

Jane Needham SC



New South Wales Bar

Admitted: 3 August 1990
Senior Counsel: 29 September 2004
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Other jurisdictions: Supreme Court of Samoa, High Court of Fiji

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Professional Appointments:

1991-1993, 1996 UTS: Lecturer in Law (Succession, Pleadings, Land Law)
1994-2015 Elected to Council of the NSW Bar Association
2002-2011 Judicial Member, Administrative Decisions Tribunal
2005-2011 Deputy President and Head of Revenue Division, Administrative Decisions Tribunal
2012-2014 Vice-President, NSW Bar Association
2014-2015 President, NSW Bar Association
2018-2020 NSW Bar Association "Advocate for Change"
2019 Patron, NSW Young Lawyers

Life member of NSW Bar Association (2015) and NSW Women Lawyers (2019)

Awards and Recognition

2013 Lawyers Weekly "Senior Barrister of the Year"
2014 Westpac/Fairfax "100 Women of Influence"
2015 NSW Women Lawyers "Barrister of the Year"
UTS Faculty of Law "Alumni Award for Excellence"
Doyle's Guide "Leading Estate Litigation Barrister"
2016 Lawyers Weekly "Women in Law Barrister of the Year"
2016-9 Doyle's Guide listings for Estate Litigation – currently "Pre-eminent Estate Litigation Barrister"

Areas of Practice

Succession (including probate, family provision, and estate planning); equity and trusts, including charitable trusts; appellate advocacy; administrative law (including environmental law); revenue; inquiries, commissions, and inquests.

Succession law

Jane is one of Australia's leading lawyers in this area and has worked nationally and internationally in estate matters. She has lectured at UTS and has given numerous CPD lectures in succession and is briefed by a wide range of firms, from single-lawyer suburban firms through to international law practices. Jane has advised a number of institutions on charitable trusts. She is often asked to advise on estate planning issues, particularly for high net worth individuals, and has an interest in pre-death resolution of succession disputes. She often appears with clients in mediations and has acted as a mediator in succession disputes.

Notable Cases

- *re MP's Statutory Will* [2019] NSWSC 491 – appeared for financial managers of a protected person in relation to her statutory will
- *Estate of Nicholas Paul Enright* [2017] NSWSC 1646 – the meaning of the term “literary executor”
- *Mead v Lemon; Estate of Michael Wright* [2015] WASC 71; [2017] WASCA 215; [2018] HCATrans 152 – largest family provision case in Australia at that time (\$1B)
- *Estate of Nicholas Paul Enright* [2017] NSWSC 1646 – what is a “literary executor”?
- *Abraham v Magistrate Stone, Deputy State Coroner* [2017] NSWSC 1684 – right to burial and construction of the *Coroners Act* 2009 (NSW)
- *Re Estate Sue* [2016] NSWSC 721 – probate case involving delusionary disorder and testamentary capacity
- *Fairbrother v Fairbrother* [2013] NSWSC 461 – insurance and notional estate in family provision
- *Raffe v Raffe* - estate administration involving issues of will construction and judicial advice, High Court of Fiji (2016)
- *Fuimaono v Public Trustee of Samoa* – estate administration involving issues of family descent, Supreme Court of Samoa (2016) and on appeal (2018)

Publications

- (with Pamela Suttor); *Private International Law Problems in Succession* (2013) ALJ 620
- *Beyond Bleak House* [2017] (Spring) Bar News 49

Equity and trusts

Many of Jane's cases are applications for judicial advice or direction, or disputes arising out of family trusts. Many are resolved or do not result in a publicly available decision.

