

# JANELLE PAYNE

## BARRISTER & MEDIATOR

LLM., GRAD. DIP. LEGAL PRAC., LLB., B.ARTS (MEDIA)

Burnett Lane Chambers  
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## CURRICULUM VITAE

- PROFILE**
- **Respected barrister** with successful commercial practice for 11+ years, seeking stable employment and new opportunities for family reasons.
  - **16+ years PAE:** Called to the private Bar in 2008; Solicitor for 5 years (2002), including as Senior Associate at Minter Ellison.
  - **Highly-regarded individual with past leadership roles** with WLAQ and on the QLS Litigation Rules Committee. Devised and implemented the WLAQ Ladder mentoring program, now in its 10th year.
  - **Finalist, Queensland Emergent Woman Lawyer of the Year (WLAQ, 2006).**
  - **Highly skilled in advocacy**, strategic decision-making and influential communication, Court procedures, rules of evidence, presenting facts in a persuasive way (in pleadings and written and oral submissions).
  - Experienced in and cherishes complex and varied areas of law.
  - **Accomplished presenter and public speaker.**
  - **Prompt service delivery and client communication** including definitive and accurate advice on urgent or complex matters.
  - Strategic leadership and team management, including litigation teams.

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### LINKS TO MORE INFORMATION

**Web:** <http://www.janellepayne.com.au/>  
**Chambers:** <http://www.burnettlanechambers.com.au/barrister/janelle-payne/>  
**LinkedIn:** <https://www.linkedin.com/in/janelle-payne-a9389996>

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### QUALIFICATIONS

- **Called as a Barrister**, February 2008 (Queensland and Commonwealth)
- **Nationally Accredited Mediator** (Bar Association of Queensland and Resolution Institute)

- International Arbitration Conference and Global Mediation Forum (Bangkok, Thailand 2019)
- **Harvard Law School, Program on Negotiation, Advanced Mediation** (2016)
- **Bar Practice Course** (Queensland University of Technology, 2008)
- **Master of Laws** (Queensland University of Technology, 2006)  
Grade Point Average: 7.0 on a 7-point scale (High Distinction)
- **2005-2006 Queensland Emergent Woman Lawyer of the Year, finalist**
- **Solicitor of the Supreme Court of Queensland**, 12 December 2002
- **Solicitor of the High Court of Australia**, 2002
- **Graduate Diploma (Legal Practice)** (Queensland University of Technology, 2002). Grade Point Average: 7.0 on a 7-point scale (High Distinction) (96%).
- **Bachelor of Laws/ Bachelor of Arts (Media Studies)** (Queensland University of Technology, 2001)

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## PROFESSIONAL MEMBERSHIPS

**Bar Association of Queensland, Member** (since 2008)

**Resolution Institute**

**International Justice Mission (IJM)**

**Women Lawyers Association of Queensland**, Executive Committee Member (2003-2011), Current Member

**Queensland Law Society, Litigation Rules Committee** Member (2007-2011), Member (since 2002)

**Arts Law Queensland**, Volunteer legal adviser (2003-2008)

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## PROFESSIONAL EXPERIENCE

***Since February 2008 (Current)***

**Barrister-at-Law**

**Burnett Lane Chambers**

Commercial and contract litigation, primarily in:

- complex contractual and statutory interpretation
- corporations' law and director's duties
- employee share incentive plans and trust schemes
- property development and property law, including commercial developments, construction and retirement villages
- trusts/superannuation and managed investment schemes
- corporate insolvency and bankruptcy

I lead teams in all stages of a client's commercial dispute and advise on prospects, draft or settle pleadings, take expert evidence or settle expert reports, prepare a case for hearing and appear in all State and Commonwealth Courts and Tribunals.

