

## John Marshall SC

Senior Counsel since 2002. Initially a solicitor (four years) then junior counsel until 2002.

Extensive trial and appellate experience. Appeared in cases involving all areas of general commercial law including banking, insurance, revenue and insolvency (some of which are referred to below). Also frequently advise on complex insurance issues.

**Long trials:** For Samsung in the *Samsung v Apple* litigation (2013-2014); for the Chief Commissioner in relation to the recovery of land rich duty on the sale of Sydney airport (2010-2012); in various aspects of the Pan Pharmaceuticals litigation (2009-2010 and again 2013); for the NRL in the Seven/C7 litigation (2005-2007); and as junior counsel for the NRL in the *Souths* litigation (2000-2001); for the Commonwealth Bank in the *Occidental Life Insurance* case in the Supreme Court of Victoria (1991-1992) and in relation to its numerous foreign currency loan cases (1988-1992) - including the David Securities litigation from trial through Full Court to the High Court: *David Securities Pty Limited v Commonwealth Bank of Australia* [1990] FCA 148; 23 FCR 1; *David Securities Pty Limited v Commonwealth Bank of Australia* [1992] HCA 48; 175 CLR 353.

**Banking:** *Duke Finance Ltd (In Liq) v Commonwealth Bank of Australia* (1990) 22 NSWLR 236; *Mehta v Commonwealth Bank of Australia* (CA) (1991) 23 NSWLR 84; *Dwyer v Commonwealth Bank of Australia* [No 2] [1995] NSWCA 137; *State Bank of NSW v Swiss Bank* (1995) 39 NSWLR 350 (CA) (restitution); *Westpac Banking Corporation v Vamoti Pty Ltd* [1996] NSWCA 557; *Dovade Pty Ltd v Westpac Banking Group* [1999] NSWCA 113; *State of New South Wales v Commonwealth Bank of Australia* [2001] NSWSC 1067 (Constitutional issue affecting rights claimed by the Crown); *Illawong Village Pty Ltd v State Bank of NSW Limited* [2005] NSWCA 382; *Rose v Sakkara Properties Pty Limited* [2009] FCA 304.

**Corporations:** *North Sydney Brick and Tile Co v Darvall* (1989) 17 NSWLR 327; *Chahwan v Euphoric Pty Ltd trading as Clay & Michel* [2008] NSWCA 52; *Sheahan v Londish* [2010] NSWCA 270; *Campbell Street Theatre Pty Ltd (receiver and manager appointed) (in liquidation) v Commercial Mortgage Trade Pty Ltd* [2012] NSWSC 669; *Australian Securities and Investments Commission v Managed Investments Limited No.4* [2013] QSC 15.

**Commercial appeals:** *Travel Compensation Fund v Tambree* [2005] HCA 69; 224 CLR 627 (causation); *Rahme v Commonwealth Bank of Australia* [1991] NSWCA 230; *Ratcliffe v Oceanic Life Ltd* [1998] NSWCA 180; *Scott v McMahon* [2004] NSWCA 327; *Meteyard v Love* [2005] NSWCA 444; 65 NSWLR 36 (privilege in insurance context); *Challenger Group Holdings Ltd v Concept Equity Pty Ltd* [2009] NSWCA 190 (contract).

**Common law appeals:** *Temora Shire Council v Stein* [2004] NSWCA 236 (council no breach of duty); *Evans Shire Council v Richardson* [2005] NSWCA 416 (council no duty); *State of New South Wales v Klein* [2006] NSWCA 295 (no duty of care owed by police); *The Nominal Defendant v Swift*; *Wollondilly Shire Council v Swift* [2007] NSWCA 56 (council no breach of duty); *State of New South Wales v Tyszyk* [2008] NSWCA 107 (no duty of care owed by police); *Nguyen v Cosmopolitan Homes* [2008] NSWCA 246 (CLA & no breach).

**Insurance:** *Manufacturers Mutual Insurance Ltd v Motor Accidents Authority of NSW* (1991) 7 ANZ Ins Cas 61-090 (CA); *East End Real Estate Pty Limited v C E Heath Casualty & General Insurance Ltd* (1993) 7 ANZ IC 61-151; *Newcastle City Council v GIO General Ltd* [1997] HCA 53; 191 CLR 85; *National Vulcan Engineering Insurance Group Ltd v Pentax Pty Limited* [2004] NSWCA 218; *Stephen Forgacs v Lumley General Insurance Limited* [2007] NSWSC 1506; *Tzaidas v Child* [2009] NSWSC 465 (CA)

s 601AG); *Thiess Pty Ltd v Zurich Specialties London Ltd* [2009] NSWCA 47; *AAI Limited v Cash Converters Personal Finance Pty Ltd* NSD 96/2015. Appeared for the buyer's warranty insurers in the Asahi litigation in the Federal Court in Victoria (2014). Advise insurers in relation to numerous large property damage disputes with insureds (WA, Qld, Vic, NSW and offshore risks). Advise reinsurers in relation to the Kennecott mine wall collapse of April 2014. Routinely advise on PI, property, D&O and BI insurance claims.

**Revenue:** Regularly retained by the Chief Commissioner in relation to state revenue matters. For the Chief Commissioner in relation to the recovery of land rich duty on the sale of Sydney airport (2010-2012) and in other matters (*Chief Commissioner of State Revenue v Hayson Group of Companies* [2006] NSWCA 233; *L and T (Sales) Pty Ltd v Chief Commissioner of State Revenue* [2007] NSWSC 1061; *CCM Holdings Trust Pty Ltd v Chief Commissioner of State Revenue* [2013] NSWSC 1072). For the taxpayer in the GST case *KAP Motors Pty Ltd v Commissioner of Taxation* [2008] FCA 159.

**General:** *Ryan v Great Lakes Council & Ors* [1997] FCA 970 (class action procedure which resulted in dismissal of claim against defendant client); *Hi-Fert Pty Ltd v United Shipping Adriatic Inc* [1998] FCA 1622; 89 FCR 166 (anti-arbitration injunction); *Tyndall Superannuation Limited v Commercial Nominees of Australia Limited* [2001] NSWSC 162 (superannuation); *Gray v Cash Converters International Limited* 2015 (class action for the plaintiff); *Sheahan v Thompson (No 2)* [2015] NSWSC 871 (recovery of funds paid in breach of trust – *Barnes v Addy* first limb).

**Sport:** Chairman of the Football Federation of Australia Disciplinary Committee. From 1998-2013 appeared in most of the rugby league related cases for the NRL (including the *Souths* case, *Seven Network Limited v News Limited* [2007] FCA 1062; *Bulldogs Rugby League Club Ltd & NRL v Sonny-Bill Williams* [2008] NSWSC 822) and almost every significant anti-doping case including *Anti-Doping Rule Violation Panel v XZTT* [2013] FCAFC 95.