KIERAN SMARK SC

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Background and areas of practice

I was admitted to the Bar in 1991 and was appointed Senior Counsel in 2007.

I practice in three principal areas: media/defamation, commercial/contract and appeals. However, I also practice in civil litigation generally, whether involving property, tort or statutory claims, and in relation to administrative law matters. As a result, I am competent in dealing with a range of courts and tribunals and with large volumes of documents.

So far as media work is concerned, I have advised in relation to defamation, injurious falsehood, contempt, injunctions, non-publication orders, privacy, internet and related matters for nearly the whole of the 35 years I have been in practice as a barrister. In that time, I have appeared in many long and short trials (including jury matters) involving claims for defamation and injurious falsehood, both for and against media interests, both in NSW and interstate.

In relation to commercial matters, I have appeared in, and advised on, a range of contract, commercial and property disputes, including in the franchise area.

I appear in appeals in a wide range of matters, often in circumstances where I did not appear at first instance.

I am the author of Smark, *Freedom of Information and Privacy in Australia* (3rd ed, 2025, Lexis Nexis).

A sample of the recent cases in which I have appeared since 2021 is:

- *Leyonhjelm v Hanson-Young* [2021] FCAFC 22; 282 FCR 341 (defamation; parliamentary privilege)
- *Gould v Jordan (No 2)* [2021] FCA 1289 (defamation, qualified privilege)

- *Taylor v Nationwide News Pty Ltd* [2023] FCAFC 117 (defamation – imputations)
- *Cirrus Real Time Processing Systems Pty Ltd v Jet Aviation Australia Pty Ltd* [2023] NSWCA 280; (2023) 113 NSWLR 80 (contract – interpretation)
- *Eppinga v Kalil* [2023] NSWCA 287 (defamation – qualified privilege)
- *Karageozis atf Bankrupt Estate of Lamb v Sherman* [2023] QCA 258; (2023) 17 QR 341 (defamation – defences);
- *Greenwich v Latham* [2024] FCA 1050 (defamation – serious harm – defences);
- *Faruqi v Hanson* [2024] FCA 1264 (Civil and political rights – discrimination)
- *Francom Legal Pty Ltd v Prospa Advance Pty Ltd* [2025] NSWSC 466 (contract – interpretation)
- *Fussell v Hanrahan* [2025] NSWCA 173 (negligence – duty of care)
- *Henderson v Harvey* [2025] NSWCA 262 (defamation – qualified privilege)
- *Hooper v Phipps* [2025] NSWCA 267 (defamation – jury trial)
- *Judo Bank Pty Ltd v Elali* [2026] NSWSC 48 (tort – injurious falsehood)

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