

Curriculum Vitae: James Lockhart SC

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Admission

Appointed senior counsel in 2009.

Admitted to the bar in 1996.

Entitled to practice in all Australian jurisdictions.

Areas of practice

James has a commercial practice appearing and advising in complex commercial disputes. He has significant experience in disputes of the following type:

- general commercial
- competition and regulatory
- corporations
- insolvency
- professional liability

He has significant experience in class actions, as well as in private arbitrations.

He is listed in the Best Lawyers list published by the Australian Financial Review. He is listed in Doyles Guide as a leading senior counsel in commercial litigation. He is also listed in Chambers & Partners barrister rankings.

Selected current matters and selected recently decided cases

- *Forge Group Ltd (in liq) v Simpson & Ors*, Supreme Court of NSW, ongoing (appearing for former CEO in proceedings alleging breach of director's duties)
- *Australian Competition and Consumer Commission v Ramsay Health Limited*, Federal Court of Australia, ongoing (proceeding brought against a major hospital operator in Australia, alleging misuse of market power)

- *Pain v Babcock & Brown Ltd*, Federal Court of Australia, ongoing (Representing liquidators of Babcock & Brown against shareholder class action claims alleging market non-disclosure and fraud on the market)
- *Snowside Pty Ltd v Boart Ltd*, Supreme court of NSW, ongoing (acting for company defending claim for oppression of minority public shareholders)
- *Mann Investments Ltd v Kelly*, ongoing, Supreme Court of NSW (acting for plaintiff in fraud case)
- *McVeigh v Retail Employees Superannuation Pty Ltd*, Federal Court of Australia, ongoing (claim concerns breach of superannuation trustee duties in context of climate change risk)
- *Bell Group (in liq)*, Supreme Court of WA, ongoing (acting for liquidators in major settlement schemes)
- *SSG v Wiggins Island Coal Export Terminal Ltd*, Supreme Court of NSW, ongoing (breach of contract claim)
- *Masters v Babcock & Brown Ltd* [2019] FCA 1720. Defended company against class claim of market non-disclosure and fraud on market. Currently on appeal, ongoing.
- *Re HIH Insurance Limited (in liq)* [2019] NSWSC 1873; [2018] NSWSC 1969; [2018] NSWSC 1886 (shareholder groups alleging fraud on the market concerning misleading statements to market, and manner of payment of dividends). Also (2016) 335 ALR 320, and ongoing.
- Schemes of arrangement: James frequently appears in applications for court approval of corporate schemes of arrangement, including involving mergers and takeovers, as well as creditor schemes. Recent examples include *Re Gazal Corporation Limited* [2019] FCA 701; *Re Boart Longyear Ltd* (2019) 134 ACSR 591 [2019] FCA 62; *Re Wiggins Island Coal Export Terminal Pty Ltd* [2019] NSWSC 831; *Re Proton Ltd* (2019); *Prime Media Ltd* (2019); *Westfield re Unibail -Rodamco* (the \$24 billion acquisition of Westfield by Unibail -Rodamco) [2018] NSWSC 584; *Billabong International Ltd* [2018] FCA 106; [2018] FCA 496
- *Rushleigh Services Pty Ltd v Simpson & Ors*, settled 2019, Federal Court of Australia (class action alleging breach of directors' duties)
- *Swiss Re v Simpson* [2018] NSWSC 233. Defended claim brought against former CEO alleging misleading conduct in connection with the financial state of an ASX listed company, Forge Group prior to issue of project bonding in excess of \$100 million.
- *Popeye Holdco Pty Ltd v Intermediate Capital Asia Pacific 2008 GP Ltd (no 2)* [2018] FCA 408. Successfully defended an application for an injunction and damages brought by a

management shareholder group against a private equity syndicate. The issues concerned misleading conduct at the time of a private equity buy out of management shareholders.

- *KPMG v de Grootte Eylandt Trust*. Acted for KPMG in proceedings brought by a trust constituted for the benefit of indigenous Australians, against KPMG among others.
- *Grant-Taylor v Babcock & Brown Ltd*: shareholder groups alleging fraud on the market concerning misleading statements to market (2015) 322 ALR 723; [2015] FCA 149. Appeal to Full Court (2016) 113 ACSR 362.
- *Brewer v AAL Ltd*: successfully defended proceedings brought against Qantas by former employees of TAA concerning alleged superannuation entitlements. [2016] FCA 93; on appeal [2017] FCAFC 202.
- *CPDD v Nippon Yusen Kabushiki Kaisha [2017] FCA 876*. This was the first price fixing cartel case brought in Australia under the criminal cartel legislation. James acted for the respondent, Nippon Yusen Kabushiki Kaisha (known as NYK).
- *Sea Swift Ltd*: Acted for Toll Holdings Ltd in Competition Tribunal proceedings for approval of merger with Sea Swift [2016] ACOMPT 9.
- Advised telecommunications providers concerning NBN access rights (ongoing)
- *Inpex v JKC*. This was a long running private arbitration brought in the Singapore ICC. It concerns a large EPC contract for construction works for an LNG project.
- James acted for parties in each of the following recent Royal Commissions:
 - a. Banking and Insurance (the Hayne Royal Commission)
 - b. Royal Commission into Aged Care
 - c. Royal Commission into Trade Unions.