

Matthew Peckham



Matthew specialises in commercial, corporate and regulatory litigation

QUALIFICATIONS

Bachelor of Laws (Honours)
Bachelor of Arts

CORRESPONDENCE

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CHAMBERS

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COMMERCIAL LAW

Banking & Finance | Bankruptcy | Class Actions | Competition | Consumer Law | Contractual Disputes |
Corporate Insolvency | Corporations & Securities | Energy & Resources | Equity & Trusts |
Superannuation | Regulatory Investigations

TORT LAW

Class Actions | Commissions & Inquiries | Major Torts | Negligence | Professional Negligence

PUBLIC LAW

Administrative Law | Aged Care | Appellate | Civil & Human Rights | Commissions & Inquiries |
Constitutional Law | Environment | Freedom of Information | Judicial Review | White Collar Crime

Matthew has particular expertise in complex commercial litigation, civil penalty proceedings, regulatory investigations, financial services law, corporations law, energy law, competition and consumer law, and administrative law.

Matthew regularly appears in substantial matters unled, or with a range of senior counsel. He also leads other more junior counsel, particularly in urgent or specialised matters. Before coming to the Bar, Matthew was a senior and experienced solicitor, and works closely in support of his instructors.

Matthew is frequently instructed either for or against Commonwealth and State regulatory authorities. He has particular experience in conducting compulsory examinations, and investigations more generally. He previously worked at both ASIC and the Financial Services Authority (UK), where he played a key role in the UK's largest successful criminal insider trading prosecution.

Liability limited by a scheme approved under the Professional Standards Legislation

Recent Cases

Commercial Regulatory

CIVIL PENALTY PROCEEDINGS

Australian Consumer Law

False advertising: *ACCC v Bloomex Pty Ltd* [2024] FCA 243 (penalty hearing) (unled, opposed to Senior Counsel, for the respondent);

Energy

Best offer messages: *Essential Services Commission v Sumo Power Pty Ltd & Sumo Gas Pty Ltd (Best Offer Messages Proceeding)* [2024] VSC (led by D Star KC, for the ESCV) – ongoing;

Door-to-door selling: *Essential Services Commission v Sumo Power Pty Ltd & Sumo Gas Pty Ltd (Door-to-Door Selling Proceeding)* [2024] VSC (led by D Star KC, for the ESCV) – ongoing;

Embedded networks: *Australian Energy Regulator v CAM Engineering and Construction Pty Ltd* [2024] FCA (unled, for the AER) – ongoing;

Generator performance standards (massive generator failure and explosion): *Australian Energy Regulator v Callide Power Trading Pty Ltd* [2024] FCA (led by N De Young KC, for the AER) – ongoing;

Infrastructure safety: *Energy Safe Victoria v Ausnet Electricity Services Pty Ltd* [2024] VSC (leading A Mobicri, for ESV) – ongoing;

Victorian Energy Upgrades scheme: *Essential Services Commission v QEnergy Ltd; Mojo Power East Pty Ltd* [2023] VSC 460 (unled, for the ESCV);

Wholesale markets: *Australian Energy Regulator v Pelican Point Power Ltd* [2023] FCA 1110 (13-day trial); [2023] FCA 1381 (declarations) (led by A McClelland KC and T Clarke, for the AER) – followed by 2-day penalty hearing, judgment pending;

Environment

Synthetic greenhouse gas: *Minister for the Environment v ACN 089 171 415 Pty Ltd (formerly Fire Protection Technologies Pty Ltd)* [\[2020\] FCA 1557](#) (unled, for the Minister);

Financial services

Financial advice: *ASIC v Golden Financial Group Pty Ltd (formerly NSG Services Pty Ltd) (No 2)* [\[2017\] FCA 1267](#) (led by J Moore QC, for the defendant);

OTC derivatives / unconscionable conduct: *ASIC v AGM Markets Pty Ltd & Ors* [2019] FCA (led by Hamish Austin QC, for a defendant, pre-trial stages only);

Superannuation: *Commissioner of Taxation v Pavih* [\[2019\] FCA 2056](#) (unled, for the respondent);

Superannuation / licensee obligations / complaint handling: *ASIC v Telstra Super Pty Ltd* [2024] FCA (led by N De Young KC, for the defendant) – ongoing.

