [2024]

Fisher v Commonwealth of Australia [2023] FCAFC 106, Federal Court representative proceeding concerning s 10 of the Racial Discrimination Act 1975 (Cth) (whether Indigenous men enjoy the right to the age pension to a more limited extent)

Finance Sector Union v Commonwealth Bank Australia [2023], Federal Court proceeding brought by the FSU in its representative capacity in relation to paid tea breaks

Kelehear v Stellar Personnel Brisbane Pty Limited & Ors [2019-2024], Federal Court class action regarding casual entitlements

Petersen v WorkPac Pty Ltd and Renyard v WorkPac Pty Ltd [2019-2022], two Federal Court class actions regarding the classification of casual employees

Yasmin v Commonwealth of Australia [2022], Federal Court class action claiming negligence, false imprisonment, misfeasance in public office and race discrimination in relation to people smuggling boat crew

Kamasaee v Commonwealth of Australia [2016-2017], Supreme Court class action regarding regional processing on Manus Island

Rowe v SPI Electricity Pty Ltd [2013-2015], Supreme Court class action arising out of the Murrindindi bushfire on Black Saturday

Matthews v SPI Electricity Pty Ltd [2010-2014], Supreme Court class action arising out of the Kilmore bushfire on Black Saturday

EMPLOYMENT, INDUSTRIAL & OTHER COMMERCIAL MATTERS

Fair Work Ombudsman v Ho [2024] FCAFC 111, Full Federal Court appeal regarding ss 556 & 557 of the Fair Work Act 2009 (Cth), course of conduct and the totality principle

Dunstan v Orr (No 2) [2023] FCA 1536, Federal Court summary judgment concerning allegations of negligence and fraud on the Court

Fair Work Ombudsman v University of Melbourne [2023], Federal Court proceeding claiming marking underpayments

Messenger v Commonwealth of Australia (Represented by the Department of Finance) [2022] FCA 677 and (No 2) [2023] FCA 20, Federal Court trial concerning an adverse action claim by Senator Lambie's former staff and costs order

Australian Building and Construction Commissioner v Construction, Forestry, Maritime, Mining and Energy Union (The Monash Freeway Widening Case) [2020] FCA 1727 and [2022] FCAFC 59, Federal Court trial concerning contraventions of ss.499 & 500 of the Fair Work Act 2009 (rights of entry) and Full Federal Court appeal

Australian Federation of Air Pilots v Regional Express Holdings Limited [2021] FCAFC 226, Full Federal Court appeal concerning adverse action, coercion and misrepresentation

Fair Work Ombudsman v Hu & Ors [2020] HCATrans 11, Special Leave application to the High Court concerning accessorial liability and pieceworker rates

Fair Work Ombudsman v Construction, Forestry, Maritime, Mining and Energy Union (MV Portland Separate Question Case) [2018] FCA 956 and (No 2) [2020] FCA 1138, Federal Court separate question concerning the construction of an enterprise agreement

Application by the Metropolitan Fire and Emergency Services Board [2018] FWC 3220,[2019] FWC 106 and [2019] FWC 1922, Minister for Jobs and Industrial Relations; Minister for Women – Application for review of a decision [2019] FWC 1228 and The Hon. Christian Porter MP, Attorney General and Minister for Industrial Relations v Metropolitan Fire and Emergency Services Board [2019] FWCFB 6255, Fair Work Commission application to intervene, opposing approval of enterprise agreement containing discriminatory terms, application for a stay, application for referral to the Federal Court and Fair Work Commission appeal concerning the statutory construction of the term 'discrimination' in s.195 of the Fair Work Act 2009

Australian Manufacturing Workers' Union v Paper Australia Pty Ltd T/A Australian Paper [2018] FWCFB 2011, Fair Work Commission appeal from order under s 425 of the Fair Work Act 2009 (suspended protected industrial action)

Ezy Accounting 123 Pty Ltd v Fair Work Ombudsman [2018] FCAFC 134, Full Federal Court Appeal concerning accessorial liability

Godfreys Employee Collective Agreement [2018] FWCA 6804, Fair Work Commission application for termination of enterprise agreement

Australian Building and Construction Commissioner v Construction, Forestry, Mining and Energy Union (The Parliament Square Case) [2018] FCA 1080 and (No 2) [2018] FCA 1201, Federal Court trial concerning contraventions of s.500 of the Fair Work Act 2009 (rights of entry) and penalty decision

Regional Express Holdings Ltd v Australian Federation of Air Pilots [2016] FCA 367, 244 FCR 344, [2017] HCATrans 105 and (2017) 262 CLR 456; [2017] HCATrans 178, Federal Court Application for Leave to Appeal concerning the statutory construction of s.540(6) of the Fair Work Act 2009 (representative standing of unions), Full Federal Court Appeal, Special Leave application and High Court Appeal

