



Jesse Kennedy

NEW/CHAMBERS

LLM (New York University);
LLB (Hons, University Medal) / BA (Australian National University)

Telephone	+61 2 9151 2086
Clerk's telephone	+61 2 9151 2080
Fax	+61 2 9233 1850
Email	kennedy@newchambers.com.au

Admitted to the legal profession	2009
Admitted as a barrister in NSW	2017
Also entitled to practise in	All Australian jurisdictions (Commonwealth, State and Territory), New York

Principal areas of practice

Administrative Law	Constitutional Law
Admiralty and Maritime	Contracts
Alternative Dispute Resolution	Corporations and Securities
Appellate	Equity
Arbitration	Insurance and Reinsurance
Aviation and Transportation Law	International Law
Building, Construction and Technology	Professional Indemnity
Commercial Law	Property
Competition and Consumer/Trade Practices	Public Law
Conflict of Laws	Trusts

Previous professional experience

2014-2017: Associate, Skadden Arps Slate Meagher & Flom (New York)
2010-2013: Associate, Norton Rose Fulbright (Sydney)
2009-2010: Associate to the Hon Justice W M C Gummow AC, High Court of Australia
2009: Graduate, Blake Dawson (Ashurst) (Sydney)

Professional memberships

New South Wales Bar Association
International Bar Association
Asia-Pacific Forum for International Arbitration
Young ICCA
ICC-Young Arbitrators Forum
Young ICSID
ICDR Young & Professional

Publications

- "Autocatalysis in Investment Treaty Law", 47(3) *Georgetown Journal of International Law* 1085 (2016)
- "Tickets, Money, Passport – and an Arbitration Agreement? Pro-Arbitration Policy in *Dampskibsselskabet Norden A/S v. Gladstone Civil Pty Ltd*", 30(4) *Arbitration International* 687 (2014)
- "Protecting Regulatory Measures in Investment Treaty Law", 2013 *Czech Yearbook of Int'l Law* 1
- "Arbitrate This! Enforcing Foreign Arbitral Awards and Chapter III of the Constitution", 34 *Melbourne University Law Review* 558 (2010)
- Co-author: Address at the University of Sydney International Investment Treaty Law and Arbitration Conference: "Change You Can Believe In: The UNCITRAL Arbitration Rules, Investor-State Arbitration and Human Rights" (Feb. 19, 2010)
- Co-author: "New Alternative Dispute Resolution Framework Proposed for New South Wales", 127 *Australian Construction Law Newsletter* 38 (2009)

Professional profiles

<https://www.linkedin.com/in/jesse-kennedy-a05a6758/>

[Selected cases \(as counsel\)](#)**Appellate**

- *Deigan v Fussell* (2019) NSWCA (property law, wills and estates, equity)
- *The Ship "Thor Commander" v Mount Isa Mines Ltd* (2019) FCAFC (admiralty, contract (charterparties), tort (negligence), salvage, general average)
- *BGP Geexplorer Pte Ltd v Mineralogy Pty Ltd* [2018] QCA 230 (unled, discharge of undertakings, stay pending appeal)
- *Mineralogy Pty Ltd v BGP Geexplorer Pte Ltd* [2018] QCA 174 (contract, equity, guarantees and indemnities)
- *ARJ17 v Minister for Immigration and Border Protection* (2018) 360 ALR 64 (administrative law, constitutional law, migration)

Arbitration

- Domestic arbitration (corporations, equity, trusts)
- Australian company v Korean company (ACICA, Sydney seat, South Australian governing law, competition and consumer law, contract, sale of goods, tort (negligence))
- Indian company v Australian company (HKIAC, Hong Kong seat, Indian governing law, contract, enforcement)
- Enforcement of ICSID award (advisory role)