I am experienced in and enjoy complex areas of law including civil penalties, directors' duties, anti-competitive conduct including third-line forcing, securities (mortgages, charges, guarantees, security of payment/Romalpa clauses), property (real property, retirements villages, retail and commercial leases), powers of attorney disputes, businesses (franchising), partnerships, joint ventures and shareholder disputes, building and construction, disputes, banking and finance, consumer law/trade practices, equity, trusts and superannuation. I also have a wealth of experience in insolvency (receivers, liquidators, administrators, bankruptcy, public examinations and rejection of proofs of debt).

- SPECIFIC SKILLS**
- **17 years' experience** in general civil litigation, including trials and appeals, and administrative law, including judicial review and disciplinary proceedings.
  - **Advocacy** (all Courts and Tribunals, including Court of Appeal)
  - Highly skilled in drafting and settling **pleadings** (of all levels of complexity).
  - Autonomous **decision-making and litigation advice** in highly critical situations, including assessment of prospects.
  - Evaluating and settling **expert reports, affidavits** and highly-litigious **correspondence**.
  - Definitive and accurate **advice**, including on urgent or complex matters.
  - Advanced knowledge of **Rules of Evidence and UCPR**.
  - **Prompt service delivery and client communication**.
  - **Strategic leadership and day-to-day management** (leading litigation team of senior and junior lawyers/instructing solicitors, managing team of secretaries within chambers).
  - **Influential communication** (written and oral submissions and advocacy).
  - **Practice-management** (budgets, financial reporting, fiscal management).
  - **Exceptionally high-level research skills** (legal research on a day-to-day basis in order to draft Opinions and prepare submissions).

### Recent case highlights

- Drafting complex pleadings in Supreme Court of Queensland and acting as Counsel for board members against one of Australia's largest listed public companies in respect of employee reward schemes and share incentive plans and rights upon sale and termination.
- Advised on and pleaded, for a government agency, a benchmark decision in Queensland for breach of director's duties (upheld on appeal).
- Resolved conflict between trustees in a highly complicated discretionary and unit trust corporate structure.
- Mediation for injured worker against superannuation insurance scheme.
- Junior counsel against one of Australia's largest Banks in a dispute concerning exercise of option (matter resolved in client's favour).
- Mediating \$1.2M dispute between prominent plastic surgeon and IT provider.
- Contractual dispute re management and letting rights for one of Brisbane's prominent residential and dining precincts.

- Successfully mediated and settled many cases concerning consumer law, property law, family provision, debt recovery, director's duties, corporate responsibility, insolvency and trade practices.
- Urgent Application to Supreme Court on behalf of Bank-appointed receivers to appoint replacement trustee upon automatic termination of insolvent trustee.
- Complex advice to mortgagee concerning indefeasible title.
- Acting on behalf of significant corporation in a dispute about charges and retention of title, concerning \$4M in assets.
- Successful appeal to the Full Federal Court on a s1321 *Corporations Act* matter. *Promoseven Pty Ltd v Markey, in the matter of Bluechip Development Corporation (Cairns) Pty Ltd (in Liquidation)* [2015] FCAFC 12.
- Successful appeal to the Court of Appeal against refusal of Supreme Court to set aside deed of company administration.
- Numerous successful applications to set aside a statutory demand (Supreme Court).
- Defending disciplinary proceedings for insolvency practitioners.
- Urgent advices concerning caveats and land title issues.
- 3-day trial successfully defending claims of oral or implied contract and estoppel; also involving construction of the *Queensland Building Services Authority Act 1991* and limitation issues.
- Successful written submissions to Superannuation Complaints Tribunal to have a death benefit paid to same-sex de facto spouse where family refused to acknowledge relationship.
- Counsel in the landmark (and internationally reported) case in which the entitlement of a couple in a same sex relationship to be named on a birth certificate was first judicially recognised in Queensland.
- Conduct of hearing relating to deed of company administration: *Promoseven Pty Ltd v Prime Project Development (Cairns) Pty Ltd* [2013] QSC 222.
- Conduct of hearing involving appeal against decision concerning proof of debt: *Promoseven Pty Ltd v Markey* [2013] FCA 1281.
- Appointment of a statutory trustee under s 38 Property Law Act 1974 (Qld) in an acrimonious sibling dispute *Morgan v Penzes* (unreported, Supreme Court of Queensland, Applegarth J, 12 June 2013).
- Conduct of lengthy trial on insolvency in Supreme Court of Queensland: *Promoseven Pty Ltd v Bluechip Development Corp (Qld) Pty Ltd* [2011] QSC 368.
- Junior counsel in one of the leading cases concerning the interpretation of the *Retirement Villages Act 1999*: *Jomal P/L v Commercial and Consumer Tribunal* [2009] QCA 326.
- Junior counsel in of leading cases concerning the conduct of arbitration and an arbitrator's powers: *Yarraman Pine P/L v Forestry Plantations Queensland* [2009] QCA 102.

