



# Shane Murphy

Commercial Barrister, Francis Burt Chambers  
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**Admissions:** 2003 (Australia), 2007 (England) **Bar:** 2024

Shane Murphy practises in all areas of commercial law, specialising in contracts, corporations, insolvency and misrepresentation in mining, energy and infrastructure.

Shane has practised in commercial litigation and arbitration for over 20 years, in Perth, London and Melbourne. Before joining the Bar, Shane practised at DLA Piper (latterly, as partner) and Herbert Smith Freehills, on contentious corporate and project governance, ownership, operations and contracts relating to:

- share, asset and product sales; and
- joint ventures, farm-ins, mergers, financing, services and logistics,

and on disputes arising under corporations legislation, the Australian Consumer Law and under mining, energy, environmental and safety regulation.

Clients have described Shane as strategic, focused and clear; “Technically excellent. In the detail but with a very valuable commercial focus. ... [Having] immense sector knowledge ... easy to do business with and incredibly responsive.”

## Select experience, tailored CV available on request

### MINING

- Appearing as counsel, led by S K Dharmananda SC, in a 4-day Supreme Court trial in March 2024, acting for the **Australian Premium Iron Joint Venture (MinRes, Baosteel, POSCO and AMCI)** against BHP, Itochu and Mitsui, to determine the contested boundaries of adjacent, highly prospective iron ore tenements in the Pilbara
- Acting for **Rio Tinto** in prosecuting and settling \$50 million claims against an EPC contractor relating to a critical failure of underground mining infrastructure
- Acting for **Resolute Mining**, a dual (ASX/LSE) listed African-focused gold miner, securing judgment on claims for restitution, damages for tortious deceit and equitable compensation: **Resolute v Wearing** [2020] WADC 132
- Acting for an ASX Top 20 mining company in a prosecution and sentencing under the *Aboriginal Heritage Act 1972*
- Advising on overturning an expert determination under a mineral sale and purchase agreement, involving the examination of a life of mine plan
- Acting and appearing for mining and utilities companies before the **Mining Warden**, and in related applications for judicial review, including the **Australian Premium Iron Joint Venture, BHP and Horizon Power**

### ENERGY

- Advising joint venture parties on joint operating agreement terms and strategy relating to significant and controversial modifications to gathering, processing and transportation facilities for LNG, natural gas and condensates
- Advising a global energy company on contentious issues arising out of the sale and purchase of interests in producing offshore oil fields and associated infrastructure, including an FPSO, and the related winding-up of a long-term joint venture
- Acting for a charterer in arbitral proceedings, to defend the termination of a charterparty of an FPSO deployed in oilfields in the Timor Sea
- Acting for **Santos** in joint venture disputes against **Apache Corporation**, now APA Corporation, in:
  - removing an operator for material breach, **Apache v Santos** [2015] WASC 318, overturned on appeal)
  - enforcing pre-emptive rights engaged by demerger, **Santos v Apache** [2015] WASC 242
- Acting for a drilling company pursuing damages for wrongful termination, following a market downturn, from an ASX-listed onshore gas producer

## CORPORATIONS, INCLUDING M&A AND REGULATORY

- Regularly acting on corporate control transactions, including schemes of arrangement, and disputes, including:
  - **Technology Metals Australia Limited's** merger with Australian Vanadium Limited, consolidating adjoining projects to create one of the largest and most advanced vanadium development projects in the world, **Technology Metals Australia Ltd v Australian Vanadium Ltd** [2024] WASC 26, led by A J Papamatheos
  - resisting access to shareholder email addresses, **AVZ Minerals v Fat Tail Holdings** [2023] WASC 403
  - **Saracen Mineral Holdings Limited's** \$16 billion merger with Northern Star Resources Limited, to create the world's then-sixth biggest gold miner, **Ex parte Saracen Mineral Holdings Ltd** [2020] WASC 483 & [2021] WASC 32
  - acting for a shareholder and candidate director of an ASX-listed miner resisting an injunction to restrain voting to replace directors on the ground of undisclosed association, including **Anglo Australian Resources NL v Bloom Financial Advice** [2019] WASC 470 & [2019] WASC 480
- Acting for an international battery minerals company to resolve Federal Court claims by its former managing director for alleged wrongful dismissal, breaches of whistleblower protections and oppression under the *Corporations Act*
- Acting for an ASX-listed company in defending shareholder claims for alleged misrepresentation and breaches of continuous disclosure obligations
- Advising listed companies, directors and intermediaries on M&A, directors' duties, dealing with regulators, investigations, insolvency, continuous disclosure and other corporations and consumer law obligations and related strategies

