

CURRICULUM VITAE OF MATTHEW JOHN DARKE SC

ADMISSION AND PRACTICE

<i>Admission</i>	September 2001 Appointed Senior Counsel in October 2014
<i>Areas of practice</i>	Class actions Commercial (all areas) Banking & insolvency Insurance & reinsurance Competition & consumer law Intellectual property
<i>Selection of current matters</i>	<i>Baron v Commonwealth Bank of Australia</i> , Federal Court of Australia (appearing for applicant in class action; yet to come to trial) <i>Giabal Pty Ltd v KPMG</i> , NSW Supreme Court (appearing for auditor defendant in class action; yet to come to trial) <i>Perera v GetSwift Ltd</i> , Federal Court of Australia (appearing for respondents in shareholder class action; yet to come to trial) <i>Whisson v Subaru (Aust) Pty Ltd</i> , NSW Supreme Court (appearing for defendant in class action re Takata airbags; yet to come to trial) <i>Sadie Ville Pty Ltd v Deloitte Touche Tohmatsu</i> , Federal Court of Australia (appearing for auditor respondent in class action; yet to come to trial) <i>Creighton v Australian Executor Trustees Ltd; Smith v Australian Executor Trustees Ltd</i> , NSW Supreme Court (appearing for respondent in two class actions; yet to come to trial) <i>University of Sydney v Objectivision Pty Ltd</i> , Federal Court of Australia (appearing for applicant/cross-respondent in contract, copyright and confidential information proceeding; judgment reserved) <i>Advising reinsurers in the London market in connection with potential claims concerning “misselling” of financial products</i> (ongoing matter over the last 18 months; yet to conclude) <i>Advising excess layer insurers under a general liability program of insurance in relation to potential claims arising from a major natural disaster</i> (ongoing matter over the last 18 months; yet to conclude)
<i>Selection of decided cases</i>	<i>ASIC v Westpac Banking Corporation (No. 2)</i> [2018] FCA 751; (2018) 127 ACSR 110 (appeared for respondent in civil penalty proceeding re alleged manipulation of BBSW) <i>Dunlop Aircraft Tyres Ltd v Goodyear Tire & Rubber Company</i> [2018] FCA 1014 (appeared for appellant in appeal from trade mark opposition decision; respondent to trade mark infringement proceeding) <i>Singtel Optus Pty Ltd v Optum Inc</i> [2018] FCA 575 (appeared for respondent in appeal from trade mark opposition decision; applicant on non-use

removal application)

Anchorage Capital Partners Pty Ltd v ACPA Pty Ltd (2018) 351 ALR 436; (2018) 128 IPR 255; [2018] FCAFC 6 (appeared for appellant in full Federal Court trade mark appeal)

Rushleigh Services Pty Ltd v Forge Group Ltd (in liq) (recs & magrs apptd) (2018) 355 ALR 248; [2018] FCA 26 (appeared for applicant in successful application to join insurers to class action proceeding)

Woolworths Ltd v About Life Pty Ltd (2017) 18 BPR 36,983; [2017] NSWSC 1117 (appeared for plaintiff in real property dispute re right of first refusal)

Reliance Rail Pty Ltd v Permanent Custodians Ltd (2017) 122 ACSR 317; [2017] NSWSC 1111 (appeared for plaintiff in contractual dispute re multibillion dollar debt refinancing)

New Galaxy Investments Pty Ltd v Thomson [2017] NSWCA 153 (appeared for respondent in appeal in commercial/real property proceeding)

Gain Capital UK Ltd v Citigroup Inc (No 4) (2017) 123 IPR 234 (appeared for appellant in appeal from trade mark opposition decision)

ACCC v Woolworths Ltd [2016] FCA 44 (appeared for respondent in civil penalty proceeding re defective products)

Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd (2015) 256 CLR 104; [2015] HCA 37 (appeared for appellant in appeal regarding mining royalties)

Re Molo Energy Ltd; Mologo Energy Ltd v Keybridge Capital Ltd (2014) 104 ACSR 46 (appeared for defendant in commercial proceeding)

Caswell v Sony/ATV Music Publishing (Australia) Pty Ltd (2014) 106 IPR 490 (appeared for defendant in commercial proceeding)

Wambo Coal Pty Ltd v Sumiseki Materials Co Ltd (2014) 101 ACSR 643 (appeared for respondent in appeal regarding payment of dividends and oppression)

Minister for Immigration, Multicultural Affairs and Citizenship v SZRNY [2014] HCA Trans 122 (appeared for respondent in High Court migration appeal; special leave revoked)

Minister for Immigration, Multicultural Affairs and Citizenship v SZRNY (2013) 214 FCR 374; [2013] FCAFC 104 (appeared for respondent in Full Federal Court migration appeal)

E&J Gallo Winery v Lion Nathan Australia Pty Ltd (2010) 241 CLR 144 (appeared for appellant in High Court trade marks appeal)

Parker v Comptroller-General of Customs (2009) 252 ALR 619 (appeared for appellant in High Court customs appeal)

ACCC v Pratt (2008) 250 ALR 661 (appeared for subpoenaed party on application to set aside subpoena issued in criminal proceeding)

Seven Network Ltd v News Ltd (2007) ATPR (Digest) 42-274 (“the C7 case”) (appeared for applicants in commercial proceeding)

Dorajay Pty Ltd v Aristocrat Leisure Ltd (2005) 147 FCR 394 (appeared for respondent in shareholder class action; proceeding settled)

Chambers

10th Floor Wentworth/Selborne Chambers, 174-180 Phillip Street, Sydney NSW 2000

Tel: +612 9232 2197
Fax: +612 9221 3724
Email: mdarke@tenthfloor.org
Clerk: Dianne Strathdee

EMPLOYMENT

1999-June 2001 Solicitor, Minter Ellison, Sydney

1998 Associate to Justice Antony Whitlam, Federal Court of Australia
Research Officer, Criminal Law Committee, NSW Bar Association (part-time)

TERTIARY EDUCATION

Degree BA(Hons)/LLB(Hons)

University Australian National University, Canberra

Prizes University Medal in Law
Supreme Court Judges' Prize (first in the year)
Commonwealth Attorney-General's Department Prize (best results in final year)
Baker & McKenzie Intellectual Property Prize (shared)
Butterworths Selected Topics in Torts Prize
Fenner Hall Fellows' Prize (shared)
Phillips Fox Scholarship in Law

Publications 'Lobbying by Law Firms: a study of lobbying by national law firms in Canberra' (1997) 56(4) *Australian Journal of Public Administration* 32-46
'Euthanasia Laws and the Australian Constitution' (1997) 20(3) *UNSW Law Journal* 647-65 (co-authored with George Williams)

Extra-curricular President, ANU Law Students' Society, 1995
Winner, Australasian Law Students' Association Mooting Championship, 1994
Winner, Attorney-General's Shield Mooting Competition, 1994
Best Advocate, Attorney-General's Shield Mooting Competition, 1994
World Intervarsity Debating Championships, 1994, 1995 and 1998