

Penny Thew

Solicitor 2000
Barrister 2005

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Penny has over 23 years experience in advocacy, advising and dispute resolution in all aspects of employment and discrimination law, appellate matters, contractual disputes, and restraints of trade.

She has been appointed as a part time Tribunal Member of the Consumer and Commercial Division of the NSW Civil and Administrative Tribunal since 2017.

Doyle's Guide has consistently ranked Penny as a recommended leading employment law junior counsel.

Penny regularly appears in the Federal Court of Australia, Federal Circuit and Family Court of Australia, Supreme Court of NSW, District Court, Fair Work Commission and the Industrial Relations Commission of NSW. She is admitted to appear in the High Court of Australia.

Penny is known for her responsiveness and strategic, client-focused approach to litigation.

APPOINTMENTS

- Tribunal Member, NSW Civil and Administrative Tribunal, 2017-present
- NSW Bar Association Bar News editorial committee, 2018-present
- NSW Bar Association Industrial, Employment, Health and Safety Committee, 2022-present
- NSW Bar Association Diversity and Equality Committee, 2013-2018

MEMBERSHIPS

- NSW Bar Association
- Chartered Institute of Arbitrators (CIArb)
- Australian Labour Law Association
- Women Lawyers Association of NSW

PROFESSIONAL RECOGNITION



Doyle's Guide, Leading
Employment Law
Junior Counsel - Recommended



Penny is a Member of the Chartered Institute of Arbitrators (CIArb), has performed a secondment with the International Labour Organisation in Geneva, Switzerland and has tutored in Civil Practice for the Law Faculty of the University of Technology, Sydney.

Penny is regularly called upon to deliver seminars and papers on employment and discrimination law compliance issues, including for the NSW Bar Association and the Law Society of NSW.

She has co-authored submissions for the Bar Association and the Law Council of Australia to the Productivity Commission, the Australian Human Rights Commission and to the Parliamentary Standing Committee on Legal and Constitutional Affairs.

Before being called to the Bar, Penny was a policy advisor to the Australian Sex Discrimination Commissioner for what is now the Australian Human Rights Commission, and practised as a solicitor in employment and workplace relations litigation for six years.

QUALIFICATIONS

- Bachelor of Arts and Bachelor of Laws (UNSW) 1999
- Masters of Labour Law and Relations (USyd) 2003
- Advanced Advocacy Course, University of Oxford (Keble College) as a representative of the NSW Bar Association 2008

SPECIALISATIONS

- Employment law, including general protections and statutory entitlements under the *Fair Work Act 2009* (Cth)
- Contractual disputes; restraints of trade
- Discrimination and human rights law
- Appellate
- Commercial law
- Wills and estates; trusts and equity

