

# DAVID LLOYD SC

## 12 WENTWORTH SELBORNE CHAMBERS

### Admissions

Solicitor of Supreme Court | 1999  
Barrister at New South Wales Bar | 2008  
Senior Counsel | 2020

### Areas of Practice

Appellate	Inquests, Commission and Inquiries
Aviation	Insurance
Commercial	Product liability
Common law	Professional liability
Disciplinary	Representative proceedings
Equity	

### Short Professional Biography

David came to the New South Wales Bar in 2008, and was appointed Senior Counsel in 2020. He conducts trials in superior courts throughout Australia and appeals in intermediate appellate courts and the High Court of Australia.

David is recognised as a pre-eminent senior counsel in professional indemnity by the Doyle's Guide to the Legal Profession. He regularly acts for solicitors and barristers in civil claims and disciplinary proceedings. David has a large practice in acting for (and against) most insurers in the Australian market, across a range of lines of insurance. He has a significant aviation practice. He acted for Malaysian Airlines in a number of cases arising from the MH17 and MH370 disasters, and regularly appears for international and domestic carriers.

David has appeared in more than seventy appeals in Australia, approximately forty five as lead counsel.

David also appears regularly at inquiries, Royal Commissions and inquests. He was counsel assisting in a number of case studies in the Royal Commission into Child Sexual Abuse, including at the public hearings into Knox Grammar School, Geelong Grammar School, Trinity Grammar School and The Kings School. He has acted for parties in the Banking, Aged Care and Disability Royal Commissions. More recently, he was Senior Counsel Assisting Commissioner the Hon Peter McClellan AM SC in the Special Commission of Inquiry into offending by former corrections officer Wayne Astill at Dillwynia Women's Corrections Centre.

David also has appeared in a number of class actions.

Prior to coming to the Bar, David was a solicitor for nine years, first as an employed solicitor at Minter Ellison and then as a partner in a boutique litigation firm.

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## Cases

Selected cases, commissions and inquiries in which David has appeared include:

## Appeals

*Tapp v Australian Bushmen's Campdraft & Rodeo Association Limited* [\[2022\] HCA 11](#) (Negligence; Breach of duty of care; causation; dangerous recreational activity; obvious risk)

*Islam v Linfox Australia Pty Ltd* [\[2024\] NSWCA 39](#) (29 February 2024)

*Mie Force Pty Ltd v Allianz Australia Insurance Ltd* [\[2024\] NSWCA 23](#) (13 February 2024)

*Black Head Bowling Club Ltd v Harrower* [\[2023\] NSWCA 267](#) (9 November 2023)

*Bondi Beach Foods Pty Ltd v Chadwick* [\[2023\] NSWCA 265](#) (9 November 2023)

*Finniss v State of New South Wales* [\[2023\] NSWCA 292](#) (8 December 2023)

*State of New South Wales v Hollingsworth* [\[2023\] NSWCA 152](#) (4 July 2023)

*Farriss v Axford* [\[2023\] NSWCA 255](#) (26 October 2023)

*Ling v Pang* [\[2023\] NSWCA 112](#) (26 May 2023) – [\[2023\] NSWCA 112](#)

*Aerolink Air Services Pty Ltd v Bankstown Airport Ltd* [\[2023\] NSWCA 92](#) (11 May 2023)

*Gokani v Visvalingam Pty Ltd* [\[2023\] NSWCA 80](#) (26 April 2023)

*ALA Australia Ltd v Sharma* [\[2023\] FCAFC 42](#) (life insurance; fraudulent misrepresentations; construction of Insurance Contracts Act; continuing misrepresentations)

*Admiral International Pty Ltd v Insurance Australia Ltd* (No 2) [\[2023\] NSWCA 19](#) (20 February 2023)

*APD Technology Pty Ltd v Maximo Developments Pty Ltd* [\[2022\] FCAFC 141](#) (Equity; fiduciary duty; real estate agent; estoppel; insurance; professional indemnity)

*Toth v Stewart Law Pty Ltd* [\[2022\] NSWCA 85](#) (Advocates immunity)

*GMB v Unitingcare West* [\[2022\] WASCA 92](#) (Permanent stay)

