



ARBITRATION
EARLY NEUTRAL EVALUATION
MEDIATION

The Hon James Allsop AC

Call: 1981 | Senior Counsel: 1994 (New South Wales) | Queen's Counsel: 1998 (Western Australia)
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PRACTICE

The Hon James Allsop AC was Chief Justice of the Federal Court of Australia from 1 March 2013 to 6 April 2023; President of the New South Wales Court of Appeal from 2 June 2008 to 28 February 2013; and a Judge of the Federal Court of Australia from 7 May 2001 to 1 June 2008.

He is now available as an arbitrator, mediator, early neutral evaluator, chair of inquiries and legal expert.

As a barrister from 1981, and as Senior Counsel (in New South Wales) from 1994 and as Queen's Counsel (in Western Australia) from 1998, James practised in a wide variety of areas in commercial law.

James' expertise, as an advocate and judge, includes company law and business and partnership disputes, taxation, restrictive trade practices (anti-trust), patents, intellectual property, contract and building and construction disputes, with specialties in insurance, intellectual property, maritime law, insolvency, public and constitutional law, equity, and common law, in particular professional negligence of auditors, solicitors and insurance brokers.

James was made a Companion of the Order of Australia (AC) in 2023 for eminent service to the judiciary and to the law, to organisational and technological reform, to legal education, and to insolvency law. He was appointed an Officer of the Order of Australia (AO) in 2013.

ADR APPOINTMENTS

Recent examples include:

Appointed as mediator in a commercial dispute regarding confidential information.

Appointed as mediator in a commercial dispute concerning restraint of trade.

Appointed as mediator in a commercial restraint of trade dispute.

Appointed as mediator in an industrial dispute in the transport sector.

Appointed as mediator in a ship collision dispute.

Appointed reviewer of an appeal in a commercial dispute being heard in court.

Appointed referee to report on tenders for the administration of class action settlements.

Appointed facilitator to assist the presentation of expert evidence in a class action concerning the construction of large residential and commercial buildings, cladding issues were involved.

Appointed as Chairman in a HKIAC arbitration in a dispute concerning the construction of commercial documents.

Appointed as Chairman in a HKIAC arbitration regarding a ship conversion contract.

Appointed as Chairman in a ACICA arbitration concerning a shareholder agreement dispute.

JUDICIAL CAREER

Chief Justice of the Federal Court of Australia 1 March 2013 to 6 April 2023

President of the New South Wales Court of Appeal 8 June 2008 to 28 February 2013

Judge of the Federal Court of Australia 7 May 2001 to 7 June 2008

An Additional Judge of the Supreme Court of the Australian Capital Territory 2003 to 2008

The Federal Court of Australia is the national superior court set up under legislation of the Commonwealth (that is the national) parliament and is of equivalent status to the Supreme Court and Courts of Appeal of the States and Territories of Australia. The jurisdiction of the court includes a wide commercial practice area: commercial contracts, banking, finance and insurance, corporations, insolvency (corporate as well as personal bankruptcy), trade practices or competition and market regulation, supervision of international commercial arbitration, intellectual property (patents, trademarks, designs and copyright), taxation, Admiralty and maritime law, public or administrative and constitutional law.

As a Judge of the Federal Court, he undertook a full range of the work of the Court, sitting as a trial judge and as an appellate judge, on cases involving the full range of the Court's jurisdiction.

While in the Federal Court up to 2008, he was the Convenor of the National Admiralty Committee of the Federal Court which committee advised the then Chief Justice on Admiralty matters and

National Convening Judge and Sydney Registry Convening Judge in respect of the Admiralty and maritime work of the Federal Court. From 2013 to 2023 as Chief Justice he primarily sat on appeals, but from 2016 to 2023 he was in charge of the Insurance List of the Federal Court which involved case management, trial work and appellate work.

The Court of Appeal is the highest court in New South Wales. The President of the Court of Appeal is the second most senior judicial position in New South Wales.

Judicial work

In the Federal Court from 2001 to 2008 and from 2013 to 2023, he delivered or participated in the delivery of over 500 judgments sitting alone at first instance, and over 700 judgments in Full Courts on appeal or at first instance.

In the Supreme Court of New South Wales between 2008 and 2013, he delivered or participated in the delivery of 415 judgments in the Court of Appeal and 100 judgments in the Court of Criminal Appeal.