Australian Manufacturing Workers' Union v Boeing Australia Component Repairs Pty Ltd [2017] FWC 2392, Fair Work Commission dispute arising under enterprise agreement regarding the proper construction of the re-

classification clause

Nel v Western Health [2016] FWC 3666, Fair Work Commission jurisdiction dispute regarding extension of time for general protection proceedings

Hegarty v Commonwealth of Australia [2016] FWC 117, Fair Work Commission dispute arising under enterprise agreement with respect to the Superannuation Act 1990 (Cth)

Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd & Ors [2015] HCATrans 193 and (2015) 256 CLR 137, High Court Special Leave Application and High Court Appeal regarding the statutory construction of s.357 of the Fair Work Act 2009 (sham contracting)

Pepe v Platypus Asset Management Pty Ltd [2010] VSC 603; (No 2) [2011] VSC 21 and (2013) 46 VR 694, Supreme Court executive contract dispute, costs order, Mareva injunction (unreported) and Supreme Court Appeal

Quinn v Overland [2010] FCA 799, Federal Court application for an interlocutory injunction to restrain suspension of employment

The Australian Workers' Union v Western Port Pipe and Mechanical Services Pty Ltd [2010] FWA 2864, Fair Work Commission's power to compel production of documents

Nash v HyGain (2005, unreported), Supreme Court application for an interlocutory injunction to resist restraint of trade

Shark Fin Burwood Pty Ltd v Ducgo Pty Ltd [2003] VSCA 20, Supreme Court Appeal regarding damages for breach of contractual indemnity

DISCRIMINATION AND SEXUAL HARASSMENT

Acting in, and mediating, many sexual harassment claims.

Fisher v Commonwealth of Australia [2023] FCAFC 106, Federal Court separate question concerning s 10 of the Racial Discrimination Act 1975 (Cth) (whether Indigenous men enjoy the right to the age pension to a more limited extent) (special leave refused)

Application by the Metropolitan Fire and Emergency Services Board [2019] FWC 106 and The Hon. Christian Porter MP, Attorney General and Minister for Industrial Relations v Metropolitan Fire and Emergency Services Board [2019] FWCFB 6255, opposing approval of enterprise agreement containing discriminatory terms and Fair Work Commission appeal concerning the statutory construction of the term 'discrimination' in s.195 of the Fair Work Act 2009

Bashour v Australian and New Zealand Banking Group Limited [2017] FCA 163, Federal Court costs application in a discrimination claim

Suleyman v The Speaker of the Legislative Assembly & Anor [2011] VCAT 2305, claim of discrimination based on political activity by an electorate officer and application for leave to appeal to the Supreme Court of Appeal (unreported)

Jennings v Department of Education & Early Childhood Development [2012] VCAT 131, pregnancy discrimination claim by a teacher and application for leave to appeal to the Supreme Court of Appeal (unreported)

Harley v Commonwealth of Australia [2010] FMCA 1029 and Harley v Commonwealth of Australia [2011] FMCA

197, applications for trial of a separate question and appointment of a Court expert in discrimination proceedings

Mik v Hilakari & Ors [2009] VCAT 902, strike out application of a discrimination claim concerning a student association

Tarpey v State of Victoria [2009] VCAT 410, strike out application of a discrimination claim by a parent

Dickie v State of Victoria & Ors [2009] VCAT 713, racial discrimination claim by a teacher

Pitt v OneSteel Reinforcing Pty Limited [2008] FCA 923, Federal Court application for leave to appeal the decision to dismiss discrimination proceedings

Mangan v Melbourne Cricket Club [2006] VCAT 73 and [2006] VCAT 792, sex discrimination claim concerning "Ladies' tickets" and application for costs

Golten v Pink Healthcare Services [2005] VCAT 825, sexual harassment claim

Smith v Football Victoria Ltd [2003] VCAT 936 and Taylor v Moorabbin Saints Junior Football League and Football Victoria Ltd [2004] VCAT 158, application for interim order to restrain the prevention of girls from participating in the Junior Football league and sex discrimination claim by female footballers

Stockdale v Colliers Jardine (Vic) Pty Ltd & Anor [2003] VCAT 590, strike out application of an age discrimination claim

Boxall v Chisholm Institute of TAFE [2003] VCAT 125, application for interim order to restrain termination of employment

ROYAL COMMISSIONS AND INQUIRIES

Inquiry into Historical Child Sexual Abuse in Beaumaris Primary School and certain other Government Schools [2023]

COVID-19 Hotel Quarantine Inquiry [2020]

Royal Commission into Violence Abuse Neglect and Exploitation of People with Disability [2019]

Memberships

Victorian Bar Industrial Bar Association – President

Law Council of Australia Equal Opportunity Committee - Member