



## Maryanne B Loughnan QC

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<b>Signed Victorian Bar Roll</b>	1989
<b>Appointed Senior Counsel</b>	2008
<b>Admitted to the Legal Profession</b>	2 Nov 1983
<b>Nationally Accredited Mediator</b>	2009 to 2017
<b>Qualifications</b>	LL.B (Melb)

### **Primary Practice Areas**

- Commercial Law
- Banking & Finance
- Competition and Consumer Law
- Corporations
- Credit Law
- Equity/Trusts
- Insurance
- Leases
- Mediation
- Professional Negligence
- Securities





### *Profile*

Maryanne Loughnan QC practises in most areas of commercial dispute in the superior courts. She is experienced in all aspects of work associated with matters in her primary practice areas including drafting of pleadings, advice, injunctions, mediation, trial preparation and the conduct of trials and appeals. She is available to conduct and appear in matters, or act as mediator, in all jurisdictions.

She has worked closely with in-house counsel, particularly on a direct briefing basis for banking and finance matters.

Her general approach to dispute resolution is that she advises and assists the litigation team on how to best maximise the effect of its preparation for trial by the timely gathering of the best evidence. She has a particular speciality in obtaining the thorough proofing of witnesses and the settling of their affidavits of evidence. These tasks are performed with her active interaction and integration with the members of the litigation team. She is experienced working with large teams of lawyers and counsel.

Equally she advises on grounds of, and appears in, appeals.

She has a special interest in banking and finance disputes and was the Chair of the Banking and Finance Section of the Commercial Bar Association of Victoria from 2005 to 2011.

*From 12 February 2009 liability limited by a scheme approved under Professional Standards Legislation - Professional Standards Act 2003 [Vic].*



## Cases

Some of the cases in which Maryanne Loughnan QC has appeared/advised include the following:

- *Koga Nominees Pty Ltd v Loscam Australia Pty Ltd* (2017 - 2018) - LEASE - sub-lease - estoppel - acting for defendant lessee
- *Fotopoulos v Commonwealth Bank of Australia* (2016 – 2018) VSC - breach of mandate - estoppel - ratification - acting for defendant bank
- *Smith & anor v J Z Lee Interiors Pty Ltd* (2015 - 2018) VSC - restitution - directors' duties - fiduciary duties - remuneration - settled in course of trial
- *Smith & anor v J Z Lee Interiors Pty Ltd* [2016] VSCA 161 - COSTS - <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSCA/2016/161.html>
- *Commonwealth Bank of Australia v Klapanis* (2016) VSC - breach of mandate - acting for plaintiff - judgment for plaintiff
- *J Z Lee Interiors Pty v Ltd v Smith & anor* [2015] VSC 693 - PLEADINGS - SECURITY FOR COSTS - restitution - directors' duties - fiduciary duties <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2015/693.html>
- *Smith & anor v J Z Lee Interiors Pty Ltd* [2015] VSCA 203 - CORPORATIONS - jurisdiction - pleadings
- *Barker v Commonwealth Bank of Australia* [2016] VSC 268 - JUDGMENT - setting aside - inherent jurisdiction - Banking Code of Practice - acting for defendant bank <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2016/268.html>
- *Rehabilitation Australia Ltd v EW Tipping Australia Ltd* (FCA) (2014 - 2016) – JOINT VENTURE - fiduciary duties - acting for defendant charity and CEO - settled prior to trial
- *Ballan v Ballan & ors* (VSC) (2014 - 2015) - CORPORATIONS - oppressive conduct - acting for plaintiff - settled prior to trial
- *Campbell v Members of Lloyd's Syndicate QBE Syndicate QBE Casualty 386 & ors* [2014] VSC 655 - PRIVILEGE - issue waiver - acting for Lloyd's syndicate <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2014/655.html>
- *Gray v Brimbank City Council* [2013] VSC 28 - ADMINISTRATIVE LAW - acting for appellant in appeal from a decision of the Victorian Civil and Administrative Tribunal dismissing an application for review for want of jurisdiction <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2013/281.html>