Commercial / General Litigation

- *Lendlease (Millers Point) Pty Ltd v Barangaroo Delivery Authority* [2018] NSWSC 1931 (contract, good faith)
- *Fussell v Deigan* (2018) 19 BPR 38,755 (property law, contract, specific performance, wills and estates, equity)
- *Canberra Greyhound Racing Club v Australian Capital Territory*, FCA (constitutional law, contract, leases)
- *Mineralogy Pty Ltd v Sino Iron Pty Ltd*, WASC (contract, indemnities, mining, environmental law, specific performance, trusts)
- *Campbell v Moretti*, FCA (bankruptcy, equity, property law, trusts)
- *Large v D'Jamirze*, NSWSC (contract, competition and consumer law, fiduciary duties, financial services, trusts)
- *Simpson v Thorn Australia Pty Ltd*, FCA (class action, competition and consumer law)
- *Kilburnie Cattle Co Pty Ltd v Clift* (2018) DCNSW (unled, contract, bailment)

Maritime / Insurance

- *Fin Abode Pty Ltd v The Ship "The Reef"* (2018) FCA (unled, admiralty jurisdiction, arrest, contract, competition and consumer law)
- *Port of Brisbane Pty Ltd v The Ship "Charles Darwin"*, FCA (admiralty, collision claims, contract, indemnities, tort (negligence))
- *DBCT Management Pty Ltd v McConnel Dowell Constructors & GeoSea Australia Pty Ltd Joint Venture*, FCA (admiralty, collision claims, tort (negligence))
- *Geodis Wilson Australia Pty Ltd v Austral Asia Line Pte Ltd* (2017), FCA (admiralty, carriage of goods by sea, bailment, contract, tort (negligence))
- *Sydney Perfect Storms Pty Ltd v Rextel Pty Ltd*, DCNSW (unled, contract, competition and consumer law, professional negligence)

[Selected cases \(as a solicitor or attorney\)](#)**Arbitration**

- *NTT Docomo v Tata Sons*, LCIA Arbitration (London seat, Indian governing law) (successfully obtained US\$1.25 billion award in favour of NTT Docomo for breach of shareholders agreement, including enforcement of the award in New Delhi, London and New York)
- *US Company v Chinese Company*, LCIA Arbitration (London seat, English governing law) (taxation and purchase price adjustments)
- *Power Plant v Electricity Distributor*, AAA Arbitration (Little Rock seat, New York governing law) (breach of contract)
- *Devas v Antrix*, ICC Arbitration (New Delhi seat, Indian governing law) (unlawful repudiation)
- *Devas v India*, UNCITRAL Arbitration (Mauritius-India Bilateral Investment Treaty, acting for investors)
- *Gambrinus v Venezuela*, ICSID Case No. ARB/11/31 (Barbados-Venezuela Bilateral Investment Treaty, acting for investors)

Litigation

- *TCL Air Conditioner (Zhongshan) Co Ltd v Castel Electronics Pty Ltd* (2013) 251 CLR 533 (constitutional law, international arbitration)
- *Bank of China v Ship "Hai Shi" (No 3)* [2013] FCA 660 (representing Admiralty Marshal)
- *Castel Electronics Pty Ltd v TCL Air Conditioner (Zhongshan) Co Ltd (No 2)* [2012] FCA 1214 (enforcement of arbitration award)
- *Atlasnavios Navegacao, LDA v The Ship "Xin Tai Hai" (No 2)* (2012) 215 FCR 265 (application to set aside arrest and forum non conveniens)
- *Atlasnavios Navegacao, LDA v The Ship "Xin Tai Hai"* (2012) 291 ALR 795 (anti-suit injunction)
- *State of New South Wales v Public Transport Ticketing Corporation* [2011] NSWCA 60 (public interest immunity – part of broader litigation concerning termination of contract)
- *Yueh-Lan Wang v New Mighty US Trust*, Case No. 12-7038, 2016 US App LEXIS 21878 (DC Cir., Dec. 9, 2016) (trusts, constitutional law and federal jurisdiction – part of a multi-jurisdictional trusts dispute involving Taiwan, Hong Kong, Bermuda and the US)