

MARK ROBERTSON

Barrister

8 WENTWORTH CHAMBERS

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Called to the Bars of New South Wales and New Zealand, Mark maintains a broad commercial practice. With a true global presence, he has also acquired considerable experience practising as a qualified solicitor in the United Kingdom.

The jurisdictions in which Mark primarily practises includes the Supreme Court, District Court and Local Courts of New South Wales, as well as the Courts of New Zealand. The nature of the disputes in which he advises and appears ranges from matters concerning breach of fiduciary duty, equity, trade practices, and insurance-related litigation, to contracts, insolvency, employment, sale of goods and fraud disputes, as well as matters concerning shareholders' duties and breach of directors' duties. He has also been briefed in cases relating to cross-border disputes and international arbitration, and is well placed to accept briefs in matters concerning cross-Tasman disputes, given his dual calling to the Bars of New South Wales and New Zealand.

The depth and breadth of Mark's skillset extends to a range of dispute resolution forums, including court litigation, arbitration and mediation. He is commended by his clients for his pragmatism, analytical skills and furnishing cost effective and efficient advice. He possesses a strong ability to distil complex matters into clear and understandable advice and has a demonstrated ability to identify key legal issues and articulate case law to form conclusions. Mark is a flexible and responsive barrister and adds considerable value to clients by turning work around quickly.

Previously, Mark practised as a solicitor in a large commercial law firm in Sydney, predominantly in the area of insurance litigation (with a focus on professional indemnity), prior to which he worked for an international commercial law firm in the investment treaty and international commercial arbitration team in London. While overseas, he also acted as Secretary to the Arbitral tribunal on large international commercial arbitrations that involved the world's leading arbitrators and has written several articles on the topic of 'international arbitration' for publication. Prior to moving to London, Mark practised in New Zealand, with a focus on a range of criminal and commercial trials.

Mark holds a Master of Business and Law from the Bucerius Law School / WHU Otto-Beisheim School of Management in Hamburg Germany from which he received an award for the best overall student. He also holds a Bachelor of Laws and Bachelor of Commerce from the Victoria University of Wellington, New Zealand.

ADMISSIONS TO PRACTICE

- 2018 Called to the Bar of New South Wales and New Zealand
- 2014 Admitted as a Solicitor of the High Court of Australia
- 2013 Admitted as a Solicitor of the Supreme Court of New South Wales
- 2012 Admitted as a Solicitor of England and Wales
- 2004 Admitted as a Barrister and Solicitor of the High Court of New Zealand

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PROFESSIONAL QUALIFICATIONS

- 2008 – 2009 Master of Law and Business (class rank – 1st – ‘outstanding’): Bucerius Law School / WHU Otto-Beisheim School of Management, Hamburg, Germany
- 1999 – 2003 Bachelor of Laws: Victoria University of Wellington, New Zealand
- 1999 – 2001 Bachelor of Commerce: Victoria University of Wellington, New Zealand
- 1998 ‘A’ Bursary, Kapito College, New Zealand

PRINCIPAL AREAS OF PRACTICE

- Commercial Law
- Equity / Trusts
- Building and Construction Law
- Corporations Law
- Contracts Law
- Insolvency
- Insurance Law
- Professional Negligence
- Alternative Dispute Resolution

PROFESSIONAL EXPERIENCE

- 2018 – present Barrister, Eight Wentworth Chambers, Sydney
- 2013 – 2018 Senior Associate, Colin Biggers and Paisley, Sydney
- 2012 Locum Solicitor, Quinn Emanuel Urquhart & Sullivan LLP, London
- 2011 Associate, Eversheds LLP, London
- 2010 Assistant to International Commercial Arbitral Tribunals, Dr Julian D M Lew QC, 20 Essex Street, London
- 2010 Secretary to the Arbitral Tribunal, Sir Gavin (formerly Mr Justice) Lightman, Serle Court, London
- 2009 Internship (as part of Master’s study) in the International Arbitration Group of Wilmer Hale Cutler Pickering and Dorr LLP, London
- 2004 Barrister and Solicitor of the High Court of New Zealand, Thomas Dewar Sziranyi Letts, Lawyers, New Zealand

ACCOLADES

Deutscher Akademischer Austausch Dienst (DAAD) prize – for best overall student in the Bucerius Law School / WHU Otto-Beisheim School of Management Master of Law and Business Program (2008 / 2009)