*Sydney Seaplanes Pty Ltd v Page* [\[2021\] NSWCA 204](#) (Constitutional law; statutory interpretation; transport; Montreal Convention)

*Muriniti v Mercia Financial Solutions Pty Ltd* [\[2021\] NSWCA 180](#) (Personal costs orders against legal practitioners)

*Garnett v Qantas Airways Ltd* [\[2021\] WASCA 110](#) (Aviation; statutory construction; servants and agents of carrier within meaning of Montreal Convention)

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*Rockment Pty Ltd t/a Vanilla Lounge v AAI Limited t/a Vero Insurance* [\[2020\] FCAFC 228](#) (Insurance; exclusions in policy arising from Covid lockdowns)

*Clarke v Hicksons Lawyers* [\[2021\] NSWCA 100](#) (Solicitors' negligence)

*DEJ v Council of the New South Wales Bar Association* [\[2021\] NSWCA 72](#) (professional misconduct)

*Hungry Jack's Pty Ltd v Fourtounas* [\[2020\] NSWCA 325](#) (Common law)

*Chubb Insurance Australia Ltd v Giabal Pty Ltd; Catlin Australia Pty Ltd v Giabal Pty Ltd* [\[2020\] NSWCA 309](#) (Insurance)

*Craig v Johnson* [\[2020\] NSWCA 278](#) (Legal professional privilege)

*Glover v Kaji Australia Pty Ltd* [\[2020\] NSWCA 222](#) (Fraudulent misrepresentation; conspiracy)

*Spotlight Pty Ltd v Fatseas Investments Pty Ltd* [\[2020\] NSWCA 132](#) (Leasing)

*Wright v Apthorpe* [2020] NSWCA 300 (Exceptional costs orders; statutory interpretation)

*Marketform Managing Agency Ltd for and on behalf of the Underwriting Members of Syndicate 2468 for the 2009 Year of Account v Ashcroft Supa IGA Orange Pty Ltd* [\[2020\] NSWCA 36](#) (Insurance)

*Pacific Shoji Johann Glover Pty Ltd v Xia* [\[2018\] NSWCA 290](#) (Contracts)

*Kempsey Shire Council v Five Star Medical Centre Pty Ltd* [\[2018\] 99 NSWLR 98](#) (Torts)

*Newell; Muriniti v De Costi* [\[2018\] 97 NSWLR 398](#) (Personal costs orders against legal practitioners)

*Rodi v Gelonesi* [\[2016\] NSWCA 348](#) (Personal costs orders against legal practitioners)

*Mendonca v Dooley & Associates Solicitors Pty Ltd* [\[2016\] NSWCA 144](#) (Personal costs orders against legal practitioners)

*Love & Anor v Sze Tu & Ors* [\[2015\] HCATrans 179](#) (Trusts; equity)

*Sze Tu & Ors v Love & Ors* [\(2014\) 89 NSWLR 317](#) (Trusts; equity)

*Mitry Lawyers v Barnden* [\[2014\] FCA 918](#) (Personal costs orders against legal practitioners)

*LSRM Enterprise Pty Ltd v Zurich Australian Insurance Limited* [\[2014\] NSWCA 88](#) (Security for costs)

*Council of the Law Society of NSW v Webb* [\[2013\] NSWCA 423](#) (Professional misconduct)

*Bootle v Barclay* [\[2013\] NSWCA 142](#) (Nuisance; aviation)

*Rouvenitis v Knoll* [\[2013\] NSWCA 24](#) (Torts)

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*Herde v Oxford Aviation Academy (Australia) Pty Ltd* [\[2011\] NSWCA 385](#) (Aviation)

*Pel-Air Aviation Pty Ltd v Casey* [2017] NSWCA 32 (Aviation; Montreal Convention; meaning of “bodily injury”)

*Goode v Angland* [\[2017\] NSWCA 311](#) (Torts)

*Franklin v Blick* [\[2016\] ACTCA 17](#) (Torts)

*Endeavour Energy v Precision Helicopters Pty Ltd* [\[2015\] NSWCA 169](#) (Civil Aviation (Carriers Liability) Act – meaning of “passenger”)

*Stewart v Ackland* [\[2015\] ACTCA 1](#) (Dangerous recreational activity)

*Nikolaidis v Satouris* [\[2014\] NSWCA 448](#) (Advocates’ immunity)