Media

Radio broadcasting: *Australian Communications and Media Authority v Phaze Broadcasting Pty Ltd* [2024] FCA (unled, for ACMA) – ongoing.

COMPETITION LAW

Authorisation of industry code: *Application by Flexigroup Ltd; Re the New Energy Tech Consumer Code* [\[2020\] ACompT 2](#) (4-day trial, 6 parties); [\[2020\] ACompT 1](#) (leave to intervene) (led by T Clarke, for the Consumer Action Law Centre);

Economic infrastructure regulation: *Application by ActewAGL Distribution; re distribution determinations by the Australian Energy Regulator* [\[2017\] ACompT 2](#) (unled, written submissions only, for Energy Consumers Australia).

COMPULSORY EXAMINATIONS – WHERE CONDUCTING THE EXAMINATION

Australian Energy Regulator: Compulsory examinations concerning generator bidding conduct on the National Electricity Market (2022, unled, for the AER);

Essential Services Commission: Compulsory examinations concerning breaches of the Energy Retail Code of Practice (2024, unled, for the ESCV);

Previous examinations in-house: Previously conducted examinations for ASIC and the Financial Services Authority (UK) – in-house, not as counsel.

MERITS REVIEW AND DISCIPLINARY

Merits review (disciplinary) – financial advisor: *Roithnie & ASIC* [\[2021\] AATA 1545](#) (5-day trial); [\[2020\] AATA 373](#) (issue of summons); [\[2019\] AATA 4546](#) (stay and confidentiality) (unled, opposed to Senior Counsel, for the financial adviser);

Merits review (licensing) – horse-racing and media: *Bartley v Racing Victoria Ltd (Review & Regulation*

List) [\[2019\] VCAT 949](#) (jurisdiction), [\[2019\] VCAT 1323](#) (costs) (unled, for the applicant, a prominent horse racing journalist);

Merits review (licensing) – vocational education provider: *Undisclosed RTO & Australian Skills Quality Authority* [2019] AATA (successful stay application, unreported) (led by R Heath QC, for the applicant, a registered training organisation – resolved).

Commercial and Common Law

CLASS ACTIONS

Australian Consumer Law: advising a global litigation funder on a prospective class action against an automotive company;

Australian Consumer Law: *Somers v Box Hill Institute & Gobel Aviation Pty Ltd* [2020] VSC – class action by aviation students, acting for defendant flight school (led by R Heath QC) (pre-trial stages only).

CORPORATIONS LAW

Oppression / breach of director’s duties: *Re Heritage Group* [2023] VSC (leading M Hardinge) resolved;

Oppression / breaches of director’s duties: *Townshend v Fendall Farms Pty Ltd & Ors* [\[2022\] FCA 848](#) (derivative leave application) (led by R Heath KC, for the plaintiffs);

Oppression / injunction: *Re Design Flow Pty Ltd* [2021] VSC (unled – successful injunction against co-director) – issues re confidentiality, conflicts of interest in sale scenario;

Oppression / freezing order: *Re Infomotion Pty Ltd* [2018] VSC (unled – successful resistance of freezing order by co-director) - issues re conflict of interest, breaches of directors' duties;

Owners’ corporation – validity of meeting / injunction: *Jasmar Custodians Pty Ltd v OCPS640556E* [2018] VCAT (unreported) (unled, successful injunction to restrain invalid meeting);

Insolvent trading: *Gountzos v Hall* [2018] VCC (resolved) (unled, for the plaintiff liquidator);

Insolvency – recovery of unfair preferences: *Cant v Healey Infrastructure Pty Ltd* [2017] VMC (unreported) (three-day trial, unled, for the defendant).