Select cases

- **Primerano v Schisan Investments Pty Ltd [2023] FedCFamC2G 667** (underpayment claim; claim that applicant was 'national system employee', s13, *Fair Work Act 2009* (Cth))
- **Waknin v Servcorp Administration Pty Ltd [2023] FedCFamC2G 634** (breach of general protections claim under *Fair Work Act 2009* (Cth))
- **Trindall v NSW Aboriginal Education Consultative Group Inc [2023] NSWSC 85** (urgent orders restraining Board meeting)
- **Sentiel Pty Ltd v THC Global Group Limited [2022] NSWDC 393** (breach of contract)
- **Blackwood v Northern Beaches Council [2022] NSWIRComm 1052** (unfair dismissal)
- **PIA Mortgage Services Pty Ltd v King [2020] FCAFC 15; (2020) 274 FCR 225; (2020) 292 IR 317** (appeals under general protections provisions of *Fair Work Act 2009* (Cth)); **King v PIA Mortgage Services Pty Ltd & Ors [2018] FCCA 3426** (led by Taylor SC; breach of general protections claim under *Fair Work Act 2009* (Cth) and Australian Consumer Law claim); **King v PIA Mortgage Services Pty Ltd & Ors (No 2) [2019] FCCA 1460** (penalties under *Fair Work Act 2009* (Cth))
- **Buchanan v Fire and Rescue NSW [2020] NSWIRComm 1019** (freedom from victimization)
- **El Ali v Royal & Ors; Zreika v Royal & Ors [2019] HCATrans 227** (led by Dr Birch SC; costs indemnity principle); **Zreika v Royal [2019] FCAFC 82; (2019) 271 FCR 65** (led by Dr Birch SC; dispositions of shares and assets); **Zreika v Royal (No 2) [2019] FCAFC 237; (2019) 141 ACSR 261** (led by Dr Birch SC; costs and consequential orders); **Royal v Nazloomian, in the matter of Royal [2019] FCA 555** (bankruptcy notice set aside)
- **Khanna v Bond Realty Pty Ltd [2019] NSWCA 128** (leave to appeal)
- **Clarke v Nursing and Midwifery Council of New South Wales & Ors (No.4) [2019] FCCA 3639; Clarke v Nursing and Midwifery Council of New South Wales & Ors (No.3) [2019] FCCA 3159; Clarke v Nursing and Midwifery Council of New South Wales & Ors (No.2) [2019] FCCA 3035** (dismissal of various breach of duty and consumer law applications; costs)
- **Johnston v Ainslie Football Club Limited (Discrimination) [2018] ACAT 104** (disability discrimination; 'gambling behaviours' alleged as a disability).
- **Mine Subsidence Board v Kozak [2017] NSWSC 421** (possession)
- **Curry v Curry [2017] NSWSC 461** (possession)
- **Hinder v The Salvation Army (NSW) Property Trust (No 3) [2017] NSWCATAD 16** (disability discrimination; 'gambling addiction' alleged as a disability).
- **Royal v El Ali [2016] FCA 782; Royal v El Ali (No 2) [2016] FCA 1156; Royal v El Ali (No 3) [2016] FCA 1573; Royal v El Ali (No 4) [2017] FCA 299** (led by Dr Birch SC; dispositions of shares and assets rendered void, consequential and costs orders); **Royal v El Ali; In the Matter of the Bankrupt Estate of El Ali [2014] FCA 834; Royal v El Ali, in the matter of the bankrupt estate of El Ali [2013] FCA 923; Royal v El Ali [2011] NSWSC 602**
- **Venn v Mine Subsidence Board [2013] NSWLEC 30** (appeal under *Mine Subsidence Compensation Act 1961* (NSW))
- **Neale v Mine Subsidence Board [2013] NSWLEC 34** (appeal under *Mine Subsidence Compensation Act 1961* (NSW))
- **McDonald v Parnell Laboratories (Aust) Pty Ltd (2007) 168 IR 375** (breach of *Sex Discrimination Act 1984* (Cth) and section 659(2)(f) of *Workplace Relations Act 1996* (Cth); breach of contract); **McDonald v Parnell Laboratories (Aust) (No 2) (2007) 164 FCR 591; 175 IR 251** (costs)

RECENT PUBLICATIONS

- Thew, with Hodgkinson AM SC, Shariff SC and Baroni "New prohibition against hostile workplace environments and a positive duty" [2023] (Autumn edition) NSWBarAssocNews 64.
- Thew "Addressing inequality: The impetus behind the Sex Discrimination and Fair Work (Respect at

Work) Amendment Act 2021 (Cth)" Volume 64, Issue 3 of Journal of Industrial Relations.

- Hogan-Doran SC and Thew "New accessorial liability for barristers under the Sex Discrimination Act 1984 (Cth) and fresh obligations under Bar Rule 123" [2022] (Winter edition) NSWBarAssocNews 62.
- "New accessorial liability for solicitors under the Sex Discrimination Act and fresh obligations under Conduct Rule 42" Law Society Journal, 6 May 2022.
- Birch SC, Thew and France, "Alienations of property with intent to defraud" [2020]LSJ (Issue 63) 88.
- Cheshire SC and Thew, "Meeting the challenges of the modern Bar; A Clerk's View" [2019]Bar News (Winter) 52.
- Corsaro SC and Thew, "Obtaining leave to appear - NSW Civil and Administrative Tribunal" [2019]Bar News (Winter) 71.
- Thew and Tronson, "What is the economic cost of discrimination?" [2019] (Autumn)Bar News 67.
- Thew and Taylor SC, "The Pursuit of Excellence: the Bar Association's Best Practice Guide-lines" [2016] (Spring) Bar News 51.
- Contributing author to *Australian Master Workplace Relations Guide*, CCH, 1st ed, 2006; 2nd ed, 2007; 3rd ed, 2008; 4th ed, 2009.
- Contributing editor of "*Discrimination in Education, Goods and Services*" in Australian and New Zealand Equal Opportunity Law, CCH loose-leaf service, 2009.
- Contributing author to Colvin, Watson and Burns, *The Workplace Relations Handbook: A Guide to the Workplace Relations Act 1996* (Cth), 2nd ed, Butterworths, 2004.