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- *Re Perrot Mill (No.2)* [2013] VSC 428 - TRUSTS - acting for trustee - provision of expert opinion in support of application for judicial advice and directions pursuant to Order 54 of the *Supreme Court Civil Procedure Rules 2005*
- *Morrison & Slalom Pty Ltd v Perrot Mill Pty Ltd & ors* (VSC) (2012 - 2013) - TRUSTS - acting for trustee - setting aside agreement for option to purchase shares
- *Amalgamated Dairies Ltd v Andial Holdings Pty Ltd* (SCNSW) (2009 – 2011) - CONTRACT - acting for plaintiff in claim for \$45 million involving interests in oil exploration projects - charge over shares - defence of estoppel - settled eve of trial
- *Henderson's Automotive Technologies Pty Ltd (in liq) v Flaton Management Pty Ltd* (2011) 32 VR 53; (2011) 84 ACSR (2011) 93; [2011] VSCA 167 - RESTITUTION - set-off - equitable lien - <http://www.austlii.edu.au/au/cases/vic/VSCA/2011/167.html>
- *Iphostrou & Iphostrou and Ors (No 4)* [2011] FamCA 220 (31 March 2011) - APPREHENSION OF BIAS - <http://www.austlii.edu.au/au/cases/cth/FamCA/2011/220.html>
- *Foster James Pty Ltd v Dalton* (2010) 28 VR 204; [2010] VSC 327 - PROFESSIONAL NEGLIGENCE - <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2010/327.html>
- *Westpac Banking Corporation v Rothschild* –(2010) (VSC) - MORTGAGE- claim for mortgage debt of \$5 million - married woman's equity - settled eve of trial
- *Smolle v Australia and New Zealand Banking Group Limited* [2008] FCA 1065 [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2008/1065.html?stem=0&synonyms=0&query=title\(smolle%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2008/1065.html?stem=0&synonyms=0&query=title(smolle%20))
- *Smolle v Australia and New Zealand Banking Group Limited* [2007] FCA 1673 [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2007/1673.html?stem=0&synonyms=0&query=title\(smolle%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2007/1673.html?stem=0&synonyms=0&query=title(smolle%20))
- *Gheorghiu v Perpetual Trustees Victoria Ltd* [2007] VSCA 83 [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSCA/2007/83.html?stem=0&synonyms=0&query=title\(gheorghiu%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSCA/2007/83.html?stem=0&synonyms=0&query=title(gheorghiu%20))
- *Commonwealth Bank of Australia v Damianos & Anor* [2007] VSC 442 <http://www.austlii.edu.au/au/cases/vic/VSC/2007/442.html>
- *Westpac Banking Corporation v Dimopoulos* [2006] VSC 10 <http://www.austlii.edu.au/au/cases/vic/VSC/2006/10.html>
- *Wenczel v Commonwealth Bank of Australia* [2006] VSC 324 <http://www.austlii.edu.au/au/cases/vic/VSC/2006/324.html>

