Dr Gillian Dempsey
Barrister
0407 466 006
gdempsey@qldbar.asn.au

Denning Chambers
Level 12 Hitachi
239 George Street
Brisbane QLD 4000

Dr Gillian Dempsey

Call

1999	**Barrister** Supreme Courts of Queensland, New South Wales and the ACT High Court of Australia

Qualifications

1998	**Doctor of Philosophy** The Australian National University (ANU) *Nominated for JG Crawford Prize for best doctoral thesis*
1996	**Graduate Diploma in Education (University Teaching)** (ANU)
1994	**Bachelor of Laws** with ***first class honours*** (ANU) *Various subject prizes including Blackburn Medal for Scholarship in Law and the Freehill Hollingdale & Page Award for Commercial Studies*

Appointments

2025–2026	Director, Electronic Frontiers Australia
2024	Professor, MIT Sloan School of Management & QUT Business School Convenor – Intellectual Property Strategy and Management (Executive MBA)
2004	Visiting Professor, Faculty of Law, University of Cambridge
2000	Visiting Professor, College of Law, Arizona State University
2000	Distinguished Visiting Professor, Faculty of Law, University of Toronto
1999-2004	Senior Lecturer, TC Beirne School of Law, University of Queensland
1993-1999	Associate Lecturer, Lecturer, Department of Commerce, ANU; Graduate Sub-Dean, Lecturer, Faculty of Law, ANU

Bar practice

Key areas	Appellate & Constitutional
	Corporations, Bankruptcy & Insolvency
	Defamation & Media
	Intellectual property
	Trade & Commerce, Competition

More than 25 years trial and appellate experience, regularly appearing unled against King's/Senior Counsel, predominantly in the Federal Court of Australia, Supreme Courts of Queensland, NSW and the ACT. Experienced in eCourt trials and appeals and on Commercial and Corporations Lists.

Exemplary cross-examination skills, with particular expertise in public examinations acting for liquidators and challenging the credit of lay and expert witnesses from various disciplines.

Notable cases

Appellate & Constitutional

Regularly briefed in appeals before the Full Federal Court and appeared in several High Court matters (both unled against silk and led by Walker SC). Experienced in Constitutional matters including Parliamentary Privilege and the scope of powers of Commonwealth agencies.

- *Alford v Parliamentary Joint Committee on Corp and Financial Services* (2018) 264 CLR 289 – Parliamentary privilege – coercive powers of the Senate and its committees, unled against del Villar (now KC), and Attorney-General for the Commonwealth (Free SC) intervening
- *Commissioner of Australian Federal Police v Hart* (2018) 262 CLR 76, High Court appeal from (2016) 336 ALR 492; [2016] QCA 284 – federal Proceeds of Crime legislation, led by Walker SC, Attorney-General for the Commonwealth (Donaghue S-G QC) intervening

Notable appeals listed by practice area below.

Corporations, Bankruptcy & Insolvency

Regularly retained by liquidators to conduct public examinations and otherwise to advise on questions arising in winding up, including judicial directions and supervision.

Retained for ASIC-funded public examination for bankruptcy trusteesrecovering assets and unwinding voidable transactions including electronic discovery, real property and identity theft.

- *Barnden (Trustee), in the matter of Ross (Bankrupt) v Macedo (No 2)* [2026] FCA 8 – application by bankruptcy trustee for *ex parte* freezing orders against mortgagee
- *Chen v College of Building Ltd* [2015] ACTSC 19 – service of statutory demand
- *Highup Pty Ltd (in liq) v Gubas* (2014) 226 FCR 541; [2014] FCA 1170 – s 588FF voidable and uncommercial transactions
- *Cal Consulting Pty Ltd (in liq) v Lloyd* [2013] FCA 1192 – approval of compromise of proceedings brought by liquidators pursuant to ss 477 and 511 of the *Corporations Act*
- *Gosford Christian School Ltd v Totonjian* (2006) 201 FLR 424; [2006] NSWSC 725 – validity of corporate resolutions, proper construction of constitution, exercise of powers under s 250D and effect of s 249B

Defamation, including by social media

Leading junior in defamation, regularly briefed to advise in relation to current and former Federal and State politicians and other public figures. Most defamation claims are (sensibly) resolved using the machinery of concerns notices and offers to make amends. As a plaintiff the most important part of defamation is trying to keep it ***out*** of the news cycle. As a defendant, often with no feasible defences, is to settle as soon as possible, preferably ***before*** any concerns notices.

Expertise on defamation using social media including Facebook, Twitter/X, TikTok and Youtube.

- *Leyonhjelm v Hanson-Young* (2021) 282 FCR 341; [2021] FCAFC 22 – malice, qualified privilege, Parliamentary privilege, implied freedoms; High Court special leave application
- *Alford v Fairfax Media Publications Pty Ltd & Ors*; *Alford v Fraser & Ors* – Federal Court claims against Sydney Morning Herald for series of articles about Retail Food Group (settled)
- *Crosby v Kelly* (2012) 203 FCR 451; [2012] FCAFC 96 – established the jurisdiction of the Federal Court for hearing defamation claims; unled before Full Court and in High Court special leave hearing against McClintock SC, with the Attorneys-General for the Commonwealth (Howe QC), ACT (Garrison) and Northern Territory (Grant QC) intervening

Intellectual Property

Expertise in software copyright and other digital artefacts, including doctoral thesis *"Knowledge and Innovation in Intellectual Property: The Case of Computer Program Copyright"*. Experienced in appearing before IP Australia registrar disputes and appeals and Federal Court proceedings. Equitable remedies including passing off, breach of confidence and fiduciary duty. My article on fiduciary duties in *Australian Bar Review* approved by the Full Federal Court and the NSW Court of Appeal.