## ARBITRATION

- Advising AVZ Minerals on a Paris-seated, Australian law-governed ICC arbitration relating to AVZ increasing its stake in the Manono Project in the DRC, one of the world's largest unmined lithium deposits
- Advising an international joint venture in relation to a multi-million dollar ICC arbitration seated in Singapore arising from an EPC Subcontract for the construction of onshore LNG facilities, as part of the Ichthys LNG Project, one of Australia's largest LNG projects
- Acting for the owner of a metallurgical coal project in Mozambique in an ICC arbitration against Australian consultants, pursuing claims for deficient resources and reserves estimates
- Acting for an iron ore miner in several significant international arbitrations and related litigation concerning breach and termination of offtake agreements, allegations of misleading and deceptive conduct and alleged breach of duties to act in good faith. Conducted and managed multi-jurisdictional review and enforcement litigation, spanning Western Australia, including **Rizhao Steel Holding Group v Koolan Iron Ore** (2012) 43 WAR 91 led by B A J Coles QC, New York, Hong Kong and mainland China. Claims resolved by arbitral awards and settlements of over USD 160 million in value

## PROFESSIONAL RECOGNITION

Recommended in Dispute Resolution: Litigation, *Legal 500 Asia Pacific 2021*

## INSOLVENCY AND FINANCE

- Acting for a substantial creditor in the long-running **Bell Group litigation** in the Supreme Court of Western Australia – a corporate insolvency in which \$1.7 billion in clawed-back funds were at stake – securing a confidential settlement ahead of a 5-month trial
- Acting for a US hedge fund to counter a loan-to-own strategy relating to the purported sale by receivers of a significant mining project, allegedly at an undervalue, including **Cove House Illiquid Investments DAC v YA Global Investments LP** [2018] WASC 349
- Advising a surety bond issuer and its appointed receivers in the **Diploma Group insolvency**, including on available claims and prosecuting claims under director guarantees
- Acting for an ASX-listed technology company in a dispute against a global investment manager and financier relating to a share placement and loan facility
- Advising a global precious metals and critical materials investor in exiting and recovering its investment and costs on a project finance loan facility for a gold project in a developing jurisdiction
- Pursuing loan recoveries for **HSBC**
- Acting for voluntary administrators of a mining company in relation to an application to compel the transfer of shares in the company in support of a recapitalisation proposal

## OTHER

- Class action defence, including acting for:
  - principal defendant, electricity supplier SP AusNet, in the Kilmore Black Saturday bushfires class action
  - AVZ Minerals in relation to a foreshadowed shareholder (continuous disclosure) class action
- Acting for an American multinational conglomerate purchaser in a dispute relating to the earn-out purchase price for the acquisition of crane services companies
- Acting for Telstra resisting an urgent injunction to restrain the termination of an agreement for the supply of telecommunications services, **ispONE v Telstra** [2013] FCA 823
- Appearances in the Court of Appeal on statutory interpretation and contempt, led by Tannin SC:
  - **Shire of Augusta Margaret River v Gray** (2005) 143 LGERA 55
  - **Full Board Guardianship & Admin Board** (2003) 27 WAR 475
  - **Western Australia v West Australian Newspapers Ltd** (2005) 30 WAR 434