



JONATHON A REDWOOD SC
Barrister

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ADMISSIONS

Appointed Senior Counsel (2020)
Barrister, 2006 (NSW & Victoria)
New York Bar, 2002
Lincoln's Inn, called 2013

EDUCATION

BCL, Magdalen College, Oxford (Distinction)
LLM, Harvard Law School (Gammon Fellow)
BCom; LLB (Hons), University of Adelaide

AWARDS

Awarded Brandon Research Fellowship, Lauterpacht Centre for International Law, Cambridge University (2012)
Awarded University Medal, University of Adelaide (1996)
Awarded Gammon Fellowship, Harvard University (1998-1999)
Awarded Australia's Sir Robert Menzies Scholar to Harvard (1998)
Awarded Sir George Murray Scholar, University of Adelaide (1998)
Awarded Thomson Playford Prize for top student (1996)
Awarded Angus Parsons Prize for best Honours' thesis (1996)

PROFILE

Jonathon has more than 25 years' experience in legal practice. He maintains a broad national practice encompassing advice and appearance work in: (i) high value commercial disputes and class actions, (ii) international arbitration, and (iii) public law, regulatory matters and commissions of inquiry. As a Silk, he also has a growing appellate practice and has appeared recently in significant appeals in the New South Wales Court of Appeal, the Queensland Court of Appeal, the Western Australian Court of Appeal and the Victorian Court of Appeal.

He is regularly retained by leading law firms and corporate clients to conduct large and complex cases throughout Australia at first instance and on appeal, and internationally, including in arbitrations seated in Singapore, Hong Kong, London and New York.

PROFILE – GENERAL COMMERCIAL

In commercial law matters Jonathon has particular experience in corporate and securities law, directors' duties, insurance, class actions, professional negligence (auditors, brokers, lawyers) schemes of arrangement and complex insolvency restructurings, and Part IVA tax disputes.

PROFILE - LARGE COMMERCIAL DISPUTES & CLASS ACTIONS

Jonathon's experience in these areas include representing Paterson Securities in multi-party proceedings in the Supreme Court of New South Wales involving claims of \$140 million, class action proceedings in the Federal Court concerning add-on warranty products, the Oswal litigation in the Supreme Court of Victoria for claims exceeding \$1 billion dollars (acting for Yara Australia) and the Banksia litigation in the Supreme Court of Victoria and Supreme Court of New South Wales involving claims by Banksia Securities Ltd against directors, auditors, trustees and insurance brokers for approximately \$200 million (acting for special purpose receiver).

Schemes of Arrangement. He has considerable experience in schemes of arrangements of all kinds and has appeared in over a dozen schemes in Australian courts for targets, bidders and third parties. He has particular experience in complex restructurings through creditor schemes.

Insurance. He has also appeared for insureds and insurers in several large insurance cases including for the insurance industry in the New South Wales Court of Appeal's landmark decision in *Chubb v Moore* and represented Agrium Australia (AWB) in highly complex insurance proceedings arising from the Iraqi Oil-for-Wheat Inquiry. He has also appeared for plaintiffs in significant professional negligence proceedings against insurance brokers.

Class Actions. Jonathon has substantial experience in class actions and is recognised by his peers under "Class Actions" in the recent editions of the *AFR's Best Lawyers*. Notable and large class actions in which he has appeared includes the Banksia Proceedings in the Supreme Court of Victoria and the 7-Eleven class action in the Federal Court.

PROFILE – PUBLIC LAW, REGULATORY PROCEEDINGS & INQUIRIES

In public law matters, he has appeared in several leading constitutional cases in the High Court (*Gypsy Jokers*, *TCL Air Conditioner* and *Brown v Tasmania*) and advises regularly in this area. He's been involved in significant public law challenges, including *Scentre Management Limited v ACT Planning and Land Authority* [2021] ACTSC 171 and *Owners Corporation v Balcombe* (2016) 51 VR 299.

He has appeared in several high-profile trials for large corporate clients against the ACCC (*Kimberly Clarke 'flushables'* proceedings and proceedings against AGL South Australia regarding electricity pricing) and APRA (*IOOF disqualification proceedings*). He represented the Whole of Local Government in the 2009 Victoria Bushfires Royal Commission, NAB in the 2019 Financial Services Royal Commission and the Commonwealth in the Disability Royal Commission.

PROFILE – ARBITRATION & INTERNATIONAL

Jonathon is a leading Silk in international law and arbitral law and is recognised as such in by the international publications *Who's Who* and the *AFR's Best Lawyers*. He is routinely engaged by leading law firms to appear and advise in large

international arbitrations, seated in Australia, Singapore, London, and New York. His recent cases in this area include acting in a SIAC arbitration in Singapore for Samsung for claims exceeding \$1.2 billion. Within arbitration, his subject-matter expertise is general commercial, mining and energy, M&A (including shareholder and JV disputes), international sale of goods (CISG), investment treaty disputes, insurance and financial services. He is also a member of Twenty Essex in Singapore and London.