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- *Zaparenkov v Perpetual Trustees Vic Ltd (Credit)* [2006] VCAT 2147  
<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VCAT/2006/2147.html?stem=0&synonyms=0&query=zaparenkov>
- *Skoples v Perpetual Trustees Victoria Limited & Ors* [2004] VSC 422  
<http://www.austlii.edu.au/au/cases/vic/VSC/2004/422.html>
- *Thomas v Southcorp Australia Pty Ltd (No 2)* [2004] VSC 50  
<http://www.austlii.edu.au/au/cases/vic/VSC/2004/50.html>
- *Thomas v Southcorp Australia Pty Ltd* [2004] VSC 34  
<http://www.austlii.edu.au/au/cases/vic/VSC/2004/34.html>
- *Costa Vraca Pty Ltd v Bell Regal* [2003] FCA 65  
[http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2003/65.html?stem=0&synonyms=0&query=title\(bell%20regal%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/FCA/2003/65.html?stem=0&synonyms=0&query=title(bell%20regal%20))
- *Commonwealth Bank of Australia v White (No. 7)* [2003] VSC 344  
<http://www.austlii.edu.au/au/cases/vic/VSC/2003/344.html>
- *Commonwealth Bank of Australia v McArthur* [2003] VSC 31  
<http://www.austlii.edu.au/au/cases/vic/VSC/2003/31.html>
- *Commonwealth Bank of Australia v Aspenview Productions and Ors* [2001] VSC 444  
<http://www.austlii.edu.au/au/cases/vic/VSC/2001/444.html>
- *Commonwealth Bank of Australia v Aspenview Productions and Ors* [2001] VSC 499  
<http://www.austlii.edu.au/au/cases/vic/VSC/2001/499.html>
- *Commonwealth Bank of Australia v Aspenview Productions Pty Ltd and Ors* [2001] VSC 499  
<http://www.austlii.edu.au/au/cases/vic/VSC/2001/499.html>
- *Commonwealth Bank of Australia v McKinnon* [2001] VSC 193, Byrne J – trial – misrepresentation – sale under value
- *Commonwealth Bank of Australia v White (No 3)* [2000] VSC 259  
<http://www.austlii.edu.au/au/cases/vic/VSC/2000/259.html>
- *Burchell v Golden Wood Pty Ltd (No 2)* [2000] VSC 485  
[http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSC/2000/485.html?stem=0&synonyms=0&query=title\(golden%20wood%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSC/2000/485.html?stem=0&synonyms=0&query=title(golden%20wood%20))
- *Burchell v Golden Wood Pty Ltd* [2000] VSC 86  
[http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSC/2000/86.html?stem=0&synonyms=0&query=title\(golden%20wood%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/vic/VSC/2000/86.html?stem=0&synonyms=0&query=title(golden%20wood%20))
- *Hunter v Croner-Tyco Toys Pty Ltd* (Unreported VSC, Gillard J, 23 July 1998 BC9804537)



- *Dellios V Westpac Banking Corporation* – (Unreported Beach J, 30 April 1997, BC9701654)
- *Commonwealth Development Bank of Australia v Karastavrou* (Unreported VSC, Beach J, 12 November 1996, BC9605500)
- *Commonwealth Bank of Australia v Wallis & Graham* (1995) ATPR 41-387; BC9507324

#### ***Victorian Bar Memberships and Roles***

- Member of the Executive Committee of the Commercial Bar Association of Victoria - 2007 to 2010
- Chair of the Banking and Finance Section of the Commercial Bar Association of Victoria - 2005 to 2011
- Advocacy Training Coach, Victorian Bar Readers' Course
- Chair Gordon & Jackson List Committee - 2009 to 2010
- Co-developer of the website of the Commercial Bar Association of Victoria at <http://www.commbar.com.au>
- Founding Chief Editor of the Commercial Bar Association of Victoria Newsletter May 2007 to March 2010
- Team leader and co-author of the Submission of the Victorian Bar on 17 August 2009 to the Inquiry by the Senate Committee into the Personal Property Securities Bill 2009
- Member Commercial Bar Association of Victoria
- Member Women's Barristers Association



***Conference/ Seminar Papers/ Publications***

- *Procedure with Caution*, November 2011 85(11) LIJ, p36 - Summary judgment and the *Civil Procedure Act 2010* (Vic)
- *Islamic Banking - Borrowing and Investing out of Haraam's Way* (2010) 48(4) LSJ 62
- *Bofinger v Kingsway Group Ltd* (2010) 25(7) BLB 115
- *Litigation for In-House Counsel - Managing For the Critical Success Factor* - Legalwise Seminar – September 2010
- *Litigation Strategies* – Masterclass presented to Australian Corporate Lawyers Association by the Commercial Bar Association of Victoria, May 2010
- *Understanding and Managing the Driving Forces that Lead to Conflict* - paper presented to the National Conference of the Australian Corporate Lawyers Association, November 2009
- *The Legal and Commercial Roles of In-house Counsel* – paper presented at the Leo Cussen Institute – March 2009
- *Deposits under Sale of Land Contracts* - paper presented to the Victorian Bar, July 2007
- *Breach Notification Requirements of Australian Financial Services Licensees* - paper presented to the Victorian Bar, March 2007
- *Cheques – Breach of Mandate – Developments Since National Australia Bank Ltd V Hokit* (1996) 39 ANWLR 377 - paper presented to the Victorian Bar, November 2004
- *Consequences of the Accreditation of Financial Advisers and others by Banks* - paper presented to the Victorian Bar, May 2003

***February 2018***