Some judgments in commercial law, shipping, insurance, intellectual property and insolvency have been:

ACCC v NSW Ports [2023] FCAFC 16 [concerning the competition allegations in connection with the privatisation of ports in New South Wales]

Minister for the Environment v Sharma [2021] FCAFC 35 [concerning duty of care said to be owed in relation to the risk of climate change]

Morton as Liquidator v Metal Manufacturer [2021] FCAFC228 [concerning set off in insolvency of multiple preferences]

Liberty Mutual v Icon [2021] FCAFC 126 [concerning construction of and rectification of insurance policies]

Kingdom of Spain v Infrastructure Services [2021] FCAFC3 [concerning recognition and enforcement of ICSID awards]

Tech Swiss v Vero Insurance [2021] FCA 95 [subrogation and recoupment in insurance]

Hancock Prospecting v Rinehart [2017] FCAFC120 [concerning the construction of arbitration clauses and the stay of proceedings in favour of arbitration]

Lifeplan Australia v Ancient Order of Foresters [2017] FCAFC 74 [concerning causation in Equity]

Chevron Australia v Commissioner of Taxation [2017] FCAFC 62 [concerning the construction and interpretation of transfer pricing provisions of Australian taxation legislation]

Todd v Alterra at Lloyds [2016] FCAFC 15 [concerning the proper construction of insurance policies]

Ship “Sam Hawk” v Reiter Petroleum Ltd [2016] FCAFC 26; 246 FCR 337; 335 ALR 578 [concerning the recognition of foreign maritime in Australian maritime law]

Paciocco v Australia and New Zealand Banking Group Ltd [2015] FCAFC 50; 236 FCR 199; 321 ALR 584 [concerning the law of penalties, good faith and the meaning of statutory unconscionability]

Cited: *Makdessi v Cavendish Square Holdings BV* *ParkingEye Ltd v Beavis* [2016] AC 1172 at [129], [151] and [153]; *Sheikh Tahnoon Bin Saeed Bin Shakhboot Al Nehayan v Ioannis Kent* [2018] EWHC 333 (Comm) at [175].

United Group Rail Services Ltd v Rail Corp (NSW) [2009] NSWCA 177; 74 NSWLR 618 [concerning good faith in the performance of contracts]

Cited: *Emirates Trading Agency LLC v Prime Mineral Exports Private Ltd* [2014] 2 Lloyd's Rep 457 at [48]-[49]; *Emirates Trading Agency LLC v Sociedade de Fomento Industrial Private Ltd* [2015] EWHC 1452 (Comm) at [61]; *Unwin v Bond* [2020] EWHC 1768 (Comm) at [219]; *Compound Photonics Group Ltd, Re* [2022] EWCA Civ 1371 at [188]-[212].

McCarthy v St Paul International Insurance Co Ltd [2007] FCAFC 28; 157 FCR 402; 239 ALR 527; 14 ANZ Ins Cas 61-725 [concerning professional negligence and causation]

Cited: *Financial Conduct Authority v Arch Insurance (UK) Ltd* [2021] UKSC 1 at [172] and [187].

Comandate Marine Corp v Pan Australia Shipping Pty Ltd [2006] FCAFC 192; 157 FCR 45; 238 ALR 457 [concerning the proper character of the action in rem in Australia; and the proper approach to the constitution of arbitration clauses]

Cited: *Fiona Trust & Holding Corp v Privalov* [2007] UKHL 40 at [31].

New England Biolabs Inc v F Hoffmann-La Roche AG [2004] FCAFC 213; 141 FCR 1 [concerning the nature of an interlocutory appeal against the decision of the Commissioner of Patents]

El Greco (Australia) Pty Ltd v Mediterranean Shipping Company Co SA ('The 'MSC Melbourne') [2004] FCAFC 202; 140 FCR 296; 209 ALR 448; [2004] 2 Lloyd's Rep 537 [concerning the approach to Article 4 Rule 5(c) of the Hague-Visby Rules package limitation 'packages or units as packed']

Cited: *Jl MacWilliam Co Inc v Mediterranean Shipping Co SA* [2005] 2 AC 423 at [8]; *Vinnlustodin HF v Sea Tank Shipping AS* [2016] EWHC 2514 (Comm) at [22]-[29]; *Sea Tank Shipping AS (formerly known as Tank Invest AS) v Vinnlustodin HF* [2018] EWCA Civ 276 at [39]-[57]; *Kyokuyo Co Ltd v AP Moller-Maersk A/S (t/a Maersk Line)* [2017] EWHC 654 (Comm) at [77]-[82]; *AP Moller-Maersk A/S (t/a Maersk Line) v Kyokuyo Ltd* [2018] EWCA Civ 778 at [83]; *Trafigura Pte Ltd v TKK Shipping Pte Ltd* [2023] EWHC 26 (Comm) at [37].

