



JUSTIN SIMPKINS

*Juris Doctor, Master of Laws - Bond University
Bachelor of Economics - University of Sydney*

T +61 2 9151 2020

F +61 2 9233 1850

E simpkins@newchambers.com.au

in [justin-simpkins-012a2222](https://www.linkedin.com/in/justin-simpkins-012a2222)

Clerk of Chambers

Michael Wilcox

T +61 2 9151 2080

F +61 2 9233 1850

E wilcox@newchambers.com.au

Admitted to the legal profession

2005

Admitted as a barrister in NSW

2013

Also entitled to practise in

Australian jurisdictions (Commonwealth,
State and Territory)

Justin has a diverse practice with a particular focus on commercial/equity, employment, insurance and construction disputes. He has appeared led in the High Court, and led and unled in the Federal Court, State Supreme Courts, including the New South Wales Court of Appeal, and in lower courts and tribunals. Justin has also appeared as counsel in a number of commercial arbitrations.

Justin is an occasional Teaching Fellow in Contracts Law at the University of New South Wales and a reporter for the New South Wales Law Reports.

PROFESSIONAL EXPERIENCE

2007 – 2013: Lawyer/Senior Associate (Litigation and Dispute Resolution; Insurance and Reinsurance), Allens;

2009: (Secondment) Regional D&O and Casualty Claims Specialist, Federal Insurance Company, Singapore (a Chubb Insurance company);

2006: Graduate Lawyer, Australian Securities & Investments Commission;

2005: Lawyer, Home Wilkinson Lowry Lawyers (now HWL Ebsworths).

PUBLICATIONS

‘**Artificial Price in the context of market manipulation**’, Bar News, Summer 2013-14, pp 6-7

‘**Determining probative value, considerations of reliability and credibility**’, Bar News, Winter 2013, pp 12-14

‘**Application of the Tendency Rule in Civil Proceedings**’, Bar News, Winter 2013, pp 15-16

‘**Making international arbitrations domestic: excluding the Model Law**’, The Australian ADR Reporter, Issue 18, June 2012, pp 43-44

‘**Enforcement of Foreign Awards in Australia**’, Arbitration: The International Journal of Arbitration, Mediation and Dispute Management, Vol. 77, No. 1, 2011, pp 54-58 (with M Skinner)

Reporter for the New South Wales Law Reports (since 2012)

PROFESSIONAL MEMBERSHIPS

NSW Bar Association

Australian Insurance Law Association

Society of Construction Law Australia

SELECTED CASES

Insurance

AFCA Business Interruption Test Case (Federal Court of Australia, ongoing) – acting for Guild Insurance Limited and Allianz Australia Limited in AFCA test cases concerning policy response to COVID related business closures (led by E Muston SC)

Allianz Insurance Australia Limited v Certain Underwriters at Lloyd’s of London [2019] NSWCA 271 – insurance; double insurance and contribution (led by A J Sullivan QC); [2019] NSWSC 453 – first instance decision

Creighton v Australian Executor Trustees; Smith v Australian Executor Trustees (Supreme Court of NSW) – acting for Axis Specialty Europe SE in defence of a cross-claim concerning a claim for indemnity under a professional indemnity insurance policy (led by E C Muston SC)

Robinson (Liquidator) v Taylor (Trustee) & Anor, in the matter of Reed (Federal Court of Australia) – acting for an insurer in proceedings concerning the assignment of an insurance policy under s 117 of the Bankruptcy Act (led by R Dick SC); [2017] FCA 27 – costs (unled)

Commercial / Equity / Real Property

PBR Properties Pty Ltd & Ors v Chubb Insurance Australia Limited (Supreme Court of Queensland, ongoing) – acting for an insurer in defence of claim under a home and contents policy, raising issues of arson and fraud (led by S Couper QC)

Employsure Ltd v McMurchy; Employsure Ltd v Kumaran [2021] NSWSC 1179 – acting for the successful plaintiff in restraint proceedings against former employees and their new employer (led by P J Brereton SC)

Belflora Pty Ltd v Vinflora Pty Ltd [2021] NSWCA 178 – acting for the successful respondent in restraint of trade proceedings (led by A Moses SC); [2020] NSWSC 1229 (first instance decision)

Harden v Willis Australia Group Services Pty Ltd; Willis Australia Group Services Pty Ltd v Harden [2021] NSWSC 939 – acting for Willis in restraint proceedings against a former employee (led by A Moses SC)

Beverly Farming Pty Ltd v Landmark Operations Limited (Supreme Court of Victoria, settled) – professional negligence (unled)

ELMO Software Limited v Civmec Constructions & Engineering Pty Ltd (District Court, judgment reserved) – acting for the defendant in relation to a claim concerning breach of contract (led by G Nell SC)

El Bayeh v Bayeh [2018] NSWSC 775 – for the defendant in claim of misleading or deceptive conduct (unled)

University of New South Wales International House Ltd v University of New South Wales [2016] NSWSC 1709 – charitable trusts (led by T G R Parker SC); [2017] NSWSC 306 – costs (led by T G R Parker SC)

Zakhour v Vodafone Hutchison Australia Pty Ltd (2017, Supreme Court of Victoria, settled) – real property, leases, proper construction of lease; acting for Vodafone in proceedings concerning damage allegedly caused by the installation of a mobile tower (unled)

Lane Cove 83 Pty Limited v Vodafone Network Limited [2017] NSWCATCD 13 – retail leases; acting for Vodafone in a successful challenge to NCAT's jurisdiction (unled)

van Haandel v Byron Bay Beach Hotel Properties Pty Limited [2016] NSWSC 1484 – real property, construction of an option agreement (led by T G R Parker SC)

