



Mark Gerus

Barrister, Francis Burt Chambers
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CURRICULUM VITAE

Mark has 25 years' experience in commercial, corporate and resources litigation having previously been the founding litigation partner at boutique firm *Blakiston & Crabb* and in the litigation department of *Gilbert + Tobin*. In 2017 Mark commenced practice as a barrister at Francis Burt Chambers.

He has acted for resource companies in complex disputes relating to mining tenements, the sale and purchase of mining projects, split commodity arrangements, joint ventures, off take arrangements, royalties, termination of contracts and State Agreements.

Mark has advised Australian energy and resource companies in relation to disputes and litigation arising from international operations and assisted in major crisis response issues in Western Australia and Africa.

Mark has appeared as counsel on behalf of mining and exploration companies in the Mining Warden's Court in relation to all aspects of the *Mining Act* and "bet the company" litigation relating to mining projects. Mark has conducted applications for the judicial review of State and Commonwealth Ministerial decisions relating to major resource projects.

Mark has also acted in proceedings in the Supreme Court of Western Australia and the Federal Court of Australia involving Court approved schemes of arrangement, shareholder disputes, breaches of director duties, oppression actions, compulsory share acquisition and obtaining relief from the consequences of Corporations Act breaches.

Qualifications

Mark has a Bachelor of Laws from the University of Western Australia (1992) and a Master of Laws from the University of Melbourne (2003).

Mark completed his articles of clerkship at Mallesons Stephen Jaques (now King & Wood Mallesons) and was admitted to the Supreme Court of Western Australia in 1993.

Professional recognition and memberships

Mark is on the Editorial Board of the Australian Resources and Energy Law Journal and the Australian Resources Law Reports. Mark is an active member of the AMPLA (WA branch) and is its representative on the Mining Industry Liaison Committee.

Mark has been recognized in *Best Lawyers* for Litigation, Mining Law and Natural Resources Law as well as *The Legal 500 Asia Pacific Guide*, *Doyle's Guide* and *Benchmark Asia Pacific*.

Mark is an adjunct lecturer in Mining and Resources Law at Murdoch University.

Publications

"Mining and Water Resources" in Bartlett RH, & Ors (eds), *Water Resources Law and Management in Western Australia*, Centre for Commercial Resources Law, University of Western Australia 1996.

"Transferable Water Entitlements in Western Australia: Water Markets and Property Rights for the Mining Industry" [2001] AMPLA Yearbook 474.

"The Functions and Powers of the Warden of Mines in Open Court and the Reform of Warden's Court Procedure under the Mining Act 1978 (WA)" (2003) 22 ARELJ 189.

Experience

Examples of Mark's experience include:

- Advising Sundance Resources Limited on all aspects of plane crash in 2010 including crisis response, air crash investigation, insurance claims and proceedings in Australia, England and Africa.
- Advising Paladin Resources Ltd in relation to proceedings and mining operations in Malawi.
- Acting for receivers and managers of mining assets and administrators of mining companies in relation to disputes and strategic advice affecting the Central Norseman, Fortnum, Wiluna, Younmi and Meekatharra Gold Mines.
- Acting for mining companies in the Supreme Court of Western Australia, the Court of Appeal and High Court of Australia in relation to judicial review of Mining Warden's and Ministerial decisions.
- Acting for St Barbara Ltd in relation to commercial disputes and urgent injunctions in the Supreme Court of Victoria and Western Australia relating to the sale of Southern Cross Assets to Hanking Gold.
- Acting for Cape Lambert Resources Ltd in a private arbitration before relating to the valuation of the 25% interest in the Lady Loretta Mine, by which Xstrata purchased the interest for \$30m.
- Acting in numerous proceedings under the *Mining Act 1978* including mining tenement applications and objections, forfeiture and exemption proceedings, survey disputes, restoration applications, compensation claims, injunctions and disputes over caveatable interests.

