

# MATTHEW HARVEY KC

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## ARBITRATOR

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### Melbourne

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### Sydney

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Matthew Harvey is a leading commercial silk who also practises as an arbitrator. He has been appointed in numerous arbitrations in various jurisdictions, involving commercial disputes about shipping, aviation, international trade, construction, commodities, and joint ventures.

He is ranked in Doyle's Guide, Chambers, Legal 500, Best Lawyers, and Who's Who Legal.

Matthew specialises in Admiralty, maritime, and international trade law. He has acted for ship owners, charterers, freight forwarders, cargo owners, stevedores, insurers, P&I clubs, and commodity traders and brokers. Matthew's experience includes working on matters involving the arrest of ships, bills of lading, charterparties (including NYPE 46 & 93, SHELLTIME 4, BALTIME 1939, ASBATANKVOY, GENCON 94, AUSTWHEAT 1990, BARECON 2001, and SUPPLYTIME 2005), salvage (including WRECKHIRE 2010, WRECKSTAGE 2010, and RECYCLECON), policies of marine insurance, P&I club rules, ship collisions and groundings. He has also worked on matters involving the international sale of goods (f.o.b., c.i.f., and c&f) under the applicable Sale of Goods Acts and the Convention for the International Sale of Goods.

He has practised as a barrister since 1996, specialising in Admiralty, maritime and international trade law; international and domestic arbitration; corporations law; and trusts and equity. He was appointed Senior Counsel in 2019 and King's Counsel in 2020.

He appears before the Federal Court of Australia, the Supreme Court of Victoria, the Supreme Courts of various States, and the High Court of Australia. He has appeared in numerous domestic and international arbitrations. He is an accredited and experienced mediator.

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## PROFESSIONAL ARBITRAL ASSOCIATIONS

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Fellow, Chartered Institute of Arbitrators (CIArb)  
Supporting Member, London Maritime Arbitrators' Association (LMAA)  
Member, London Court of International Arbitration (LCIA)  
Arbitrator, Singapore International Arbitration Centre (SIAC)  
Arbitrator, Singapore Chamber of Maritime Arbitration (SCMA)  
Fellow, Australian Centre for International Commercial Arbitration (ACICA)  
Arbitrator, Hong Kong International Arbitration Centre (HKIAC)  
Fellow, Australian Maritime and Transport Arbitration Commission (AMTAC)  
Arbitrator, Maritime Law Association of Australia and New Zealand (MLAANZ)  
Grade 1 Arbitrator, Resolution Institute (RI)

## EXAMPLES OF APPOINTMENTS

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- Charterparty—challenge to jurisdiction and demurrage claims (SIAC appointment)
- Air services agreement—proper interpretation of agreement (RI appointment)
- Charterparty—challenge to jurisdiction, conflict of laws, termination (SCMA appointment)
- Salvage agreement—contract, breach of contract, and misleading or deceptive conduct under the Australian Consumer Law (MLAANZ Rules)
- Infrastructure agreement—whether terms incorporated and, if so, whether a breach (UNCITRAL Rules)
- Finance agreement for the acquisition of commodities (UNCITRAL Rules)
- Grounding of vessels in foreign waters—whether charterers or owners liable (MLAANZ Rules)
- Dissolution of a commercial partnership—involving real property interests, contracts, and intellectual property (UNCITRAL Rules)
- Dispute between an employer and employee arising out of termination and a restraint of trade clause (UNCITRAL Rules)