Sengthong v Lao Buddhist Society of NSW Incorporated [2016] NSWSC 1408 – charitable trusts; incorporated associations; appointment of receivers (led by M K Condon SC)

Fujifilm Australia Pty Ltd v Hubbed Pty Ltd (2015, District Court) – acting for the defendant in proceedings concerning breach of contract and defences under the Sale of Goods Act 1923 (unled)

Tamaya Resources Ltd (in liq) v Deloitte Touche Tohmatsu & Ors; HFPS Pty Limited & Anor v Tamaya Resources Ltd (in liq) (Federal Court of Australia, settled) – breach of directors’ duties, negligence claim and shareholder class action (led by G A Rich SC); [2015] FCA 1098 – procedure; application to amend (unled)

Addenbrooke Pty Limited v Duncan (No 6) (2015) 107 ACSR 600 - misleading conduct in relation to issue placement of shares (led by F M Douglas QC); [2014] FCA 625

Corporations / Insolvency

Re Citadel Financial Corp Pty Ltd (subject to Deed of Co Arrangement) (2020) 146 ACSR 220; [2020] NSWSC 886 – successful application to set aside a DOCA (unled)

T-S Capital Partners, LLC v Paltar Petroleum Limited (Administrators Appointed) [2019] FCA 635 – administrator’s adjournment application; [2019] FCA 636 – winding up application (led by F Assaf SC)

Action Scaffolding & Rigging Pty Limited (in liq) v Citadel Financial Corporation Pty Ltd, in the matter of Action Scaffolding & Rigging Pty Limited (in liq) (2019) 135 ACSR 372; [2019] FCA 327 – application to remove controller (unled)

Australian Securities Investments Commission v Australia and New Zealand Banking Group Limited (Federal Court of Australia) – acting for ASIC in proceedings concerning alleged market manipulation and unconscionable conduct in relation to the Bank Bill Swap Rate (led by J H Karkar QC and E A Cheeseman SC)

Lewis v Lewis, In the matter of AH Lewis (Holdings) Pty Ltd (Supreme Court of NSW, settled) – oppression, derivative action (unled)

Cominos v Comino, In the matter of Cosmas Pty Limited (Supreme Court of NSW, settled) – oppression (led by M K Condon SC)

Grass v Bradley Allen Love Lawyers (2015) 300 FLR 324 – bankruptcy, application to set aside bankruptcy notice (unled)

Building and Construction

Sherilyn Pty Ltd v Ganellan Pty Ltd & Ors (Supreme Court of NSW) – acting for a contractor in relation to a claim for damages made by the owner of an adjoining building (unled)

Prime Marble & Granite Pty Ltd v Mehajer (2017) 26 DCLR (NSW) 27 – quantum meruit claim for unpaid building works (unled)

Concourt Pty Ltd v Victoria Mary Kerr; Victoria Mary Kerr v Concourt Pty Ltd [2014] NSWCATCD 256 - building and construction, defects (unled); [2015] NSWCATAP 106 - appeal

to the NCAT Appeal Panel (unled) and [2015] NSWCATAP 145 - appeal to the NCAT Appeal Panel (unled)

Other

His Eminence Petar the Diocesan Bishop of the Macedonian Orthodox Diocese of Australia and New Zealand v Mitreski [2018] NSWSC 13 – application to lift stay (unled); [2018] NSWSC 295-costs (unled)

Wallaby Grip Limited v Maclean [2017] NSWSC 246 - cross-vesting (unled)

Kaspersky Lab UK Ltd v Hemisphere Technologies Pty Ltd [2016] NSWSC 1476 - international arbitration (led by D R Meltz)

Khanna v Sabi Foods International (Aust) Pty Ltd [2016] NSWSC 1009 - appeal from the Local Court, successful application for dismissal of appeal proceedings pursuant to r 13.4 of the UCPR (unled)

Helicopter Aerial Surveys Pty Ltd v Garry Robertson [2015] NSWSC 2104 - procedure, scope of the implied undertaking in Harman v Secretary of State for the Home Department (unled)

Knight v Oztrack Pty Ltd [2015] NSWCATAP 119 - consumer protection, appeal to NCAT Appeal Panel (unled)

Virtu Fast Ferries Ltd v The Ship "Cape Leveque" (2015) 232 FCR 9; 325 ALR 706 – admiralty (led by A M Stewart SC)

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Administrative Law	Corporations and Securities	Real property
Bankruptcy and Insolvency	Insurance and Reinsurance	Restraint of trade
Building, Construction and Technology	Partnership disputes	Shareholder class actions
Class Actions	Product liability	Trade Practices
Competition and Consumer	Professional liability	Superannuation
Contracts		

COMMON LAW

Alternative Dispute Resolution	Motor vehicles	Professional liability
Insurance and Reinsurance	Professional indemnity	

CRIMINAL LAW

Fraud White collar and corporate crime

EQUITY

Alternative Dispute Resolution Property Wills and Estates
Family Provision Trusts

INDUSTRIAL / EMPLOYMENT

Civil and Human rights Disciplinary proceedings Restraint of trade

INQUESTS AND INQUIRIES

Commissions of Inquiry

PUBLIC AND ADMINISTRATIVE LAW

Disciplinary proceedings

SECTORS

Banks and Financial Institutions Technology, Media and Primary resources
Funds Telecommunications