

**KIRSTEN EDWARDS SC**  
**CURRICULUM VITAE**

**CHAMBERS DETAILS**

Forbes Chambers  
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**ADMISSION**

Legal Practitioner (Supreme Court of NSW) and High Court roll: June 1999

Called to the bar (NSW): May 2009

Senior Counsel: October 2023

Areas of practice: Criminal Law (including appellate, corporate), Coronial Inquests, Commissions of Inquiry and Disciplinary Tribunals

**TEACHING POSITIONS**

Adjunct Associate Professor, School of Law, Law Faculty University of New South Wales teaching Essential Advocate as lecturer and guest lecturer 2009-2013, 2016, 2019, 2021, 2023, 2024

Occasional lecturer in evidence, Sydney University Law Faculty, 2009-2012

Senior Lecturer UTS, Equity & Trusts and Evidence, UTS Law School, 1998-2006

**EDUCATION**

***LLM (Masters in Law), 2000***  
**Yale Law School, New Haven, Connecticut**

- Fulbright Scholarship
- Yale Tuition Scholarship
- Supervisor and lawyer Yale Law Clinic (outreach at soup kitchens, homeless shelters)
- Tutor in Law, Graduate Program

***LLB (Hons) (Bachelor of Laws), 1997***  
**Australian National University, Canberra, Australia**

- First Class Honours

***BA (Bachelor of Arts), Major: Political Science, 1994***  
**Australian National University, Canberra Australia**

Editor campus newspaper *Woroni*, World Debating Championships in Cork Ireland, intern Shadow Attorney-General

**HIGH COURT ASSOCIATE**

**Associate to Justice Michael Kirby**  
**High Court of Australia 1997-1998**

Responsibilities included legal research, analysis and drafting memoranda; liaising with counsel, other judges and professional bodies; providing assistance during court hearings; and research for numerous speeches, articles and media engagements.

## EXPERIENCE AT THE BAR

### *Barrister*

#### **Forbes Chambers**

**May 2009-**

*Criminal law - prosecution:* I conduct prosecutions for regulatory bodies in the Local Court and appear in Supreme Court and District Court appeals. I have appeared for the Department of Industry, Trade and Investment/DPI, the Casino Control Authority, the Office of State Revenue, the RTA/RMS, the Department of Health, NSW Police Force, DOCs/FACs and the Department of Liquor Licensing. I have appeared in the Local, District and Supreme Court in relation to claims of Public Interest Immunity. I have also appeared for the Department of Corrective Services before the Parole Board and the Serious Offenders Review Board.

*Criminal law - defence:* I appear on behalf of accused persons in a range of criminal matters including contested summary hearings, committal hearings, Local and District Court sentences and appeals, AVOs, forensic procedure applications, and parole hearings. I have conducted District Court trials unled, including complex trials involving serious child sexual offences. I was junior counsel for *Harriet Wran* in the Supreme Court (initially charged with murder) and have performed limited specialist roles (for example submissions relating to DNA evidence or privilege) in other Supreme Court murder matters including *Keli Lane*, *Robert Xie* and *Ron Medich*.

I also appear in the CCA and High Court. I am on the Legal Aid specialist panel for Criminal Appellate matters (High Court and CCA). I have appeared as junior counsel in the High Court in a number of special leave applications (including *R v Coulter* and *R v Norman*) and in full argument in the High Court in *R v Forbes* (with Peter Hastings QC), *R v Aytugrul* (with Stephen Odgers SC), *R v IMM* (with Stephen Odgers SC), *R v Hughes* (with Phillip Boulten SC) *R v Grech and Kadir* (with Tim Game SC), *Deputy Commissioner Taxation v Shi* (with Tim Game SC), *Dansie v The Queen* (with Tim Game SC), *Mitchell, Rigney & Carver* (with Tim Game SC) and *BA v The Queen* (with Stephen Odgers SC).

*Quasi crime and corporate matters:* My corporate clients have included several major Australian banks, large multi-national companies and large Australian companies. I also appear for clients in compulsory examinations conducted by the ACCC and ASIC and on an advisory basis in a range of matters involving the application of the Commonwealth Criminal Code and principles of corporate responsibility. I also appear for both prosecution and defence in environmental prosecutions and Work Cover and O&HS prosecutions (individuals and corporations).