## RECENT/NOTABLE CASES

### A. ADMIRALTY, MARITIME AND INTERNATIONAL TRADE

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- **CSL Australia Pty Ltd v Tasmanian Ports Corporation (The Goliath) [2024] FCA 824**: briefed for defendant in a wreck removal claim subject to the Limitation Convention, worth AUD 20 million.
- **UIL (Singapore) Pte Ltd v Wollongong Coal Ltd & Ors [2023] FCA 1578**: briefed for commodity broker in breach of contract claims (coking coal), worth more than AUD 200 million—dispute about legal professional privilege.
- **Platinum Capital Partner Inc v The Star Entertainment International No 2 Pty Ltd (FCA)**: briefed for the plaintiff as to the sale of a luxury yacht worth AUD 8 million.
- **Keri Lee Charters Pty Ltd v QBE Insurance (Australia) Ltd (FCA)**: briefed for an insurer in claims under the Marine Insurance Act for damage to charter vessel, worth AUD 2 million.
- **Karis v Digital CC Management Pty Ltd [2022] FCA 685**: briefed in application for anti-suit injunction as to proceedings in the United States, dispute about ownership of bitcoin, worth AUD30 million.
- **Manassen Foods Australia Pty Ltd v Seaway Logistics Pty Ltd [2020] VSC 835**: briefed for the importer in a claim for damage to cargo.
- **Williams & Ors v TT-Line Company Pty Ltd & Anor [2019] VSC 869**: briefed for stevedores in a claim involving the death of polo ponies, alleged to have occurred on Bass Strait.
- **Bulkhaul Limited v Charter Shipping and Transport Pty Ltd & Ors (2020) FCA**: briefed for freight forwarder in a claim for alleged container demurrage.
- **CSL Australia Pty Ltd v OneSteel Manufacturing Pty Ltd (2020) FCA**: briefed for disponent owners in a claim against charterers and stevedores for damage to a vessel.
- **Technology Swiss Pty Ltd v Famous Pacific Shipping Pty Ltd [2019] CCV**: briefed for freight forwarder in a claim arising from the defective packing of goods.
- **Williams v TT-Line Company Pty Ltd [2019] VSC 55**: briefed for stevedores in opposing the shipowner's application to cross-vest the proceeding to Supreme Court of Tasmania.
- **Viva Energy Australia Pty Ltd v The Ship "Diamond-T" [2018] FCA**: briefed for cargo owner in a ship arrest, arising from alleged contamination of bulk liquid cargo.
- **Toll Holdings Ltd v Stewart (2016) 338 ALR 602**: briefed for the carrier in a dispute over ownership of goods and stoppage in transitu.
- **Thompson v RCL Cruises [2013] FCA 1427**: briefed for plaintiff in application to serve the defendant (ship owner) in Liberia.
- **Transfield ER futures Ltd v The Ship "Giovanna Iuliano" [2012] FCA 967**: briefed for ship owners in a ship arrest.

- **Geraldton Port Authority v The Ship “Kim Heng 1888” (2012) 291 ALR 471:** briefed for the port authority in a dispute over the interpretation of the Admiralty Act 1988.
- **BHPB Freight Pty Ltd v Cosco Oceania Chartering Pty Ltd (2009) FCA:** briefed for charterers in various trials involving an alleged breach of a charterparty.
- **EMAS Offshore Pte Ltd v The Ship “APC Aussie 1” (2009) 258 ALR 454:** briefed to oppose an application to add new claims against the demise charterer.
- **Guillat Enterprises (LE) Pty Ltd v Twin Disc (Pacific) Pty Ltd [2009] VSC 69:** briefed to oppose the adoption of the report of a special referee (a marine engineer).
- **Parlux SpA v M&U Imports Pty Ltd (2008) 21 VR 170:** briefed for freight forwarder/carrier in a dispute about the interpretation of a bill of lading.
- **The Ship “APL” Sydney—various proceedings in the Federal Court of Australia—** briefed for the Harbour Master, where a ship dragged her anchor through a gas pipeline in Port Phillip Bay.

## C. CORPORATIONS LAW / GENERAL COMMERCIAL

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- **Re Reliance Franchise Partners Pty Ltd (in liq) [2024] FCA 868:** creditor priority application
- **Vasco Trustees Ltd v Australian and Pacific Investment Corp Pty Ltd [2024] VSC 515:** briefed for trustee of managed investment scheme in dispute about construction of contractual terms.
- **Re Ausun Property CBD Pty Ltd (in liq) [2022] VSC:** briefed for liquidator and for receiver and manager in relation to sale of corporate property;
- **Re NWEL Pty Ltd (in liq) [2018] VSC 634:** briefed for a creditor against liquidators in a preference action. This proceeding raised issues about insolvency, security, and the good faith defence.
- **Re Mamounia Pty Ltd (in liq) (No. 3) [2018] VSC 65:** briefed for liquidators seeking the Court’s advice whether funds held in solicitor’s trust account were subject to a lien and should be applied to payment of legal fees.
- **Re Assist Finance Corporation Ltd [2017] FCA:** briefed for the respondent in an application to set aside a statutory demand.
- **Equal 54 Pty Ltd v Galimberti [2016] VSC 588:** briefed for the plaintiff in a claim in professional negligence against a solicitor.
- **Cato Brand Partners Pty Ltd v Air India Ltd [2016] VSC 28:** briefed for the respondent in an application to wind up a foreign corporation, under Part 5.7 of the Corporations Act.
- **Babcock & Brown DIF III Global v Babcock & Brown International Pty Ltd & Ors [2015] VSC 453:** briefed for a law firm in an application to enjoin it from acting for the plaintiffs.
- **Ballantyne Suites Pty Ltd v Ballantyne Chambers Pty Ltd (in liq) [2014] VSCA 223:** briefed for the appellant in an appeal against non-party costs orders.
- **Re Ascot Vale Self-Storage Centre Pty Ltd (in liq) (2014) 98 ACSR 243:** briefed for the respondent in an appeal from a decision approving an agreement under s 477(2B) of the Corporations Act.
- **Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 337:** leading Australian decision on actual and apprehended judicial bias.