He is also regularly retained in respect of court proceedings involving arbitration matters such as enforcement proceedings, freezing orders, interim measures and stay applications. His expertise extends to cross-border disputes of any kind involving difficult questions of private international law, including the enforcement of foreign judgments.

He is a Vice President of ACICA and has represented that peak arbitral body in its amicus interventions in the High Court of Australia in *Rinehart v Hancock Prospecting*, *Westport v Gordian* and *TCL Air Conditioner v Judges of Federal Court of Australia*. He has also acted as an arbitrator (appointed under the ACICA Rules) and is a panel arbitrator for NBN Co, the Australian Energy Regulator and the Western Australian Economic Regulation Authority.

CLIENTS

Jonathon's previous and ongoing clients include BHP, Caterpillar, CSR, James Hardie, AGL, Allianz, McGrath Nicol, Korda Mentha, Chubb, Marsh, Vestas, Samsung, Kimberley Clarke, IOOF, Inpex, Schneider Electric, NAB, KPMG, Patersons Securities, and Yara International. He also does a substantial amount of pro bono work for the Human Rights Law Centre.

SELECTED MATTERS

Mammoth Investments v Donaldson [2022] WASCA 144 (costs agreements, statutory construction, meaning of "client", whether client can seek assessment of barrister's costs if client not party to costs agreement)

7-Eleven Class Action—Davaria Pty Limited v 7-Eleven Stores Pty Ltd [2022] FCA 127 (appointed contradictor by Federal Court, complex representative proceedings by franchisees alleging misleading and deceptive conduct and unconscionable conduct against franchisor)

Anderson v Canaccord Genuity Financial Ltd [2022] NSWSC 58 (successfully defended first defendant in complex proceedings involving a 6 week trial before Ward CJ in Eq and claims of breach of fiduciary duty and knowing assistance)

The Banksia Remitter [2021] VSC 666 (acting for court-appointed receiver in proceedings in Supreme Court of Victoria concerning complex proceedings involving professional misconduct and breach of overriding duties by lawyers, litigation funder and costs consultant)

*Acting for major Wagyu beef producer in Western Australia in large international arbitration under the UNCITRAL Rules, seated in Perth, for claims arising from a major business acquisition**

Mineralogy v State of Western Australia (acting for Mineralogy in Queensland Court of Appeal and High Court proceedings relating to Western Australia's legislative annihilation of vested rights under arbitration agreements and arbitral awards)*

*Acting for global energy supplier in cross-border international arbitration under the ICC Rules, seated in Perth, relating to termination of information technology contracts**

*Acting for multinational supplier of energy technologies in multi-party arbitrations, seated in Perth, relating to Sunraysia solar project**

Representing the Commonwealth in the Disability Royal Commission.

Scentre Management Limited v ACT Planning and Land Authority (2021) 360 FLR 64 (public law, major dispute as to construction of new shopping mall—standing, jurisdictional error, reasons for decision, bias)

In the Matter of Richards Contracting Co (2021) 104 NSWLR 385 (appeal to five member bench of Court of Appeal, company reinstatement, accrued rights, statutory interpretation, insurance)

In the Matter of 3P Learning Limited [2020] NSWSC 1573 (scheme of arrangement, target)

Formerank Ltd v Luo [2020] NSWSC 1641 (freezing order, interim measures, foreign arbitration)*

Elliot v Lindholm (2020) 62 VR 307 (apprehended bias, recusal application)

Cherwell Creek Coal Pty Ltd v BHP Queensland Coal Investments (statutory claim of over \$100 million for loss of commercial opportunity, mining and resources, extremely complex proceedings involving more than 50 expert reports and disciplines); [2020] QLC 32; [2020] QLC 22.

Matthews v CSR & Ors (Supreme Court of Victoria, claims for negligence against parent entity for asbestos exposure, settled during trial, acting for CSR)

Manly Warringah Cabs (Trading) Co-operative v Sydney Taxis Pty Ltd, in the matter of Sydney Taxis Pty Ltd (no 2) [2020] FCA 1336 (winding up application, determination of ownership of property)

Wiggins Island Coal Export Terminal Pty Ltd [2019] NSWSC 831 (creditors' scheme of arrangement/restructuring)

APRA v IOOF & Ors (2019) 138 ACSR 459; [2019] FCA 1521 (regulatory, superannuation, landmark proceedings before Jagot J concerning disqualification and related relief, briefed by KWM for IOOF)

In the matter of Banksia Securities Limited (in liquidation) (receivers and managers appointed) [2019] NSWSC 136 (remuneration of court-appointed receivers, disentitling factors, duty to seek appointment of a contradictor)

Bolitho v Banksia Securities Ltd (No 6) [2019] VSC 653; and *(No 7)* [2020] VSC 204 (class actions, role of contradictor, obligations under Civil Procedure Act)

ACCC v Kimberly-Clark Australia Pty Ltd [2020] FCAFC 101; [2019] FCA 992 (the 'flushable wipes' proceedings and appeal)

