



MARYANNE B LOUGHNAN KC

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PROFILE

Maryanne Loughnan KC is a commercial barrister of nearly 35 years' experience across all aspects of commercial law, with expertise in banking and finance, contractual disputes, securities, consumer and competition law, credit law, property and sale of land, franchises, insurance and commercial leases.

Maryanne appears regularly in the superior courts at first instance and appellate level, in Victoria and interstate.

Maryanne has a particular interest, and significant expertise, in banking and finance law and is briefed frequently on complex matters for many large banking and financial institutions.

Maryanne's approach to dispute resolution is to maximise the effect of preparation by working with and advising a litigation team on the timely gathering of the best evidence. To this end, Maryanne is particularly skilled in obtaining the thorough proofing of witnesses and the settling of their affidavit evidence. Maryanne is experienced working with large teams of lawyers and counsel.

From 2005 to 2011 Maryanne was the Chair of the Banking and Finance Section of the Victorian Commercial Bar Association.

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

QUALIFICATIONS

Signed Victorian Bar Roll: 1989

Appointed Senior Counsel: 2008

Admitted to Legal Profession: 2 November 1983

National Accredited Mediator: 2009 to 2017

LL.B (Melb)



AREAS OF PRACTICE

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

EXPERIENCE

A selection of cases in which Maryanne Loughnan KC has appeared/advised include:

- *Brightgreen Pty Ltd v Marcott Pty Ltd* (2023) VCAT – LEASE - acting for lessor- - whether commercial or retail premises
- *Westpac v Andi Lee & Ors* (2022 -2022) acting for plaintiff – FRAUD – ACCESSORIAL LIABILITY – TRACING - (settled in third week of trial)
- *KTC v David (No 2)* [2019] NSWSC 330 – JURISDICTION – BREACH OF FIDUCIARY DUTIES – joint venture
- *ATG Lanka (PVT) Ltd v Safety Mate Pty Ltd* [2019] VSC 634 – INJUNCTION - CONTRACT – termination of distribution agreement
- *Mudaliar v Jigsaw Support Services Pty Ltd* (2019) VCC– acting for defendant insurer – TRAUMA INSURANCE POLICY – whether cover for alleged medical condition – settled prior to trial
- *Bildom v Westpac Banking Corporation & ors* [2019] VSC 865 – BREACH OF MANDATE – LIABILITY FOR FRAUD OF AGENT
- *Nash v Timbercorp Finance Pty Ltd (in liq), in the matter of the bankrupt estate of Nash* [2019] FCA 957 – INJUNCTION – breach of duty of loyalty by law firm to former client
- *Harris v AMP Financial Planning Pty Limited* [2019] VSC 24 – CONTRACT – INJUNCTION – duty to act in good faith as implied term
- *Koga Nominees Pty Ltd v Loscam Australia Pty Ltd* [2018] VSC 455- LEASE - commercial or retail premises lease
- *Fotopoulos v Commonwealth Bank of Australia* (2016 – 2018) VSC - BREACH OF MANDATE - ESTOPPEL - RATIFICATION - acting for defendant bank – settled in course of trial



YOUNG'S LIST

- *Smith & anor v J Z Lee Interiors Pty Ltd* (2015 - 2018) VSC - RESTITUTION - directors' duties - fiduciary duties - remuneration - settled in course of trial
- *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
- *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
- *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
- *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
- *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) 84 ACSR [2011] 93; [2011] VSCA 167 - restitution – set-off – equitable lien
- *Iphostrou & Iphostrou and Ors (No 4)* [2011] FamCA 220 (31 March 2011) application for disqualification – apprehension of bias
- *Foster James Pty Ltd v Dalton* (2010) 28 VR 204; [2010] VSC 327
- *Westpac Banking Corporation v Rothschild* – VSC – (2010) - 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
- *Smolle v Australia and New Zealand Banking Group Limited* [2007] FCA 1673
- *Gheorghiu v Perpetual Trustees Victoria Ltd* [2007] VSCA 83
- *Commonwealth Bank of Australia v Damianos & Anor* [2007] VSC 442
- *Westpac Banking Corporation v Dimopoulos* [2006] VSC 10
- *Wenczel v Commonwealth Bank of Australia* [2006] VSC 324



YOUNG'S LIST

- *Zaparenkov v Perpetual Trustees Vic Ltd (Credit)* [2006] VCAT 2147
- *Skosples v Perpetual Trustees Victoria Limited & Ors* [2004] VSC 422
- *Thomas v Southcorp Australia Pty Ltd (No 2)* [2004] VSC 50
- *Thomas v Southcorp Australia Pty Ltd* [2004] VSC 34
- *Costa Vraca v Bell Regal* [2003] FCA 65
- *Commonwealth Bank of Australia v White (No. 7)* [2003] VSC 344
- *Commonwealth Bank of Australia v McArthur* [2003] VSC 31
- *Commonwealth Bank of Australia v Aspenview Productions and Ors* [2001] VSC 444
- *Commonwealth Bank of Australia v Aspenview Productions and Ors* [2001] VSC 499
- *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
- *Burchell v Golden Wood Pty Ltd (No 2)* [2000] VSC 485
- *Burchell v Golden Wood Pty Ltd* [2000] VSC 86
- *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* [1995] VSC 26; [1995] VICSC 26
- *Commonwealth Bank of Australia v Wallis & Graham* (1995) ATPR 41-387; BC9507324

MEMBERSHIP AND APPOINTMENTS

- Member Commercial Bar Association of Victoria
- Member Women Barristers' Association of Victoria
- 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
- Founding Chief Editor of the Commercial Bar Association of Victoria Newsletter May 2007 to March 2010



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

CONFERENCE AND SEMINAR PAPERS

- *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