PROFESSIONAL MEMBERSHIPS AND PROFESSIONAL ACTIVITIES

- Member, New South Wales Bar Association
- Member, New Zealand Law Society
- Member, Young International Arbitration Group
- Arbitrator at the Wilhelm C. Vis Moot Competition, Vienna (2010, 2011 and 2012)

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PUBLICATIONS AND PRESENTATIONS

- *Pure Economic Loss Claims: Brookfield Multiplex v Owners Corporation Strata Plan 61288 and its lessons for owners, builders, developers, vendors, purchasers, professional advisors and their respective insurers:* (2016) 28 ILJ 71, Mark Robertson (published by LexisNexis), ISSN 0817-623X
- *Cross Border Insolvency and International Commercial Arbitration: Characterisation and Choice of Law issues in light of Elektrim v Vivendi and analysis of the European Insolvency Regulation:* International Arbitration Review, Volume 12 Issue 6
- *The new ICC Rules of Arbitration: A Brief Overview of the Main Changes:* International Arbitration Law Review, Volume 14, No. 5, 2011
- *Libyan Sanctions – The Interplay of Different Regimes,* Global Arbitration Review, 12 October 2011
- *Venezuela and ICSID: A Reminder of Unresolved Issues,* Global Arbitration Review, 27 January 2012
- *Iura Novit Curia and Due Process in Liber Amicorum en l'honneur de Serge Lazareff,* ICC Publication No. 973, 2011 Edition
- *The Arbitrator and Confidentiality,* in Derains, Yves Dossiers of the ICC Institute of World Business Law
- Drafted numerous book chapters in Eversheds': *Practical Guide to International Arbitration*
- Book Review *Arbitration International*, Volume 29 Issue 2 Williams & Kawharu on Arbitration by David Williams QC and Amokura Kawharu with contributing authors Daniel Kalderimis, Anna Kirk and Campbell Walker (published by LexisNexis 2011), ISBN 9781877511547, 1246 pages

SELECT CASES

The following are select cases in which Mark has appeared during his legal career.

AUSTRALIA

- *Hyder v McGrath Sales Pty Ltd* [2017] NSWSC 1647 - misleading and deceptive conduct claim brought against real estate agents over exclusivity of parking right
- *Amashaw Pty Limited v Marketform Managing Agency Ltd* [2017] NSWSC 612 - insurance - claim for the cost of making good the damage caused by the significant leak of petrol from an underground tank and line, and the associated explosion of a Sydney Water sewer main
- *United Petroleum Pty Ltd v Bonnie View Petroleum Pty Ltd (in Liquidation)* [2017] VSC 334, application for non-party personal costs orders against liquidators
- *Perpetual Nominees Ltd v McGoldrick (No 3)* [2017] VSC 78 - duty of care owed by liquidators to guarantors
- *Lanco Resources Australia Pty Ltd v Griffin Energy Group Pty Ltd (Subject to a Deed of Co Arrangement) & Ors* - claim brought against GEG, the administrators and KordaMentha for alleged misleading and deceptive conduct in the sale of a coal mine in Western Australia

NEW ZEALAND

- Represented many clients on a wide variety of contentious matters in the Wellington region
- Advocated in the District Courts held at Upper Hutt, Lower Hutt, Porirua and Wellington, the High Court Wellington, and once in the Court of Appeal of New Zealand on civil, commercial and criminal matters

