

CASE EXAMPLES

The following are some of the cases in which Mr Marks has acted over his career:

- In 2016 (ongoing, from 2014), for the **Uniting Church in Australia (Victorian and Tasmanian Synod)** in relation to **the Royal Commission into Institutional Responses to Child Sexual Abuse** and in response to the **Victorian Parliamentary Inquiry, "Betrayal of Trust"**.
- In 2015, in **Australian Securities and Investments Commission v Planet Platinum Limited (in Administration)**, winding up proceeding in Supreme Court of Victoria; for Administrators.
- In 2014, in **Jobs Australia Limited v PDG Corporation and the City of Melbourne**, at the Victorian Administrative & Appeals Tribunal; large planning dispute concerning a tower at the north entrance to the city precinct in Elizabeth Street, Melbourne; for PDG Corporation.
- In 2013, in **Environinvest Limited (Receivers & Managers Appointed)(In liquidation) v HLB Mann Judd & Ors** (2011) Federal Court (Gordon J); liquidation litigation involving, inter alia, claims against auditors and directors; for one of the directors.
- In 2013, in **Tyrecorp Holdings Pty Ltd & Ors (Receivers & Manager Appointed)**; an investigation into the activities of the Tyrecorp Group of Companies, proceedings in the Supreme Court of Victoria
- In 2013, for the **Victorian Taxi Services Commission** in relation to the Commission's powers under the Transport (Compliance and Miscellaneous) Act 1983 following the amendments made by Part 3 of the Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013.
- In 2013, in **Aston Resources Ltd and Nathan Tinkler v Fairfax Media Limited**, Victorian Supreme Court; for Fairfax
- In 2012, in **Primebroker Securities Limited (Receivers & Managers Appointed)(in liq) v Lomas**; for liquidators of Primebroker.
- In 2011, in **applications under Part IIIA of Trade Practices Act** for judicial review of Trade Practices Tribunal declaration relating to Pilbara rail networks of Rio Tinto Limited (the Hamersley and Robe Rail Lines) and BHP Billiton Iron Ore Limited (the Mt Newman and Goldsworthy Rail Lines); for Fortescue Metals Group.
- In 2011, in **Ausmezz & Mervac Capital Investments Pty Ltd v Goldberger & Ors**, Supreme Court, Victoria.
- In 2011, in **Caltex Australia Ltd. - Proposed acquisition of Mobil's retail assets under s.50 of the of the Trade Practices Act**, for the Australian Competition & Consumer Commission (ACCC).
- In 2010, in **applications to the Trade Practices Tribunal** under Part IIIA of the **Trade Practices Act** for review of the decisions of the Treasurer of the Commonwealth of Australia in relation to declaration of the Pilbara rail networks of Rio Tinto Limited (the Hamersley and Robe Rail Lines) and BHP Billiton Iron Ore Limited (the Mt Newman and Goldsworthy Rail Lines); for Fortescue.
- In 2004–2010, in **Catholic Church Insurances Limited v Queensland Insurance (International) Limited (QBE)** (Supreme Court Victoria), concerning claims for indemnity under public liability policies in respect of alleged child abuse; for the reinsurers.
- In 2009, in **telecommunications access regime applications** by Telstra Corporation for exemption from standard access obligations in respect of its supply of part of the public switched telephone network originating access service (PSTNOA) in the

Australian Competition Tribunal under Part XIC of the *Trade Practices Act*, for the ACCC.

- In 2009, in ***Vodafone Australia Limited and HTAL Pty Ltd (Hutchison Wampana)***; informal merger assessment by ACCC pursuant to s.50 of the Trade Practices Act, for the ACCC.
- In 2008-9 in relation to the ***Varanus Island Incident*** that occurred at the Apache Energy Limited Gas Plant on 3 June 2008, (for the insurers of Burrup Fertilisers Pty Ltd.)
- In 2007, in the ***National Petrol Inquiry*** conducted by the Australian Competition and Consumer Commission under Part VIIA of the *Trade Practices Act* (as Senior Counsel assisting the Inquiry).
- In 2006–2007, in ***Australian Competition and Consumer Commission v Visy Industries Holdings Pty Ltd*** (Federal Court), concerning legal professional privilege claims by the ACCC in respect of documents created during ACCC against Visy for price fixing, for the ACCC.
- In 2006, in ***Australian Football League (AFL) & Another v The Age Company Limited & Others*** (Supreme Court Victoria), concerning the disclosure of confidential information about the identity of, and illegal drug-taking by, certain AFL footballers; for Fairfax and other media organizations.
- In 2005, in ***Australian Competition and Consumer Commission v FILA Corporation & Anor*** (Federal Court) involving claims for civil penalties for price fixing, for the ACCC.
- In 2003, in ***HIH Insurance Limited & HIH Investment Holdings Limited (in Liquidation) v Adler and Ors*** (Supreme Court NSW) concerning misleading conduct and other corporations law claims against FAI's directors, reinsurers and financial advisers, arising out of HIH's takeover of FAI; for the Liquidators of HIH.
- In 2002, in ***Cassidy (Australian Competition and Consumer Commission) v Medibank Private*** (2002) (Federal Court and High Court) concerning ambit of the statutory injunctive power (s.12GD of the *ASIC Act (Cth.)* and its statutory analogue, s.80 of the *Trade Practices Act 1974 (Cth.)*) and the extent of the court's power to award damages to non-parties to the proceeding, for Medibank Private.
- In 2002, in ***Australian Competition and Consumer Commission v Daniels Corporation International Pty Ltd & Anor*** (High Court of Australia) concerning the extent of the application of doctrine of legal professional privilege to investigations conducted by ACCC pursuant to s.155 of *Trade Practices Act* – a case concerning the way in which the parliament can legally abolish fundamental common law rights; for Daniels Corporation.
- In 2002, in ***Bray v F. Hoffmann La Roche Limited & Ors*** (2002) (Federal Court) a class action by ACCC against international vitamin producers for price fixing; for F Hoffmann La Roche Limited.
- In 2001–2002, in ***GEC Marconi Pty. Ltd. (trading as Easams Australia) v BHP Information Technology Pty Ltd; BHP Information Technology Pty Ltd v Commonwealth of Australia*** (Federal Court) a complex commercial contracts dispute arising out of a large software development contract undertaken by BHP-IT for the Department of Foreign Affairs and Trade; for BHP-IT.
- In 2001, in ***Australian Competition and Consumer Commission v National Australia Bank & Ors*** (Federal Court) concerning the legality of bank interchange fees on credit card transactions; for Westpac.
- In 2000–2001, ***Daniels Corporation International Pty Ltd & Anor v Australian Competition and Consumer Commission*** (Federal Court) (Full Court) concerning powers of the ACCC under s.155 of *Trade Practices Act*; for Daniels Corporation.
- In 1998-99, in the ***Longford Gas Royal Commission of Inquiry in the explosion of Gas Plant 1 at the ESSO Longford Facility*** commissioned by the State of Victoria in September 1998 (as Junior Counsel assisting the Royal Commission).

- In 1990-91, the ***Royal Commission of Inquiry into the collapse of Tricontinental Limited and the State Bank of Victoria*** commissioned by the State of Victoria in 1990 (as Junior Counsel for the auditors of Tricontinental Limited).