- Junior Counsel in a lengthy trial concerning a bank and serious allegations by its customer: *Rodgers and Anor v Australia and New Zealand Banking Group Limited* [2009] QSC 86.
- Junior Counsel in one of leading cases for apportionment of costs.
- Counsel in leading case concerning consolidation of proceedings: *Rodgers Family Investments Pty Ltd v Australia and New Zealand Banking Group Ltd* [2008] QSC 085.

#### April 2004 – December 2007

##### Senior Associate (appointed 1 July 2006)

##### Minter Ellison

#### Expertise

##### Property, Corporate & Financial Litigation and Insolvency

(including banking and finance litigation, property and retirement village litigation, equitable claims, security enforcement, trade practices, directors' duties and insolvency litigation).

On track for partnership but elected to pursue ambition to go to the Bar.

#### Contributions

- Built-up and managed property litigation practice in Brisbane office;
- Member of Continuing Professional Development Committee;
- Precedent development;
- Presentation of internal and external seminars;
- Mentoring and coaching of junior lawyers (two senior lawyers, two second year lawyers, two first year lawyers and three research clerks);
- Assisting with graduate recruitment, supervisor for all vacation clerks.

#### December 2001 – March 2004

##### Articled Clerk, Solicitor (admitted 12 December 2002)

##### Nicol Robinson Halletts

#### Expertise

Corporate and Commercial Litigation, including franchising litigation

#### 2001

##### Work Experience

##### Legal Aid Queensland (Victims of Crime Compensation)

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#### PERSONAL DRIVE/INTERESTS

- **Mentoring** - Devised and established the **WLAQ Ladder program** for the Women Lawyers Association of Queensland, a formal scheme for mentoring of women entering the legal profession. That program is now in its 10th year.
- **Leadership and investing into others:** Completed a Cert IV at Leadership College.
- **International advocacy against sex trafficking** (Destiny Rescue, A21)
- **Mediation and alternative dispute resolution.**
- No.1 fan and cheerleader of her 2 daughters (ages 9 and 7).

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## SEMINARS AND PUBLICATIONS

I post monthly legal updates on recent decisions or legislative changes. I have also published a number of articles, including in the Queensland Law Society magazine (Proctor), and have presented conference papers and seminars on aspects of commercial law and Court procedure. Recent presentations and publications are:

- ‘Resolving Disputes through Mediation’, (Mercure Brisbane, 19 March 2019)
- ‘Bucking Broncos: Court of Appeal awards damages for loss of commercial opportunity when only a slim chance of profit’: Proctor, February 2018
- Expert Panel member, MinterEllison National Leasing Update Seminar Series: Alternative Dispute Resolution (Brisbane, 19 October 2016)
- ‘Setting Aside a Deed of Company Arrangement’: Proctor, September 2016, 32-33

Please read more at: <http://www.janellepayne.com.au/blog-case-notes/>

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## REFEREES

**Mr Paul Freeburn QC, Queens Counsel**  
 Colleague (and supervising Senior Counsel  
 from time to time)  
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**Mr Peter Hastie QC**  
**Burnett Lane Chambers**  
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**Mr Ben Sindel**  
 Head of Dispute Resolution  
 Plastiras lawyers  
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**Ms Alison Haly**  
 Mediator (and Harvard PON colleague)  
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