## D. TRUSTS AND EQUITY

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- **Martino & Anna Pty Ltd v Marjames (SCV):** briefed for trustee of unit trust as to dispute with former trustee and unitholders.
- **Macedonian Orthodox Church disputes:** before taking silk, briefed before the Supreme Court in a dispute about property held on charitable trust.
- **Serbian Orthodox Church disputes:** briefed in numerous, long-running proceedings in the Supreme Court. Ultimately, these disputes were resolved by a cy-près scheme under the Charities Act 1978.
- **Kelsall v Evans [2016] VSC 724:** briefed for the executors in a dispute as to testamentary capacity and an informal codicil.

- **Daunt v Daunt [2015] VSCA 58:** briefed for the appellant in a proceeding involving constructive trust and fiduciary duties.
- **Cameron v Milburn [2013] VCC 832;** [2013] VCC 914: briefed for the testator's widow in a claim involving proprietary estoppel as to a farming property in Victoria.
- **In Re Timbercorp Securities Pty Ltd [2012] VSC 590,** briefed for the trustees seeking the Court's approval to enter into a compromise in complex and protracted insolvency proceedings.

## SPEECHES AND PUBLICATIONS

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- **"Corporations Law Annual Review"**, co-presented with John Heard, since 2020
- **"Foreign Determination of Australian Cargo Claims"**, 5 November 2024, WISTA, Singapore
- **"Common Law Arbitrations: Tips and Traps for Lawyers"**, 18 October 2024, Shanghai, PRC
- **"Arbitration of International Maritime and Trading Disputes"**, 16 October 2024, International Conference on Maritime Law in Free Trade Ports, Zhoushan, PRC
- **"Breach of Charterparties, Hedging, and Damages"**, 4 October 2024, MLAANZ Annual Conference, Queenstown, New Zealand
- **"Statutory Interpretation in Practice"**, 1 May 2024, RMIT University, School of Law, Melbourne
- **"The Eternal Bliss: Demurrage and Damages"**, 6 October 2023, MLAANZ Annual Conference, Perth
- **"Agreements to Appeal from an Arbitrator's Award"** (2022) 41(1) The Arbitrator & Mediator 81
- **"Salvors' Rights to Treasure under Australian Law"**, MLAANZ webinar, 12 May 2021
- **"Meetings of Creditors and Execution of Company Documents during COVID-19"**: with John Heard, Leo Cussen Centre for Law: Melbourne, 31 July 2020
- **"Is an Arbitration Clause in a Draft Bill of Lading Effective?"** MLAANZ Webinar, 16 September 2020
- **"Does a Defective Passenger Plan Render a Ship Unseaworthy?"**: MLAANZ webinar, 23 September 2020
- **"Corporate Insolvency: Updates and Developments 2018"**: Leo Cussen Centre for Law: Melbourne, 20 February 2019
- **"Same region, Different Rules—How can Lawyers and Insurers be caught out by Regional Variations?"**: Asian Maritime Law and Insurance Conference, Singapore, 24 October 2018
- **"The Anti-arbitration Injunction: Thinking the Unthinkable?"** AMTAC Seminar, HFW Lawyers, Melbourne, 2018
- **"Insolvency Law Reform Act 2016 – The Second Tranche of Amendments"**: Leo Cussen Centre for Law: Melbourne, 31 August 2017
- **"Public Policy, Natural Justice, and the New York Convention in Australia"**, Comité Maritime International Conference, New York, 5 May 2016
- **"Arresting a 'ship': Boats, bunkers and barometers"** (2012) 86 Australian Law Journal 189

## APPOINTMENTS AND ACTIVITIES

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- Chair, Victorian Bar Arbitration Committee
- Member, Admissions Committee of the Singapore Chamber of Maritime Arbitration
- Member, Victorian Legal Admissions Committee
- Member, Law Programs Advisory Board, RMIT University
- Honorary Member, Maritime Law Association of Australia and New Zealand (MLAANZ)
- Titulary Member, the Comité Maritime International
- Member of the Bar of Victoria and of New South Wales
- Sessional Lecturer, RMIT University, Melbourne (2021, 2022, 2023)
- Chair, Victorian Bar Pro Bono Committee (2021 – 2023)
- Appointed Senior Counsel on 21 October 2019
- President of the Maritime Law Association of Australia and New Zealand (2013 to 2015)
- Admitted to practice on 7 April 1993
- Monash University, Melbourne, Australia (1986 – 1992): LL.M. and B.A. (Hons.)