*Campbell v Hay* [\[2014\] NSWCA 129](#) (Negligence of pilot – dangerous recreational activity)

*Doppstadt Australia Pty Ltd v Lovick & Son Developments Pty Ltd* [\[2014\] NSWCA 158](#) (Misleading and deceptive conduct; damages)

*Vero Insurance Limited v Rail Corporation New South Wales* [\[2013\] NSWCA 372](#) (Insurance, s 51 of the *Insurance Contracts Act*)

*Minogue v Rudd* [\[2013\] NSWCA 345](#) (Torts)

*Parker v Comptroller-General of Customs* [\[2009\] HCA 7](#) (Customs prosecution)

## **Commissions, Inquiries and Inquests**

Senior Counsel Assisting Commissioner the Hon Peter McClellan AM SC in the Special Commission of Inquiry into offending by former corrections officer Wayne Astill at Dillwynia Women’s Corrections Centre (2023)

Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 45: Problematic and Harmful Behaviour of Children in Schools* (2016)

Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 37: Public Hearing into Centres for the Performing Arts* (2016)

Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 34: Public Hearing into Brisbane Grammar School and St Paul’s School* (2015)

Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 32: Public Hearing into Geelong Grammar School* (2015)

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Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 23: Public Hearing into Knox Grammar School* (2015)

Counsel Assisting, Royal Commission into Institutional Responses to Child Sexual Abuse, *Case Study 19: Public Hearing into Bethcar Children's Home* (2014)

*Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (2019) (appearing for AAI Limited)

*Royal Commission into Aged Care Quality and Safety* (2019) (appearing for various parties)

*Royal Commission into the Home Insulation Program* (2014) (representing the interests of two witnesses)

*Inquest into the death of Peter Robin* (2020) (representing the interests of Nepean Private Hospital)

*Inquest into the Death of June Nutter* (2019) (representing the interests of Campbelltown Private Hospital)

*Inquest into the death of Rebecca Maher* (2019) (representing the interests of a pharmacist)

*Inquest into the death of Paul Lau* (2018) (representing the interests *Macquarie University Hospital Pharmacy*)

*Inquest into the death of David Black* (2017) (representing the interests of the family of David Black arising from an air accident)

*Inquest into the death of Brendan Hickey* (2016) (representing the Sydney Harbour Foreshore Authority rangers)

*Inquest into the death of Michael Wilson* (2014) (representing the interests of the operators of a helicopter involved in the winching operation in which the deceased died)

*ICAC inquiry into Ryde City Council - Operation Cavill* (2013) (representing the interests of four witnesses, including former Ryde City Council Mayor and General Counsel)

*Inquest into the death of Donald Fairbairn* (2009) – representing the interests of the nursing home at which the deceased was a resident at the time of death

## First Instance Decisions

*Tambakeras v UniSuper Limited* [\[2022\] NSWSC 1162](#) (Superannuation)

*Odlum v Friend & Anor* [\[2022\] NSWSC 574](#) (Professional negligence; lawyer and client; standard of care)

*Aerolink Air Services Pty Ltd v Bankstown Airport Ltd* [\[2022\] NSWSC 587](#) (Bailment; conversion; damages)

*Gu v Kam & Beadman Pty Ltd* [\[2022\] NSWSC 1350](#) (Negligence; duty of care; particular relationships; evidence; credibility)

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*Telstra Corporation Limited v Attorney General for New South Wales* [\[2021\] NSWSC 1521](#) (administrative law)

*Toth v Stewart & Associates* [\[2021\] NSWSC 1522](#) (Advocates immunity)

*Health Care Complaints Commission v Asbour* [\[2021\] NSWCATOD 165](#) (Health; professional misconduct)

*Admiral International Pty Ltd v Insurance Australia Ltd; Brightcity International Trading Pty Ltd v Admiral International Pty Ltd* [\[2021\] NSWSC 1440](#) (Insurance; fraud; bailment)

*About Life Pty Ltd v Maddocks Lawyers* [\[2021\] NSWSC 1370](#) (Professional negligence; contributory negligence; concurrent wrongdoers; duty of care)

*Trilogy Funds Management Limited as trustee and responsible entity of the Pacific First Mortgage Fund v CBRE (V) Pty Ltd* [\[2021\] NSWSC 883](#) (Abuse of process)