Evans v Davantage Group Pty Ltd [2019] FCA 884 (class action, add-on warranties, illusory promises)

Trust Company (Nominees) Limited Angas Securities Ltd (No 5) (2019) FCA 482; *Trust Company (Nominees) Limited, in the matter of Angas Securities Limited v Angas Securities Limited (No 6)* [2019] FCA 699 (creditors' scheme of arrangement and restructuring)

Rinehart v Hancock Prospecting [2019] 267 CLR 514* (interpretation of arbitration agreements, scope, third parties)

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2018), for National Australia Bank

Botsman v Bolitho & Ors (2018) 57 VR 68 (special leave refused) (class actions, settlement approval hearings, contradictors, funding commission)

International Arbitration, SIAC, Singapore, for Samsung for claims of over \$1.2 billion (briefed by King & Spalding and Herbert Smith Freehills)*

Represented *BHP Billiton* in two large ICC arbitrations (*ICC Arbitration Nos. 17714 and No. 17772 of 2011*) seated in Singapore concerning price review mechanisms in long-term supply contracts (instructed by *Herbert Smith Freehills*)*

Scelta Marble v Quarella SPA (*ICC Arbitration No. 16698 of 2011*)(international arbitration concerning alleged breach of distribution agreement, seated in Singapore, governed by the Vienna Convention on International Contracts for the Sale of Goods (CISG), hearing at Chambers of Arbitration (Milan, Italy), instructed by *Baker McKenzie**)

Brown v Tasmania (2017) 261 CLR 328 (constitutional, implied freedom of political communication)

Owners Corporation v Balcombe (2016) 51 VR 299 (constitutional/administrative, statutory construction, property law)

Radhika Oswal v Australia and New Zealand Banking Group Ltd (*The Oswal matters*) (mining, banking and finance, receivership, equity, sale processes of receivers)

Oz Minerals Holding Pty Ltd v AIG Australia Ltd (2015) 19 ANZ Ins cases 62-089 (insurance, related party exclusions, shareholder class actions, interpretation of exclusion clauses)

DIF III Global Co-Investment Fund v BBLP LLC & Ors [2016] VSC 401 and [2017] NSWSC 729 (fiduciary duties, promoters, equity, misleading and deceptive conduct, security for costs, form of security, deed of indemnity from foreign insurer out of jurisdiction)

Trust Company (Nominees) Limited v Angas Securities Ltd [2014] FCA 1397; (2015) 107 ACSR 464 (insolvency and receivership)

Australian Competition and Consumer Commission v Fisher & Paykel [2014] FCA 1393 (regulatory, misleading and deceptive conduct)

Australian Competition and Consumer Commission v AGL South Australia Pty Ltd [2014] FCA 1369 (regulatory, misleading and deceptive conduct, energy pricing)

Chubb v Moore (2013) 302 ALR 101; [2013] NSWCA 212 (special leave discontinued) (Section 6, insurance, D&O cover)

TCL Air Conditioner v The Judges of the Federal Court (2013) 251 CLR 533* (constitutional, arbitration)

Bank of Western Australia Ltd v Abdul & Anor [2012] VSC 222 (banking and finance, equity, unconscionability)

Westport Gordian v Insurance Corporation v Gordian Runoff Ltd (2011) 244 CLR 239 (arbitration, standard of reasons for awards)*

Korda (Receiver and Manager), in the matter of South Eastern Secured Investments Limited (Receivers and Managers Appointed) (2010) 191 FCR 63 (examination powers, statutory construction, secrecy provisions in Legal Profession Act, constitutional)

Wagners Nouvelle Caledonie v Vale Nouvelle Caledonie [2010] QCA 219* (Relationship between UNCITRAL Arbitration Rules, ICC Rules and UNCITRAL Model Law)

2009 Victorian Bushfires Royal Commission, for whole of Local Government

Gypsy Jokers v State of Western Australia (2008) 234 CLR 532 (constitutional, Ch III and judicial power)

Australian Finance Direct v Director of Consumer Affairs (2007) 234 CLR 96 (consumer credit, "holdback" arrangements, statutory interpretation)

*denotes international arbitration related matters

OTHER LEGAL AND ACADEMIC EXPERIENCE

Melbourne Law School, Senior Fellow (2006 – 2008)

US Securities Regulation, Banking & Finance

Adelaide Law School, Visiting Fellow(2007 – 2008)

Comparative Corporate Governance & Directors' Duties

Sullivan & Cromwell LLP, Senior Associate, General Practice, New York, USA (1999 – 2006)

General Practice, Financial Institutions

Supreme Court of South Australia, Associate to the Honourable Chief Justice John Doyle AC (1997 – 1998)

OTHER MEMBERSHIPS AND APPOINTMENTS

Fellow and Vice President, Australian Centre for International Commercial Arbitration (ACICA)

Reporter, Commonwealth Law Reports (2006-2016)

Member, Corporations Committee, Law Council of Australia

Member, Australian Bar Association, Class Action and International Committees

Member, Australian Association for Constitutional Law

Member, American Society for International Law