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- Drafted pleadings, interlocutory applications, submissions, court orders and other necessary documentation for court proceedings, including civil and commercial claims, corporate and personal insolvency, debt collection, construction contracts, Personal Property Securities Act issues, employment disputes and commercial property claims
- Represented clients in negotiations, mediations and judicial settlement conferences
- Kings Wharf Coldstore Limited (in receivership and liquidation) v David Wilson, CIV-2001-485-954, High Court of New Zealand, Wellington Registry, Miller J - Researched and drafted detailed closing legal submissions for court on behalf of the plaintiff in a matter where the defendant defrauded the plaintiff of \$2.5 million
- *Compton Earthmoving Contractors (2004) Ltd v Cromdale Developments Ltd High Court Wellington* CIV-2006-485-1592, 11 June 2007, Associate Judge Gendall - Appeared and advocated on applications for summary judgment, applications for liquidation and other debt collection matters
- *B S Developments No 12 Ltd v P B & S F Properties Ltd* (2006) 7 NZCPR 603 (Court of Appeal) and *B S Developments No 12 Ltd v P B & S F Properties Ltd* (2005) 6 NZCPR 741 (High Court), Mackenzie J - Worked closely with Gerard Dewar and Bruce Corkill QC. Gathered and analysed evidence, briefed witnesses. Researched and drafted submissions in the High Court and Court of Appeal of New Zealand. Submissions focused on contractual and agency issues
- *C & K Apparel Ltd v Melling Retail Ltd*, CIV-2006-032-660 – Wellington District Court, 9 July 2008, District Court Judge T J Broadmore - Acted for defendant as junior counsel in successful trial regarding the right of the tenant client to repudiate a lease agreement under the Contractual Remedies Act 1979
- *Mollison v Hi-Tech Tyres and Alloys & Geoff Dixon International*, Wellington District Court - Drafted all pleadings and other court documentation and submissions, briefed witnesses, attended a Judicial Settlement Conference and negotiated a favourable settlement with the insurer in a claim for a loss of a rally car
- *Clarke v Police* [2007] NZSC 83 (Supreme Court of New Zealand); *Clarke v Police* [2007] NZCA 294 (Court of Appeal); *Clarke v Police* HC Wellington CIV-2005-485-245, Re *Clarke ex parte Watts* HC Wellington, CIV-2006-485-2461, Associate Judge Gendall - Advocated as leading counsel on behalf of Police Detective in ongoing litigation brought against him by a vexatious litigant in the District Court, High Court, Court of Appeal and Supreme Court of New Zealand
- *Chatha v Attorney-General*, CIV-2006-454-868, High Court, Palmerston North, 2 May 2008, Associate Judge Gendall – Advocated as leading counsel for fifth defendant on application to strike out the claimant's numerous and untenable causes of action
- Advocated on behalf of many criminal defendants before the District Courts held at Wellington, Lower Hutt, Upper Hutt and Porirua, New Zealand. For example *New Zealand Police v Taiapa* CRI-2006-032-002-679, 2 May 2007, Judge S. M. Harrop

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LONDON

- Locum solicitor on a claim brought by an American Hedge Fund following the insolvency and collapse and of an Icelandic bank
- UAB "ARVI" ir ko and UAB "SANITEX" v. Republic of Serbia (ICSID Case No. ARB/09/21) - Drafted detailed submissions in an international investment dispute (ICSID) against a European State relating to an industrial fertiliser manufacturing plant, claimed value of EUR 43m
- Drafted pleadings in an arbitration claiming fraud and breach of contract against a Russian oligarch who, in breach of contract and fiduciary duty orchestrated the transfer of the shares of a property development company worth \$250m
- Assisted senior partner and counsel with preparation for a trial in the Royal Court of Guernsey relating to an offshore trust that involved breaches of fiduciary duty valued at £300m. Seconded to Guernsey during the three week trial period
- Advised a large US company regarding sanctions imposed by the UN, EU, US and UK on Libya in early 2011 and bribery and corruption arising under the new UK Bribery Act that impacted on a takeover of a UK chemical distributor operating in Middle East/North Africa region by a US/UK corporation
- Assistant to Dr Lew and various tribunals comprised of leading international arbitrators on > 20 international commercial arbitrations (£ 10m - > £900m in dispute) under the ICC, LCIA, UNCITRAL, SIAC, and other major institutional arbitration rules
- Analysed pleadings filed by leading multinational law firms, researched legal issues, attended hearings, assisted with preparation of awards, drafted Terms of Reference, procedural orders and correspondence with parties and co-arbitrators
- Appointed by the parties as Secretary to the Tribunal on a complex international commercial arbitration conducted under the LCIA Rules (>US\$20m) involving Russian and South African parties in dispute over rights to a gold mine in Kazakhstan
- Liaised with the parties on all issues that required input from the tribunal, drafted various procedural and interim orders and directions, reviewed and analysed parties' pleadings and submissions, assisted Sir Gavin with various research tasks and co-ordinated hearing logistics
- Assisted with various major arbitrations including a review of submissions and witness evidence for a large European telecommunication company with an amount in dispute of several billion Euros. Undertook numerous research tasks on a number of other arbitrations prior to filing of memorials