*Coronial inquests:* I have appeared extensively as counsel assisting the Coroner in coronial inquests in matters ranging from deaths in hospitals and psychiatric facilities, deaths in sporting contexts, deaths in the course of police pursuits and police operations, deaths arising from 'assisted' drug overdoses, unsolved homicides and missing persons. I have also appeared as counsel for Hospitals/Health Districts, government departments (Family and Community Services, Office of Sport, NSW Fire and Rescue, SES), medical professionals, corporations, family members and persons of interest. Complex and high-profile inquests include the deaths of Private Jake Kovco, Constable Bill Crews, Paul Lau, Kate Malonyay, Paul Lambert, the disappearance of Trudy Adams, the disappearance of Theo Hayez and death of Alex Braes.

*Commissions, Tribunals, Inquiries:* I was Senior Counsel assisting the Conduct Division of the NSW Judicial Commission in referrals relating Judge Peter Whitford SC (2024) and junior counsel re Magistrate Maloney (2009-2010) and Magistrate Burns (2018-2019). I appeared for the ACT Victims of Crime Commissioner in the 'Sofronoff Inquiry' in relation to the ACT Criminal Justice system. I appeared (unled) in the ICAC in the inquiry into Gladys Berejiklian (Operation Keppel) and two inquiries relating to Ian McDonald and Eddie Obeid (Operations Jasper and Acacia). I advise and appear in applications for prerogative relief in the Supreme Court for the Attorney-General, the Legal Aid Commission, NSW Police Force and a range of regulatory agencies. I have appeared for the Bar Council of the NSW Bar Association in NCAT in misconduct proceedings relating to a barrister and in NCAT for the NSW Veterinary Board.

## Examples of significant cases:

*R v Alzuain* 2024, week long appeal against murder convictions for seven men in SA Court of Criminal Appeal (Kourakis CJ, Livesey P, Bleby JA), issues included stay of proceedings for promised informer payments, joint criminal enterprise and identification evidence. I addressed the Court on the appeal grounds relating to identification evidence (judgement reserved).

Conduct Division of Judicial Commission of NSW, Senior Counsel Assisting (with E Bathurst) in inquiry relating to Judge Peter Whitford SC.

*Mitchell, Carver, Rigney, Tengooopen v King* [2023] HCA 5, 276 CLR 299 this High Court matter involved a complex analysis and articulation of the interaction between common law principles of joint liability and extended joint liability and criminal law statutory provisions. Led by Tim Game SC and Kris Handshin KC.

*Arizabaleta v The King*, [2023] NSWCCA 217 (Leeming JA, Rothman J, McNaughten J) an unusual CCA conviction appeal involving a plea of guilty to one charge of sexual assault and a conviction appeal in relation to two other counts, 1 May 2023 (special leave application reserved).

Counsel (alternating with T Game SC and P Dwyer SC) for Commissioner Heidi Yates in the ACT Board of Inquiry into Criminal Justice Agencies (“the Sofronoff inquiry”), Canberra 24 – 26 May 2023; 1 June 2023.

*BA v The Queen* [2023] HCA 14 High Court matter involving an analysis of the intersection between real property law, criminal law and the *Residential Tenancies Act (2010)* (NSW). I was led by Stephen Odgers SC and led Eleanor Jones.

*Rolfe v The Territory Coroner & Ors* [2023] NTCA 8, Counsel for NT AG (led by T Game SC but speaking role), appeal to the NT Court of Appeal in relation to the availability of penalty privilege as a ground of objection to questioning in the NT Coroners Court. My speaking role addressed the principle of legality and the development of penalty privilege and self-incrimination in case law, 11 April 2023

*Harlovich v Chapman, Sebbens v Chapman* (with Jonathan Cooper), [2023] ACTSCFC (Baker J, Abraham J, McWilliam J) referral from ACT Supreme Court to the Full Court in relation to the application, if any, of the “residual discretion” to all prosecution sentencing appeals from the Local Court to the Supreme Court pursuant to s219F of the *Magistrates Court Act 1930 (ACT)*.

*YM v R* [2023] NSWCCA 75, (Kirk JA, Walton and Sweeney JJ), successful CCA severity appeal (four grounds) in relation to an alleged principal of a dark web drug enterprise.