Notable Cases

- *Application of Eurolinx Holdings Pty Ltd* [2017] NSWSC 1306 – judicial advice to a trustee in a complex commercial and family dispute arising out of administration of an estate with private international law aspects (main case to be heard in 2019)

- *Application of Clauson* [2017] NSWSC 1265; (2017) 325 FLR 76 – judicial advice relating to complex administration of an insolvent estate and the treatment of life insurance policy proceeds as protected funds
- *Balcomb v Brownlee* [2015] NSWSC 361 – interpretation of contracts
- *College of Law Pty Ltd v Attorney General of NSW* [2009] NSWSC 1474 – appeared for Attorney-General on administrative scheme regarding charitable trust.

Commercial matters

Jane's commercial practice crosses over with her Equity and Trusts expertise. She is currently briefed in a significant commercial matter for executors and trustees of a large estate which is listed for 5 weeks in early 2020. Her commercial work is enhanced by her broad experience across the field of statutory construction, contract, trusts, and estates.

Administrative Law, Environmental Law, and Revenue

Jane practices mainly in the areas of public housing matters (appearing for pro bono or legally aided clients) or for the Chief Commissioner of State Revenue and is also briefed in Land and Environment Court cases. She was the Divisional Head of the Revenue Division of the ADT for six years 2005-2011.

Notable Cases

- *Pasminco Cockle Creek Smelter Pty Ltd v Minister for Planning* [2018] NSWLEC 130 – modifications to a project approval and construction of transitional provisions of the *Environmental Planning and Assessment Act 1979* (NSW)
- *New South Wales Land and Housing Corporation v Diab* [2015] NSWCA 133 – statutory construction in context of meaning of “arrear of rent”
- *No Ship Action Group v. Minister for Sustainability etc & State of New South Wales* [2010] AATA 702 – appeared for the State of NSW on a matter involving a review of a Federal ministerial decision and complex issues in marine environmental law

Inquiries and Inquests

Jane has been briefed in Commissions of Inquiry which require a great deal of nuance and dealing with complex issues, particularly in inquiries involving persons who are bereaved or have survived child sexual abuse. She is briefed as Counsel Assisting in a significant inquest to be heard in 2020, and for a large institution in the Royal Commission into Aged Care Quality and Services. Jane has also conducted inquiries for political or not-for-profit bodies, and for which are generally confidential reports.

Notable appearances

- appearing for a person of interest in the *Special Commission into Child Sexual Abuse in the Maitland-Newcastle Diocese* (the Cunneen inquiry) - 2013
- appearing for the Truth, Justice and Healing Council (Catholic Church) in numerous case studies across Australia in the *Royal Commission into Institutional Responses to Child Sexual Abuse* - 2013-2017
- appearing for Bupa in the *Royal Commission into Aged Care Quality and Services* 2018-9
- for the NSW Police Force in *Inquest into the Death of Officer A*, 18 December 2015; *Inquest into the Death of Ashley Newton Bryant*, 17 October 2017, and *Inquest into the Death of Bryson Anderson*, 19 June 2018.

Mediations

Jane was awarded the Practitioner's Certificate in Mediation from IAMA in 2009 and appointed to NSW Supreme Court panel of mediators for two years 2010-2012. She both appears in, and conducts, mediations, and is briefed by the State Crown and various NSW Government departments to mediate in highly complex or confidential mediations.

Speaking roles

Jane is often asked to speak at conferences. In 2017-8 she has appeared on panels at the Australian Women Lawyers bi-annual conference and at the Environmental Law and Planning Association conference on lawyers and social media; on succession issues at (inter alia) the College of Law CPD day in March 2018 and at the Blue Mountains Succession Law conference in September 2018; and on inclusion and diversity in the legal profession at the ABA conference in 2017 in London and Dublin. She also speaks on topics such as professional development and flexible practice for the NSW Bar.

In 2019 she has participated or will participate in conferences including:-

- Year 101 – Women in Law lunch
- Australian Bar Association conference in Singapore
- NSW Young Lawyers Mid-Term Assembly as keynote speaker
- Society of Trust and Estate Practitioners in October 2019
- Paris CLE in January 2020

Please contact needham.pa@stjames.net.au in the first instance to discuss speaking roles.