- *Watson as Trustee for Watson Family Trust v Lush Australasia Retail Pty Ltd* (Federal Court, current) – claim for trade mark infringement by sale of Lush of "knot wraps", cross-claim for removal or cancellation of trade mark, non-use, ownership, honest concurrent use, good faith
- *Watson as Trustee for Watson Family Trust v Cosmetic Warriors Ltd* (2022) 167 IPR 494; [2022] FCA 700, appeal from trade mark removal proceedings (2020) 156 IPR 126; [2020] ATMO 29 – alleged non-use of "Lush" clothing mark, challenges to ownership
- *Jewelscan Pty Ltd v Phenix Jewellery Pty Ltd* (2012) 98 IPR 487; [2012] ATMO 85 – trade mark opposition, bad faith, ownership
- *Rimmington v Zen Do Kai Pty Ltd* (2002) 57 IPR 127; [2002] ATMO 114 – trade mark opposition proceedings, whether mark "Zen Do Kai" distinguishes Karate

Trade & Commerce, Competition

Experienced in conducting trials and appeals in trading and commercial disputes, particularly misleading conduct claims and consumer protection provisions of the *Australian Consumer Law*, competition law under Part IV of the *Competition and Consumer Act 2010* (Cth), as well as equitable remedies involving breaches of fiduciary duties by directors and trustees.

- *Fletcher* v *Nextra Australia Pty Ltd* [2015] FCAFC 52, appeal from [2014] FCA 399 – online blog article by director and co-owner of rival newsagency franchise group, whether publication of article on the blog was conduct in trade or commerce, whether misleading or deceptive or matters of opinion
- *Walsh v Walsh* [2012] NSWCA 57, appeal from [2011] NSWSC 271 – equitable estoppel and implied terms in relation to shares and associated water rights
- *Madison Constructions Pty Ltd v Empire Building Group (ACT) Pty Ltd* (2012) 201 FCR 226 – misleading and deceptive conduct, passing off, injunction principles
- *Londy v Van Nieuwburg* [2014] QSC 290 – strike out of pleadings of claims for breaches of fiduciary duties by trustee de son tort and tracing under first limb of Barnes v Addy
- *ACCC v TF Woolam & Son Pty Ltd* (2011) 196 FCR 212; [2011] FCA 973, *ACCC v TF Woollam & Sons Pty Ltd (No 2)* [2011] FCA 1216 – Part IV civil penalty proceedings alleging collusive tendering practices in the Queensland building industry (led by Lilley SC)
- *Khoury v Sidhu* [2011] FCAFC 71 – whether a claim brought under the former s 87 of the *Trade Practices Act 1974* was an apportionable claim; the Full Federal Court failed to decide the question, but my appeal point was later upheld: [2014] FCAFC 65
- *White v Douglas Ian Stewart Financial Services Pty Ltd* [2011] QSC 81 – misleading conduct by investment advisor, proper construction of joint venture agreement, accessory liability
- *Ruaro v Holcomm Marine Pty Ltd* [2008] FCAFC 174 (led by Applegarth SC) – appeal from *Ruaro v Ferrari* [2007] FCA 2022 (unled) – implied terms under s 74 *Trade Practices Act*, proper construction of mooring agreement, misleading conduct, negligence

Selected publications

Books

Kobetsky, M., Dirkis, M., O'Connell, A., Dempsey, G and Krever, R., (2002) ***Income Tax: Text Materials and Essential Cases***, 3rd Edition, Federation Press

Grabosky, P., Dempsey, G.C. and Smith, R.G. (2001) ***Electronic Theft: Unlawful Acquisition in Cyberspace*** Cambridge University Press, reprinted 2010.

Journal Articles

Cappa, C. and Dempsey, G.C. (2004) "Moving Far from the Familiar Coastline: Proposed Amendments to the *Trade Practices Act* and Damages for Mental Injury", ***Tort Law Review***, Vol. 12, pp. 71-84.

Dempsey, G.C. and Greinke, A.J. (2004) "Proscriptive Fiduciary Duties in Australia" ***Australian Bar Review***, Vol. 25, No. 1, pp. 1-13.

- Article cited with approval by Full Federal Court in *Expectation Pty Ltd v PRD Realty Pty Ltd* (2004) 140 FCR 17 and by NSW Court of Appeal in *Brown v NSW* [2008] NSWCA 287

Clarke, R.A. and Dempsey, G.C. (2001) "The Technical Feasibility of Regulating Gambling on the Internet" ***Managerial and Decision Economics***, Vol. 22, pp 125-132.

Dempsey, G.C. (1999) "Industrial Espionage: Criminal or Civil Remedies" ***Trends and Issues in Crime and Criminal Justice***, No.106, Australian Institute of Criminology, Canberra (refereed paper series).

Dempsey, G.C. (1999) "Revisiting Intellectual Property Policy: Information Economics for the Information Age" ***Prometheus***, Vol. 17, No. 1, pp. 33-40.

Dempsey, G.C. (1997) "Socio-Legal Research and Insider Trading in Australia - A Rejoinder" ***Australia and New Zealand Journal of Criminology*** Vol. 30, No. 2, pp. 1 - 4.

Dempsey, G.C. (1996) "Socio-Legal Research and Insider Trading in Australia" ***Australia and New Zealand Journal of Criminology*** Vol. 29, No. 3, pp. 265 - 275.

Dempsey, G.C. (1995) "Evolution of Copyright Protection for Computer Programs in Australia" ***Law and Policy*** Vol. 17, No. 3, pp. 282 - 309.