*Dansie v Queen* [2022] HCA 25; 274 CLR 651 in which the High Court examined the development of the test for unsafe verdicts in common law appeal provisions, including a detailed analysis of divergent approaches in the High Court until *M v The Queen*. Led by Tim Game SC and Kris Handshin KC.

*Police v Houston* 2022-2023 (led by Phillip Boulten SC) successful defence of charge of conceal serious indictable offence against Hillsong Church founder Brian Houston.

*R v Grech and Kadir* [2020] HCA 1 (led by Tim Game SC and with Kate Lindemann) appeal in the High Court in relation to admissibility of illegally obtained evidence and standard of review for interlocutory prosecution appeals.

*R v Judicial Commission of NSW, Conduct Division proceedings re Magistrate Burns* (led by Kristina Stern SC with Louise Coleman)(2018-2019) involved 17 complaints relating to a Local Court Magistrate.

*R v Robert Scoble* [2019] NSWDC 255 (unled) successful defence of highly regarded biographer charged with possession of child abuse material in relation to artistic images purchased in the course of research for a biography.

Counsel Assisting the Coroner (unled matters) including: *Inquest Theo Hayes* (missing Belgian backpacker in Byron Bay, international investigation and obstacles in missing persons cases), *Inquest Alex Braes* (with Emma Sullivan) complex medical evidence, death of 18 year old boy after in Broken Hill after infection in toenail

(2020), *Inquest Paul Lambert*, police shooting after attempted murder of Dr Angela Jay (2018), *Inquest Ezekiel Howard*, complex medical, sudden death of 10 year old child and *Inquest Kate Malonyay* murder of former domestic partner and suicide (received commendation from Attorney-General)(2014).

*R v Robert Hughes* [2017] HCA 20 (led by Phillip Boulten SC), appeal in the High Court in relation to admissibility of tendency evidence in sexual assault trial involving 5 complainants, explored conflict between Victorian and NSW approaches to s97 *Evidence Act*, Victorian DPP intervening.

*R v Harriet Wran* [2016] NSWSC 1015 (led by Phillip Boulten SC), trial on a charge of constructive murder, included separate trial application, judge alone application, plea negotiations and sentence hearing and submissions and parole submissions, concluded July 2016.

*R v IMM* [2016] HCA 14 (led by Stephen Odgers SC) appeal in the High Court from sexual assault conviction in Northern Territory, explored meaning of “probative value” in ss97 and 137 and conflict between NSW and Victorian Court of Appeal, *Evidence Act*, February 2016.

*Re David, Alan and Mary and the Director General Family and Community Services* [2014] 1 NSWSC 1077, Counsel for Department of Family and Community Services (unled), Equity Division, Supreme Court, defending application for injunctive relief to prevent disclosure of evidence of sexual offence, explored application of s316 *Crimes Act* to government agencies and interaction with principles of confidence in Equity,

*EPA v Orica Australia* [2014] NSWLEC 106, [2014] NSWLEC 104, [2014] NSWLEC 107, [2014] NSWLEC 105, [2014] NSWLEC 109, [2014] NSWLEC 110, [2014] NSWLEC 103 (led by Tim Game SC and Dean Jordan SC) sentence submissions for the defence in 7 class 5 prosecutions before Pepper J in the Land and Environment Court.

*ICAC Inquiries*: Inquiry re Gladys Berejiklian (unled) for Nigel Blunden 2021 (Keppel); counsel (unled) for Dr Richard Sheldrake Director-General Department of Primary Industries, inquiry involved the grant of mining licenses in NSW and led to prosecutions of Ian MacDonald and Eddie Obeid, 2012-2013.

## EXPERIENCE BEFORE THE BAR

### ***Solicitor Advocate (Criminal and Inquiries team)***

**Crown Solicitor's Office of NSW**

**December 2006 – May 2009**

**Responsibilities:** Full time specialist advocacy position including appearing as Counsel Assisting the Coroner in numerous inquests, appearing on behalf of state agencies in Supreme Court criminal appeals, urgent and interlocutory applications (criminal) in the Supreme Court, appearing for prosecutors in District Court in all ground and severity appeals, conducting defended summary prosecutions in the Local Court and conducting contested Apprehended Violence Order hearings in the Local Court and appeals from AVOs in the District Court.

