

**THE HONOURABLE WAYNE MARTIN AC QC**

**ARBITRATOR AND MEDIATOR**

Francis Burt Chambers

39 Essex Chambers

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## **Litigation and Dispute Resolution experience**

### **Current**

Mr Martin currently takes appointments as mediator and arbitrator within Australia and elsewhere. He has chambers in Perth (Francis Burt Chambers), and in London, Singapore and Kuala Lumpur (39 Essex Chambers). He also serves (part-time) as a judge of the courts (appeal and first instance) of the Dubai International Financial Centre, and as a part time member of the National Sports Tribunal (Australia). He has appointments as Chair and Board member of various not for profit organisation. He also holds a position as adjunct professor of law at the University of Western Australia.

### **Chief Justice of Western Australia - 2006-2018**

During the 12 years he served as Chief Justice, Martin CJ sat in cases across all areas of the Court's work including criminal trial work, commercial trial work and appellate work. He managed a docket of cases in the Commercial and Managed Cases List and also managed the Commercial Arbitration List between 2012 and his retirement from the court in 2018. He also served as mediator in a number of the more complex and significant commercial cases before the court.

During his time as Chief Justice, Martin CJ was actively involved in community engagement and published approximately 150 speeches and papers on a wide variety of topics associated with the justice system. In addition, he made many other shorter speeches and presentations which have not been published. The published speeches and papers are available at: <http://www.supremecourt.wa.gov.au/>

### **Barrister - 1988-2006**

As junior counsel (1988-1993) and Queen's Counsel (1993-2006), Mr Martin provided advice and representation in all areas of commercial dispute resolution including:

- Litigation relating to major resource development projects, including oil and gas, iron, gold and other precious metal projects.
- Litigation relating to infrastructure access and charges - relating to gas pipelines, rail and port facilities.
- Corporate and commercial disputes including takeover litigation, oppression proceedings and insolvency.

- As counsel in domestic and international arbitration (see details separately provided).
- Regularly appearing in mediations as counsel and less frequently as mediator.

Between 2001 and 2003, Mr Martin was appointed as Senior Counsel assisting the Royal Commission into the Collapse of the HIH Group of Insurance Companies. In that capacity, Mr Martin was the senior lawyer responsible for the investigation and conduct of a wide-ranging inquiry into various commercial aspects of the failure of a group of insurance companies which had a significant impact upon a number of aspects of commercial activity in Australia. As a consequence of the findings of the Royal Commission, the Commonwealth government, as the major creditor, was able to pursue claims which resulted in the recovery of over \$600,000,000.

#### **Solicitor and Junior Counsel - Keall Brinsden & Co - 1980-1988**

Acted as solicitor advocate and junior counsel appearing with senior counsel in a wide range of commercial disputes involving significant amounts in issue including:

- A dispute relating to the value of iron ore for the purposes of royalty payments due under an agreement for the sale of tenements which were the foundation of Australia's iron ore industry - involving litigation in the Supreme Court of Western Australia, an appeal to the Privy Council, and an arbitration.
- A dispute between Western Australia's largest coalmining company and the State-owned energy producer with respect to the purported termination of a long-term coal supply contract, with potentially profound implications for both parties and the State.
- A series of disputes between Australia's major airlines and a new entrant to the Australian airline industry.
- The provision of advice and representation to many of Western Australia's media outlets.

During this period, Mr Martin appeared as instructing solicitor and junior counsel (often without a leader) in courts at all levels of the State judicial

hierarchy, the Federal Court, the High Court of Australia and, on two occasions, the Privy Council (prior to the abolition of appeals to that body from Australia).

**Director - Review Section, Department of Immigration & Ethnic Affairs, Canberra - 1979-1980**

As inaugural Director of the Review Section of the Department of Immigration & Ethnic Affairs, appeared as counsel representing the Minister in a significant number of deportation cases before the Administrative Appeals Tribunal. Acted as the Minister's representative instructing counsel in relation to litigation involving the Minister and Department.

## **Commercial Arbitration**

### **Judicial work relating to Arbitration**

Martin CJ managed the Commercial Arbitration List between its creation in 2012 and his retirement from the court in 2018. Over that period, he published reasons for decision in a number of cases involving commercial arbitration.

While serving as Chief Justice, the following papers were published:

- After dinner address at the 10<sup>th</sup> Anniversary Conference of the Asia-Pacific Regional Arbitration Group - March 2014
- Launch of "Australian Commercial Arbitration" by Hockley et al - June 2014
- Opening address at the 5<sup>th</sup> Australian International Arbitration Conference - November 2017

available at <http://www.supremecourt.wa.gov.au/>

### **Participation as counsel in commercial arbitration**

During his time in legal practice, Mr Martin appeared extensively in domestic and international commercial arbitration in the fields of:

- Building and construction
- Major civil engineering works
- Resource pricing and long-term supply contracts (iron ore, gas and tantalum)
- Disputes relating to mine development and management
- Ship building

Some of these cases occupied months of hearing and involved very substantial amounts in issue.

### **Fellowships**

Mr Martin is a Fellow of the Resolution Institute (Australia), Ambassador of the Resolution Institute (2019 – Current), and a Fellow of the Asian Institute of Alternative Dispute Resolution. He has been certified as a Grade 1 Arbitrator by the Resolution Institute and admitted to the Panel of Arbitrators of the Hong Kong International Arbitration Centre, the Singapore International Arbitration Centre and the Asian International Arbitration Centre (Kuala Lumpur)

## **Adjudication**

Mr Martin is an adjudicator accredited pursuant to the provisions of the Construction Contracts Act 2004 (WA).