Mark's experience in resources litigation matters is reflected in the following court and administrative decisions:

- *Strother v Taverner* [2016] WASC 85, *CNGC v Strother* [2017] WAMW 15
- *Mineral Crushing Services (WA) Pty Ltd -v- Edna May Operations Pty Ltd [No 2]* [2016] WASC 184
- *GMK Exploration Pty Ltd, Big Bell Operations Pty Ltd v Morgan* [2016] WAMW 14
- *Angelo Levissianos v Heinz Guenter Ellerman-Von Ramin* [2016] WAMW 7
- *Forrest v Forrest v Cauldron Energy Ltd* [2014] WAMW 3
- *Landtec Pty Ltd v Ora Banda Gold Pty Ltd and Ors* [2013] WAMW 21
- *Mineralogy Pty Ltd v Blackfin Pty Ltd* [2013] WAMW 19, [2012] WAMW 15, [2010] WAMW 22
- *Premier Coal Limited v Brockwell* [2013] WAMW 15
- *St Barbara Ltd v Hockley* [2013] WASC 283 and *[No 2]* [2013] WASC 358
- *Pangolin Resources Pty Ltd v Hon Norman Moore MLC, Minister for Mines & Petroleum* [2012] WASC 343, [2010] WAMW 10
- *Poelina v Blackfin Pty Ltd* [2012] WAMW 34, [2011] WAMW 20
- *Robe River Mining & Ors v Cape Lambert Ltd & Ors* [2012] WAMW 10
- *Moly Metals Australia Pty Ltd v. Applicants for the Kariyarra Native Title Claim* [2011] WAMW 16
- *Yarri Mining Pty Ltd v Eaglefield Holdings Pty Ltd* [2011] WAMW 12
- *AngloGold Ashanti Australia Ltd v Stewart* [2011] WAMW 11
- *Red Dragon Mines NL v Binthayla Holdings & Ors* [2011] WAMW 10
- *Grosvenor Gold Pty Ltd v Alchemy Investments Pty Ltd* [2011] WAMW 9 and 19
- *Downe v Milling & Regal Resources & Anor* [2011] WAMW 7
- *Mawson West Ltd v Saruman Holdings Pty Ltd* (2010) 3 ARLR 346
- *Fox Radio Hill Pty Ltd v Australian Iron Ltd* [2010] WAMW 21
- *Re Warden Calder SM & Anor; Ex Parte Lee* [2007] WASCA 161, [2006] WAMW 8
- *Elara Mining Ltd v St Barbara & Or* [2006] WAMW 16
- *Hayes Mining v Tantalum Australia NL* [2006] WAMW 9, [2005] WAMW 16, [2004] WAMW 23
- *St Ives Gold Mining Co& Ors v GH Hawks & Ors* [2005] WAMW 19 and 32
- *Forsayth NL v Laccos* [2005] WAMW 17
- *Re The Honourable Minister for State Development, Mr Clive Brown; Ex Parte Mines and Resources Australia Pty Ltd & Anor* [2003] WASC 125

Mark's experience in corporate matters is reflected in the following decisions:

- *Re Aldridge Uranium Ltd* [2010] FCA 1263 and *Aldridge Uranium Ltd (No 2)* [2010] FCA 1424
- *United Minerals Corporations NL; In the Matter of United Minerals Corporation NL* [2010] FCA 7 and [2010] FCA 47
- *Mesa Minerals Limited* [2010] ATP 3 and 4
- *Leawell Pty Ltd as Trustee for the Garton Smith Trust, in the matter of Watershed Premium Wines Ltd v Watershed Premium Wines Ltd (No 2)* [2009] FCA 1145
- *Mitsui & Co Ltd v Hanwha (HK) Co Ltd (No 2)* (2007) 166 FCR 200
- *In the matter of Alara Uranium Limited* [2007] FCA 724
- *In the matter of Tony Barlow Australia Limited* [2005] FCA 363
- *In the matter of Ashburton Minerals Limited* [2005] FCA 512
- *Re Phylogica Ltd* (2004) 52 ACSR 159
- *Dalrymple Resources NL* [2003] FCA 1096 and [2003] FCA 1273
- *Re Anaconda Nickel Limited* [2003] ATP 17, 18, 20
- *In the matter of Clinical Cell Culture Ltd* [2004] FCA 1798