*Roseanne Cleary as the legal personal representative of the estate of the late Fortunato (aka Frank) Gatt v Amaca Pty Limited* [\[2021\] NSWDDT 7](#) (Personal costs orders against legal practitioners)

*Craig v Johnson* (No 6) [\[2021\] NSWSC 833](#) (Solicitors' negligence)

*APD Technology Pty Ltd v Maximo Developments Pty Ltd* [\[2021\] FCA 678](#) (misleading and deceptive conduct; fraud; insurance)

*LCM Operations Pty Ltd, in the matter of 316 Group Pty Ltd* (In Liquidation) [\[2021\] FCA 324](#) (Corporations law)

*City Pacific Ltd (in liq) v CBRE (V) Pty Ltd* [\[2021\] NSWSC 456](#) (Misleading and deceptive conduct; breach of duty; negligence; causation)

*BJP1 v Salesian Society (VIC) Inc* [\[2021\] NSWSC 241](#) (Contracts)

*Page v Sydney Seaplanes Pty Ltd t/as Sydney Seaplanes* [\[2020\] NSWSC 1502](#) (Jurisdiction; limitations of actions; statutory interpretation)

*Guild Insurance Ltd v Chief Executive Medicare* [\[2020\] FCA 1170](#) (Administrative law; judicial review)

*West v Rane* (No 2) [\[2020\] FCA 616](#) (Practice and procedure; personal costs orders against solicitors; representative proceedings)

*MOS Beverages Pty Ltd v Insurance Australia Ltd t/as CGU Insurance* [\[2020\] FCA 1716](#) (Practice and procedure; insurance; insurance industry regulation)

*Snowden v Australian Mortgage Assist Pty Ltd* [\[2019\] NSWSC 1799](#) (Misleading and deceptive conduct; mortgage broker; fiduciary duty)

*Loretta Craig & Ors v Anthony Johnson & Ors* [\[2019\] NSWSC 223](#) (Solicitors' negligence)

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*Kaji Australia Pty Ltd v Glover (No. 4)* [\[2019\] NSWSC 1779](#) (Misleading and deceptive conduct; mortgage broker; fraud)

*Sergienko v AXL Financial Pty Ltd* [\[2019\] NSWSC 1611](#) (Solicitors' negligence)

*Mrdalj v Allianz Australia Insurance Limited* [\[2019\] NSWSC 101](#) (*Third Party Claims Against Insurers Act*)

*Bechini v IUS Pty Ltd (ABN 93 003 359 289) (In Liq)* [\[2019\] NSWSC 427](#) (Insurance; rectification of policy)

*Tapp v Australian Bushmen's Campdraft and Rodeo Association Limited* [\[2019\] NSWSC 1506](#) (Dangerous recreational activity)

*Singh v Lynch* [\[2019\] NSWSC 1403](#) (Dangerous recreational activity)

*Hossain v Unity Grammar College Ltd and Ors* [\[2019\] NSWSC 1584](#) (Common law; gas explosion)

*Foster v QBE European Underwriting Services (Australia) Pty Limited as managing agent for Lloyd's Syndicate 386* [\[2018\] NSWSC 440](#) (Insurance)

*Tanioria v Commonwealth of Australia (No 3)* [\[2018\] 266 FCR 610](#) (False imprisonment)

*James v Phillips* [\[2017\] NSWSC 148](#) (Solicitors' negligence)

*Elias Wakim v Katrine Wakim; Wakim v New South Wales* [\[2017\] NSWSC 1492](#) (Application for personal costs order against solicitor)

*Webster v Super Smart Strategies Pty Ltd* [\[2017\] NSWSC 1416](#) (Solicitors' negligence)

*Gibson v Malaysian Airlines System Berhad* [\[2016\] FCA 1476](#) (Class action against Malaysia Airlines arising out of MH17)

*Cleary v Kremer* [\[2016\] NSWSC 1781](#) (Medical negligence – forum non conveniens)

*Council of the Law Society of NSW v Orford* [2016] NSWCATOD 22 (Disciplinary proceedings against solicitor)

*Stankovic v Hockey* [\[2016\] NSWSC 31](#) (Solicitors' negligence)