### ***Duty Solicitor***

**Children's Legal Service**

**Legal Aid Commission**

**June 2006 – December 2006**

**Responsibilities:** Duty work at Bidura and Parramatta Children's Court including defended summary hearings, bail applications, sentencing submissions for summary and indictable offences, preparation of committal matters, severity appeals in the District Court, instructing counsel in serious children's indictable matters, representing children in the Youth Drug and Alcohol court and providing urgent legal advice to children on Legal Aid after hours hotline.

### ***Duty Solicitor***

**Legal Aid Commission, Parramatta**

Full time June 2003-March 2004, Part-time (while lecturing) (5 days a fortnight) March 2004-February 2005,

**Responsibilities:** Conducting defended hearings in the Local Court at Parramatta and Ryde and daily court duty work including representing clients at MERIT court, appearing in bail applications in the Local and

District Courts, sentence submissions in the Local Court and severity and all ground appeals in the District Court.

***Senior Lecturer in Law***

**Law Faculty of University Technology Sydney (UTS)**

**February 1998- June 2006**

**Responsibilities:** Senior Lecturer and course co-ordinator in Evidence and Equity. I also lectured in Criminal Law, Advanced Criminal Law and Advocacy: a course in the Practical Leading Program.

My academic specialty was DNA evidence including writing journal articles, delivering numerous presentations to professional bodies (see below) and completing a practical forensic scientist's course in DNA analysis including extracting and analysing DNA in a laboratory.

In 2005 I undertook a six month sabbatical working with prisoners from Louisiana, Florida and Mississippi on death row or "life without parole" with claims of innocence based on DNA evidence. Work included interviewing potential clients and screening cases at Angola and Parchman prison farms; interviewing witnesses, searching for DNA evidence; analysing DNA results; drafting legal motions, legal research and analysis; assisting in court hearings and developing investigation plans.

***UTS Innocence Project***

**2001-2005**

In 2001 founded the Innocence Project, a clinical legal education program. Students screened applicants and assessed if cases had the potential to furnish fresh evidence that could generate a review of their convictions. Strong cases were referred to the post-conviction review unit at Legal Aid and students continued work under the supervision of legal aid solicitors. I supervised the students in their casework and file management.

***Lawyer and supervisor of law interns***

**Yale Law School Clinic**

**1999-2001**

Work at the clinic included court appearances in the care jurisdiction of the Family Court, conducting welfare benefit appeals in the Local Court, being on the defence team in a death penalty case, taking depositions, negotiating with government departments, client representation and conducting legal intake clinics at homeless shelters and soup kitchens.

***Volunteer Lawyer***

**Shopfront Youth Legal Centre**

**1998-1996**

Volunteer lawyer in various capacities since 1998. From January – June 2006 worked one day each week, appearing in Local Court matters and a week long Coronial inquest. Other work included conducting a weekly outreach clinic at the Oasis homeless shelter (from 2002-2004), writing letters of representations in criminal matters, legal submissions, conducting legal research and providing advice.

***Summer Clerk***

**Deacons Lawyers**

**1994-1995**

**PUBLICATIONS**

**Student text book**

*Essential Equity and Trusts*, Oxford University Press, 2000, second edition 2007

**Journal articles**

"Cold Hit Complacency: the dangers of DNA databases re-examined" *Current Issues in Criminal Justice* 2006

"10 Things Lawyers Should Know about DNA Contamination and Lab Error" *Criminal Law Journal* 2005

"The Fusion Fallacy: Digital Pulse v Harris" *Cavendish Student Review* 2003

"Found: The Lost Lawyer" *Fordham Law Review* (2001)

"Soliciting: What's the go?" *Alternative Law Journal* (1999)