## **Mediation**

While in legal practice, Mr Martin appeared regularly on behalf of clients engaged in mediation, and, following his appointment as Queen's Counsel, on occasions served as mediator in relation to complex commercial disputes.

In 2013, Mr Martin completed the mediation programme (5 days) offered by Harvard Law School. After completing that programme, he regularly conducted mediations in the more complex cases before the Supreme Court of Western Australia. .

In 2018, Martin CJ gave the inaugural annual ADR address "*Alternative Dispute Resolution - a misnomer?*" (at <http://www.supremecourt.wa.gov.au>).

In 2020 Mr Martin will be a member of the faculty presenting "A Masterclass in Mediation" training programme for experienced mediators in Sydney and London on behalf of the Australian Disputes Centre.

**Professional Positions Held**

Lavan & Walsh, Solicitors, Perth	Articled law clerk and employed solicitor	1974-1977
Administrative Review Council, Attorney General's Department, Canberra	Legal Research Officer	1978
Department of Immigration & Ethnic Affairs, Canberra	Director, Review Section	1979-1980
Keall Brinsden & Co, Solicitors, Perth	Employed Solicitor and Litigation Partner	1980-1988
Francis Burt Chambers	Barrister  • Appointed Queen's Counsel	1988-2006  1993
Chief Justice of Western Australia		2006-2018
Justice of Appeal, Courts of the Dubai International Financial Centre		2019 - current

**Honorary positions and awards**

- Lieutenant Governor of Western Australia (2009-2019) (Acting Governor on numerous occasions)
- Appointed a Companion in the General Division of the Order of Australia (2012) (for eminent service to the judiciary and to the law, particularly as Chief Justice of Western Australia, to legal reform and education, and to the community)
- Western Australia Citizen of the Year for the Professions (2007)
- President - Western Australian Bar Association (1996-1999) (Vice President 1994-1996)
- Chairman of the Law Reform Commission of Western Australia (1996-2001)
- President - The Law Society of Western Australia (2006) (Vice President 2004-2005)
- President - Administrative Review Council (2002-2005) (member 1998-2002)
- Chairman - Defamation Law Reform Committee (2002-2004)
- Honorary Doctorate in Law - Murdoch University
- Honorary Doctorate in Law - Edith Cowan University
- Honorary Doctorate in Letters - Curtin University
- Prof. Frank Beasley Medal, Law School, University of Western Australia
- Adjunct Professor of Law, University of Western Australia (2019 – current)
- Chair - National Judicial College of Australia (2007-2012)
- Chair - Judicial Council on Cultural Diversity (2013-2017)
- Chair – Perkins Institute for Medical Research (2019 – Current)
- Chair – Parkerville Children and Youth Care Inc (2019 – Current)
- Board Member, Western Australia Football Commission (2019 – Chairman from 2020 and continuing)
- Board Member – Young Lives Matter Foundation (2019 – current)
- Board Member – Edge of Nowhere Foundation (EON) (2018 – current)



- Board member - Holyoake Australian Institute for Alcohol & Drug Addiction Resolutions (2008-2018)
- Council member - Australian Lung Foundation (1997-2001)
- Director - Woodside Valley Foundation (Charity) (2003-2009)
- Patron - Institute for Respiratory Health (2006 – 2018)
- Patron - Helping Minds (formerly ARAFMI Mental Health Carers Association) (2006 – 2018)
- Patron - Street Law Centre WA Inc (2008 – 2018)
- Patron - The Royal Society for the Prevention of Cruelty to Animals (WA) (2006 -2018)
- Joint Patron - Constable Care (2006 – 2018)
- Vice Patron - Royal Agricultural Society of Western Australia (2006 – 2019)
- Joint Patron - Aboriginal Males Healing Centre (2017 – 2019)
- Patron - Anglo-Australian Lawyers Society (WA) Inc (2015 – 2018)
- Patron - Tournament of Minds (WA) Inc (2011 – 2018)
- Patron - Hellenic Australian Lawyers (WA Branch) (2013 – 2018)
- Patron - Tenancy WA Women & Children's Homelessness Prevention Legal Programme (2015 – 2019)
- Patron - RUAH Community Services 50 Lives 50 Homes Project (2015-2019)
- Patron - Western Australian Institute of Dispute Management (Murdoch University) (2012 – 2018)
- Patron – Tura New Music Programme (2018 – current)
- Ambassador - Perkins Institute of Medical Research (2014 – 2017)
- Fellow - Australian Academy of Law (2010 – 2018)
- Board member - Police and Community Youth Clubs (WA) (2012-2016)

- Member - University of WA Faculty of Law Advisory Board (2006 – 2018)
- Chair - Edith Cowan University Law Programme Consultative Committee (2006– 2018)
- Chair - Francis Burt Law Education Centre Advisory Board (2006 – 2018)
- Chair - Curtin University Law School Advisory Board (2011 – 2018)
- Member - Murdoch University School of Law Advisory Board (2006 – 2018)
- Life Member of The Law Society of Western Australia
- Life Member of the Royal Society for the Prevention of Cruelty to Animals (WA)

### **Education**

Born 28 December 1952 in Perth, Western Australia.

### **Secondary School**

Christ Church Grammar School, Perth, Western Australia (1965 - 1969) (on academic scholarship) - awarded University Exhibition for receiving the fifth highest grades in the State in state-wide examinations at the end of year 12.

### **Tertiary Education**

Bachelor of Laws with first-class honours, University of Western Australia (1970 - 1973) (on Commonwealth scholarship)

Various academic prizes including Parsons Prize for outstanding law graduate, served as President of Law Students' Society and student representative on Law Faculty.

### **Master of Laws**

King's College, University of London (1974 - 1975) (on Hackett studentship)

### **Harvard Law School**

Completed 5-day course on mediation (2013)