*Whittington v Smeaton* [\[2016\] ACTSC 76](#) (Section 54 *Insurance Contracts Act*)

*Goode v Angland* [\[2016\] NSWSC 1014](#) (Dangerous recreational activity)

*Ping Yuan v Da Yong Chen* [\[2015\] NSWSC 932](#) (Removal of sperm from moribund unconscious patient)

*Frewin v Adecco Industrial Pty Limited* [\[2015\] NSWSC 1568](#) (Contracts)

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*Lauschet v Malaysian Airlines System Berhad* [\[2015\] NSWSC 1365](#) (MH17, Montreal Convention)

*Casey v Pel-Air Aviation Pty Ltd; Helm v Pel-Air Aviation Pty Ltd* [\[2015\] NSWSC 566](#) (Warsaw Convention; damages)

*Kissane Family Pty Limited as Trustee for the Kissane Family Trust v Burns* [\[2015\] NSWSC 423](#) (Equity; solicitors' negligence)

*Stanton v Tyler* [\[2015\] NSWSC 797](#) (Solicitors' negligence; advocates immunity)

*The Change Group International PLC v City Exchange Mart Pty Ltd* [\[2013\] FCA 1048](#) (Breach of contract, passing off, misleading and deceptive conduct, breach of fiduciary duty)

*Williams v Commonwealth Bank of Australia* [\[2013\] NSWSC 335](#) (banking; unconscionability; *Contracts Review Act*)

*NM Rural Enterprises Ltd v Rimanui Farms Limited* [\[2013\] NSWSC 309](#) (multiple judgments concerning interlocutory matters and issues arising during the course of the 54-day trial) (damage by aircraft causing property damage; *Damage by Aircraft Act*; non-delegable duty)

*Edwards & Ors v Endeavour Energy & Ors*; [\[2013\] NSWSC 1899](#) (Helicopter accident; breach of contract; *Civil Aviation Carriers Liability Act*)

*Echin v Southern Tablelands Gliding Club* [\[2013\] NSWSC 516](#) (negligence; dangerous recreational activity; volunteers defence)

*Provident Capital Ltd v Naumovski* [\[2013\] NSWSC 40](#) (solicitors' negligence; banking and finance; *Contracts Review Act*)

*Crowe v Elbeaini* [\[2013\] NSWSC 1201](#) (Personal costs orders against solicitors)

*Schacht v Thompson (No. 3)* [\[2013\] NSWSC 316](#) (Solicitors' negligence – preparation of binding financial agreement)

*Jacques v Forte Enterprises Pty Ltd (No 2)* [\[2012\] NSWSC 1314](#) (Partnerships; breach of fiduciary duty)

*Lovick & Son Developments Pty Ltd & Anor v Doppstadt Australia Pty Ltd & Anor* [\[2012\] NSWSC 529](#) (Misleading and deceptive conduct; trade practices)

*Estephan v Estephan* [\[2012\] NSWSC 52](#) (Contract; constructive trust; proprietary estoppel)

*In the matter of Pinata Pty Limited (in liquidation)* [\[2012\] NSWSC 162](#) (Corporations; personal liability of administrator)

*Council of the Law Society of NSW v Webb* [\[2012\] NSWADT 114](#) (Disciplinary)

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*TPFL Limited (in liq) v SB Group Property Valuers and Consultants Pty Ltd (in liq) and Ace Insurance Limited* [\[2012\] NSWSC 853](#) (Insurance; joinder of insurers to proceedings)

*Rail Corporation New South Wales v Vero Insurance Ltd* [\[2012\] NSWSC 632](#) (Section 51 Insurance Contracts Act)

*Minogue v Rudd* [\[2012\] NSWSC 305](#) (Liability of builder for injury on building site)

*Pritchard v Trius Constructions Pty Limited & Ors* [\[2011\] NSWSC 749](#) (Contract; incorporation of terms; contribution between tortfeasors)

*Laurie v New South Wales Aboriginal Land Council* [\[2010\] NSWLEC 13](#) (Personal costs orders against solicitors)

*Bateman v Face Accountants Pty Limited* [\[2010\] NSWSC 1355](#) (Accountant's negligence)

*Cosmoluce v Tsagaris* [\[2010\] NSWSC 1115](#) (Accountant's negligence)

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