**Presentations include:**

- The uptake of science by the courts: are the science and justice systems keeping pace? Australian Academy of Science and Australia Academy of Law Joint Symposium, Shine Dome Canberra, 25 November 2024
- Recent developments in therapeutic jurisprudence (with Emma Sullivan) *Asia-Pacific Coroners Society Conference*, Sorry Business, Uluru, Voyages, 4 September 2024
- Contemporary Challenges in Complicity and Attribution, Criminal Law Conference 2024 Saturday, 16 March 2024
- Penalty Privilege, *Asia-Pacific Coroners Society Conference*, Truth Telling, Taronga Zoo Sydney, 14 November 2023.
- "Obligations to the Court" with Judge Miiko Kumar and Sharyn Hall SC, Environmental and Planning Law Association NSW Conference, Sydney, 10 November 2023.
- Chair, "Issues for Advocates in the Coronial Jurisdiction" with State Coroner O'Sullivan and Adjunct Professor Dillon, Bar Association CPD, 2 August 2023.
- *Kadir & Grech*, UNSW Law Faculty, "The Criminal Trial" Professor Jill Hunter, guest lecture with Helen Roberts SC, 19 September 2023.
- "Advocacy Tips and Tricks for Appearing in Inquests and Inquiries" with Kristina Stern SC, Donna Ward, Jason Downing and Hugh Dillon, Bar Association CPD, February 25 2021.
- Staff seminar Crown Solicitors Office, "the Role of Counsel Assisting in an Inquest" 5 November 2021.
- "The Professor's Mistake: podcasts and hearsay evidence in real life", (with Emma Sullivan and James Herrington) Criminal Law Association of Northern Territory Conference, Sanur Bali, June 2019.
- "Hearsay Explained including recent High Court cases *Bauer*, *Sio* and *IMM*", Crown Solicitors Office Client Seminar Series, (with Belinda Baker, Crown Prosecutor), May 2018.
- Early Appropriate Guilty Pleas and Criminal Justice Law Reform, UNSW Law Faculty, "the Criminal Trial" (with Professor Jill Hunter), 27 March 2017.
- "Advocacy in Inquests and Inquiries", NSW Bar Association Regional CPD, Orange, 17 March 2018.
- Inquest Hypothetical, Crown Solicitor's Office Seminar (with Deputy State Coroner Hugh Dillon, Adam Casselden DC, Emma Sullivan, Alana McCarthy, Jake Harris and James Herrington).
- "The Nature of Inquiries" (Hypothetical presentation with Hugh Dillon, Emma Sullivan and Jason Downing), Government Solicitors Conference, 5 September 2017.

- “Tendency Evidence after *Hughes* and *IMM*” (with Phillip Boulten SC and Professor Andrew Ligertwood) Public Defenders Office, 17 July 2017.
- “Legal issues in the Coronial Jurisdiction” induction session on Coronial Law for newly appointed Magistrates 2015, 2016, 2017 State Coroner’s Court NSW.
- “Issues relating to s61 *Coroner’s Act*” Crown Solicitor’s Office, Inquiries and Criminal team seminar series 2016.
- “The Coronial Jurisdiction”, with Magistrate Hugh Dillon, LLM (Prosecutions) Intensive seminars, Wollongong 2014.
- “Objecting to DNA evidence after *Aytugrul*” Aboriginal Legal Service seminar series, 2013.
- “The Coroner’s Court”, with Magistrate Hugh Dillon, Reasonable Cause, CLE Program, 2011.
- “Current Issues in Complicity”, Crown Solicitors Office, Criminal Team CLE 2011.
- “Challenging DNA Evidence” LLM (Prosecutions) Intensive seminars, Wollongong 2011.
- “Evidentiary issues which arise in compiling a prosecution brief” Crown Solicitors Office 2007 and 2009.
- “Current issues in DNA contamination” NSW Crown Prosecutors CLE series, October 2005.
- “Don’t Plead Guilty...Yet: A practical, science free approach to DNA database cases” Northern Territory Criminal Lawyers Association Conference, Bali July 2005.
- “Innocence Projects: An Australian Clinical Education comparison” International Clinical Education Conference, July 2005.
- “Innocence Project Models” UK Innocence Network conference, Bristol, UK (keynote paper), 2004.
- “DNA for Criminal Lawyers” Young Lawyers, CLE series, 2003.
- “Innocence Projects in legal education” Australasian Law Teachers Association, Perth 2002 (plenary paper) .
- “DNA testing and Innocence Projects in Australia" Victorian Parliamentary Law Reform Committee, Melbourne 2002.

### **Bar Association Work**

- Inquests and Inquiries Committee 2019 onwards
- Examiner, drafter of criminal law, procedure and ethics exam 2019-2021
- Bar Association Representative (with Sophia Beckett) on EAPG steering and implementation working group 2017
- Submission for Criminal Law Committee on *Coroners Act* reforms
- Submissions (Tim Game SC) to Royal Commission into Child Sexual Abuse re reforms to tendency and coincidence law