Tisand Pty Ltd v MV Cape Moreton [2004] FCA 1191 [concerning Admiralty practice and the appropriate course to follow upon a challenge to jurisdiction and the provision of security and security for costs]

Incitec Ltd v Alkimos Shipping Corporation [2004] FCA 698; 138 FCR 496; 206 ALR558 [concerning principles of applying or not an exclusive jurisdiction clause]

DSE (Holdings) Pty Ltd v Intertan Inc [2004] FCA 1159 [concerning the interpretation and construction of commercial contracts; estoppel and rectification]

DSE (Holdings) Pty Ltd v Intertan Inc [2003] FCA 384; and [2003] FCA 1191 in 135 FCR 151 [concerning legal professional privilege, waiver and advice privilege in a commercial context]

Anheuser-Busch, Inc v Budejovicky Budvar, Narodni Podnik [2002] FCA 390; 56 IPR 182; (2002) AIPC 91-789 [concerning the Budweiser trademark dispute]

Branir Pty Ltd v Owston Nominees (No 2) Pty Ltd [2001] FCA 1833; 117 FCR 424 [concerning the nature of appellate review on a rehearing; and the formation and construction of commercial contracts.]

POSITIONS AND MEMBERSHIPS

Fellow of the Australian Academy of Law.

Member of the American Law Institute.

Titulary Member of the Comité Maritime International on 20 October 2022.

Honorary Bencher of the Middle Temple, being elected in 2010 and Called on 22 March 2011.

President of the Francis Forbes Society for Australian Legal History.

Since 2023	Member of the Asian International Arbitration Centre's Panel of Arbitrators and Mediators
2019 to 2023	Chair of the Judicial Liaison Committee of the Australian Centre for International Commercial Arbitration (ACICA).
Since 2019	Member of the board of governors of the Asian Business Institute (ABLI) representing the Australian judiciary. Through the ABLI he has been actively involved in the International Asian Principles of Business Reconstruction Project.
Since 2018	Inaugural Patron of the Australian Insurance Law Association (AILA).
Since 2016	Involved in the establishment, organisation and working of the Standing International forum of Commercial Courts (SIFoCC) and current member of its steering committee. Previously involved in the international Judicial Insolvency Network (JIN).
2015 to 2017	Chair of the expert group in the Hague Conference on Private Law (HCCH) on the Use of Video-link in the Taking of Evidence Abroad.
2005 to 2009	Member of the governing board of the World Maritime University in Malmö, Sweden.
2008 to 2011	Member of the board of the Australian Maritime College as part of the University of Tasmania in Launceston.

TEACHING

Over the years James has lectured and spoken at various academic and professional gatherings including the Maritime Law Association of Australia and New Zealand (MLAANZ), AILA, the Intellectual Property Association of Australia and New Zealand, the Institute of Patent Attorneys, the Australian National University, the Centre for Asian and Pacific Law in the University of Sydney, and the New South Wales Bar Association.

2015 to 2018 Taught part-time in maritime law on comparative Admiralty practice at the University of Queensland, and from 2016 to 2018 was an Adjunct Professor in the School of Law, the University of Queensland.

2005 to 2014 Co-ordinated and delivered post-graduate courses at the University of Sydney entitled “Commercial Maritime Law” and “Comparative Admiralty and Maritime Practice”, and for some years of that time, was an Adjunct Professor of Law at the University of Sydney.

2000 to 2004 Lecturer in a Master of Laws Course at the University of Sydney entitled “Equity Financing”.

1985 to 1992 Lecturer in Bankruptcy and then Insolvency at the University of Sydney, being for a number of years the Challis Lecturer in Bankruptcy.

1981 to 1983 Tutor at the University of Sydney in Real Property and Equity.

PUBLICATIONS AND SPEAKING ENGAGEMENTS

Recent speaking engagements include:

- “*As the world changes: the role of the judiciary, in their own words*” - Chair of a panel session (in partnership with the Standing International Forum of Commercial Courts (SIFoCC) as part of London International Disputes week 2023, 16th May 2023
- “*A Clash of Cultures – Exploring the impact of Culture on Advocacy and International Arbitration*” - Panel Member for ACICA-45, 3rd August 2023
- CIArb Queensland Chapter Business Lunch – Guest speaker, 7th September 2023
- “*Not a land girl by beach and the importance of seeing maritime law as the law of an activity*” - The Dethridge Memorial Address at Maritime Law Association of Australia and New Zealand 2023 Annual Conference, 5th October 2023
- “*The Timeless Quest for Certainty and its Relevance to Maritime Law and Arbitration Law: where practical reality meets theory*” - International Congress of Maritime Arbitrators in Dubai, 6th November 2023
- ACICA Cocktail Party as part of Australian Arbitration week – Guest speaker, 9th October 2023
- ‘*Maritime Arbitration Update*’ – Australian Maritime Arbitration Commission event as part of Australian Arbitration week, 10th October 2023
- “*The legal system and the administration of justice in a time of technological change: machines becoming human, or humans becoming machines?*” – The Sir Francis Burt Oration, 21st November 2023
- “*Win Friends and Influence People: Persuading the Tribunal*” - Panel Member, GAR Live: Sydney, 28th November 2023

Please see the [website](#) for a separate list of publications and papers.