



MARK COSTELLO KC

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Admitted to the Bar

2011

Appointed Senior Counsel

2022

Also entitled to practise in

Australian jurisdictions (Commonwealth,
State and Territory)

Mark practises nationally, undertaking advice, trial and appellate work in a broad range of areas. His commercial law practice covers all major areas of including arbitration, class actions, contract disputes, competition law, corporate insolvency, private international law, regulatory litigation and schemes of arrangement. He has also regularly been briefed in professional liability matters and, since taking Silk, has also been briefed in a series of complex common law claims.

His public law practice is focused on administrative law (principally judicial review), constitutional law and environmental law.

Mark also has experience in commissions and inquiries, having been one of the Counsel Assisting the Financial Services Royal Commission and counsel for the Commonwealth in various modules of the Disability Royal Commission.

He was previously a Senior Fellow at the Monash University School of Law where he lectured in Corporate Insolvency. He currently guest lectures in the Commercial Equity course.

Before coming to the Bar Mark was an Associate to Callinan J (High Court of Australia) and practised as a solicitor.

SELECTED CASES

As a Silk

- **Eso Australia Resources v Oil Basins Limited** [2024] VSCA 240 – commercial arbitration – stay under *International Commercial Arbitration Act 1974* – “competence-competence” principle.
- **Capic v Ford Motor Co** [2024] HCA 39 – damages – ss 54, 272(i)(a) *Australian Competition and Consumer Act* – proper method of assessment.
- **Ford Motors v Capic** [2023] FCFCA 179 – Appeal to Full Court – class action – consumer law claim for defective vehicles – statutory interpretation – test for breach – quantification of loss.
- **In the matter of Clemenger Group Limited** [2023] FCA 815 and (*No 2*) [2023] FCA 974 – scheme of arrangement.
- **Orica Investments Pty Ltd v Aurelius Marvel One Ltd** [2023] VSC 18 – contract dispute – sale of business – adjustments – stay pending expert determination.
- **Director of Professional Standards Review ats Raymon** [2024] FCA 49 judicial review – Committee established by Commonwealth legislation to investigate Medicare item charging.

PRINCIPAL AREAS OF PRACTICE

COMMERCIAL LAW

Administrative Law	Competition and consumer	Mining Resources and Energy
Appellate	Conflict of Laws	Product Liability
Arbitration	Contracts	Shareholder Class Actions
Aviation and Transportation Services	Corporations and Securities	Sports Law
Banking and Financial Services	Cross Border Insolvency	Trade Practices
Bankruptcy and Insolvency	Environment and Planning	Partnership Disputes
Class Actions	Insurance and Reinsurance	Professional Liability
Communications		

COMMON LAW

Appellate	Insurance and Reinsurance	Professional Liability
Class Actions	Professional Indemnity	

EQUITY

Appellate	Trusts
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PUBLIC AND ADMINISTRATIVE LAW

Appellate	Judicial review and administrative law	Public law
Constitutional Law		

INQUESTS AND INQUIRIES

Commissions of Inquiry

SECTORS

Banks and Financial Institutions	Technology, Media and	Primary Resources
Funds	Telecommunications	Power and Utilities