Scheme of arrangement: *Re The Sustainable Nutrition Group Ltd* [\[2023\] FCA](#) (unled, no reasons published);

Scheme of arrangement: *Re PropTech Group Ltd* [\[2022\] FCA 1606](#); [\[2023\] FCA 89](#) (led by Carl Moller SC);

Scheme of arrangement: *Re PayGroup Ltd* [\[2022\] FCA 1026](#); [\[2022\] FCA 1350](#) (led by Carl Moller SC);

Setting aside statutory demand: *PJ Nash Pty Ltd v Food and Beverage Australia Pty Ltd* [2020] VSC (unled, for the applicant) – resolved;

FINANCIAL SERVICES

Banker's duties – third party fraud / Quincecare duty: *Stanley v National Australia Bank Ltd* [2022] VSC (pre-action discovery, unreported) (unled, for the prospective plaintiff);

Consumer credit - claim brought by unlicensed lender: *Pan v Lu & Zhu* [2022] VCC (unled, for a defendant / counterclaimant);

Financial advice / fraud: *The Complete Planner Pty Ltd v DFS & Anor* [2023] VCC (unled, for defendant financial adviser, resolved);

Superannuation / fund administration / remediation of trust: *Diversa Trustees Ltd v Primary Superannuation Services Pty Ltd* [2019] VSC (unreported) (led by J Moore QC, for the trustee);

GENERAL CONTRACT AND PROPERTY

Contract / property: *Melbourne Property Group Investments (MPGI) Pty Ltd v Knight 43 Martin Street Pty Ltd & Ors* [\[2022\] VSC 41](#) (6-day trial – leading V Murano, for the defendants / counterclaimants); [\[2022\] VSC 195](#) (costs);

Energy retailer and large customer dispute: *EnergyAustralia Pty Ltd v Ivanhoe Ops Pty Ltd* [2023] VCC (unled, for the defendant) – resolved;

Fraud / property / trusts: *Hajipour v Azimzadeh* [2021] VCC (unled - settled); [2020] VSC (resisting removal of caveat, leading U Ramachandran, for the plaintiffs);

Intellectual property: *The Kilmore International School (Vic) Pty Ltd & Anor v The Kilmore International School Ltd* [2022] FCA (unled, opposed to Senior Counsel, listed for expedited trial, for the applicants) – resolved;

Production of documents: *Kraft Foods Group Brands LLC v Bega Cheese Ltd (Nos 3, 4 and 7)* [\[2018\] FCA 1023](#); [\[2018\] FCA 1055](#); [\[2018\] FCA 1507](#) (led by E Heerey QC, for the third party resisting production of documents);

JUDICIAL REVIEW

Driver licensing: *Marijancevic v Page & Ors* [\[2020\] VSC 68](#) (unled, for VicRoads);

Fuel safety / infringement notices: *United Petroleum Pty Ltd v Minister for the Environment & Energy* [2017] FCA (resolved) (unled, opposed to Senior Counsel, for the Minister).

Immigration: *DED16 v Minister for Home Affairs* [\[2019\] FCAFC 18](#) (Full Court appeal, led by D Yarrow); [\[2018\] FCCA 3074](#) (judicial review, unled) (for the applicant).

NEGLIGENCE AND TORT

Negligence / liability of road authority / Water Act claims: *Yarra Valley Water v Adams; Adams v Head, Transport for Victoria* [2023] VMC (unled, 7-day trial, for the road authority); and

Negligence / liability of road authority: *Deanlee Pty Ltd v Head, Transport for Victoria* [2022] VCC (unled, for the authority) – resolved.

Memberships

Australian Institute of Administrative Law

Banking and Financial Services Law Association

Commercial Bar Association

Criminal Bar Association

Law Council of Australia – Melbourne Corporations & Securities subcommittee

Law Institute of Victoria

Secretary of the Commercial Bar Association's Energy & Infrastructure Section