

Areas of Practice

- Banking, Securities, Tax and Financial regulation
- Company
- Competition and Fair Trading
- Contract, Civil, Government and Commercial disputes
- Criminal, including Serious Fraud and Proceeds of Crime
- Judicial review and Public Law
- Trusts and Equity

Profile

John joined Shortland Chambers at the start of 2015, after eight years as a partner at the law firm Meredith Connell. He took silk in 2017.

John's practice combines his expertise in three key areas:

- Commercial litigation;
- Regulatory law, in particular in the competition, fair trading areas, and securities areas; and
- Criminal law, both as a prosecutor and as a defence counsel.

John has extensive experience as a trial and appellate advocate. He has appeared at all levels of courts in New Zealand.

Case History

Commercial and Regulatory Civil Litigation

John acts for a range of regulatory and private commercial clients. These include:

- Acting for a defendant in a cartel case in the aviation industry:

- *Commerce Commission v International Racehorse Transport NZ* [2020] NZHC 1716.
- Acting for a large NZ company in pending high court litigation arising from a dispute as to carry rights under a purchase agreement.
- Providing advice to a government department on director's duties, negligence, public nuisance, and related issues arising from a potential environmental hazard involving a global corporate.
- Counsel for the FMA in pecuniary penalty proceedings arising from the collapse of entities in the CBL group.
- Counsel for the Overseas Investment Office in criminal and civil proceedings against an overseas person and a New Zealand lawyer for breach of the Overseas Investment Act, including alleged obstruction of the OIO's investigation.
- Acted for Nine Network in proceedings relating to its sale of Stuff, including successful defence of injunction proceedings.
 - *NZME Limited v Nine Entertainment Co Holdings Ltd*, CIV-2020-404-657.
- Acted for a substantial environmental services company in contractual disputes with a local council.
- Counsel for a film industry company in potential shareholder dispute with overseas funder.
- Counsel for a body corporate in rent review arbitration.
- Acted for the new owners of a beverages company in dispute with minority (formerly majority) shareholder.
- Counsel for the Commerce Commission in relation to its investigation of real estate agencies for price-fixing, including conducting three-week trial in Auckland High Court, three-day appeal hearing in Court of Appeal, and two-day hearing in the Supreme Court (decision in favour of the Commerce Commission):
 - *Commerce Commission v Lodge & others* [2020] NZSC 25.
- Counsel for Godfrey Hirst, in its appeal of the Commerce Commission's decision to authorise the merger of New Zealand's two remaining wool scours:
 - *Godfrey Hirst v Commerce Commission* [2016] NZCA 560.
- Acted for the minority directors and shareholders of tourism-related company, regarding issues of director's duties, derivative actions, and minority buyouts.
- Counsel for the Commerce Commission in its long-running investigation into the sale of interest rate swaps to farmers by major trading banks.
 - See, *Commerce Commission v ANZ Bank New Zealand Ltd* [2015] NZHC 1168, (2015) 14 TCLR 71.

- http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11368427.
- Acted for a well-known professional services firm and its insurer defending allegations of professional negligence. Obtained successful resolution following mediation.
- Acted for eight plaintiffs in a dispute regarding sale and purchase agreements in a subdivision. Obtained successful resolution following settlement discussions.
- Acting for a group of farmers alleging unlawful, discriminatory conduct by milk processor. Obtained successful resolution following settlement discussions.
- Counsel for Godfrey Hirst, in injunction and declaratory proceedings brought in the High Court against its competitor Cavalier Bremworth, arising from representations made in advertising of warranties for Cavalier Bremworth's carpet. Godfrey Hirst was successful in the High Court and in the Court of Appeal:
 - *Godfrey Hirst v Cavalier Bremworth* [2014] NZCA 418.
- Counsel for the Overseas Investment Office in civil pecuniary penalty proceedings:
 - *Chief Executive of Land Information New Zealand v Agria (Singapore) Pte Limited* [2019] NZHC 514.
- Acted for the Commerce Commission in a number of recent cartel cases, including:
 - *Commerce Commission v GEA Milfos International Ltd* [2019] NZHC 1426.
 - *Commerce Commission v Enviro Waste Services Ltd* [2015] NZHC 2936.
 - *Commerce Commission v PGG Wrightson* [2015] NZHC 3360.
 - *Commerce Commission v Rural Livestock Ltd* [2015] NZHC 3361.
 - *Commerce Commission v Carter Holt Harvey* [2014] NZHC 531.
 - *Air Cargo cartel (Commerce Commission v Air New Zealand, Singapore Airlines, Cathay Pacific, Emirates, Malaysian Airlines, Thai Airlines, Japan Airlines, Korean Airlines, (2011) 9 NZBLC 103,318 [jurisdiction judgment, following 4 week trial]; [2013] NZHC 1414 [Air New Zealand penalty judgment])*.
 - *Commerce Commission v Visy Board* [2013] NZHC 2097.
 - *Commerce Commission v Whirlpool* (High Court, 2011).
 - *Commerce Commission v Parish* (prosecution for breach of s 103 of the Commerce Act, arising from the *Wood Chemicals cartel*).
- Counsel for the Commerce Commission in its investigation into allegations relating to Countdown supermarkets.
 - See, http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11361686.
- Acted for the Commerce Commission in judicial review proceedings relating to exercise of statutory powers: *Commerce Commission v Air New Zealand* [2011] 2 NZLR 194 (CA).

- Acted for Crown Minerals in various disputes arising from permits for the exploration of minerals and petroleum, including defending an appeal against the revocation of a petroleum permit: *Bounty Oil & Gas v Attorney-General* (CIV 2005-485-2054, Wellington High Court, 15 May 2006, Mackenzie J).

Regulatory Criminal Cases

- Acting for a trading bank in relation to allegations of breaches of anti-money-laundering legislation.
- Acting for the Commerce Commission in its pending prosecution of Bunnings Limited for alleged breaches of the Fair Trading Act.
- Counsel for the Serious Fraud Office in criminal proceedings relating to political party donations.
- Counsel assisting the Court for a defendant in one of New Zealand's longest running criminal cases arising out of the failure of Viaduct Finance and Mutual Finance.
- Acted for the Crown and Financial Markets Authority in several "finance company" prosecutions:
 - *Dominion Finance* (prosecution arising from failure of Dominion Finance company, pretrial argument in High Court, August 2012).
 - *R v Braithwaite and others* (prosecution arising from failure of National Finance 2000 Limited, High Court, July 2012).
- Acted for the Commerce Commission in numerous important criminal prosecutions, including:
 - Fair Trading Act prosecution of Steel & Tube for misrepresentations regarding its steel mesh products: *Commerce Commission v Steel & Tube* [2020] NZCA 549.
 - *Currency Conversion Fees cases* (Fair Trading Act prosecutions of major trading banks, and American Express and Diner's Club, relating to misleading representations regarding currency conversion fees for credit card transactions).
 - *Commerce Commission v Carter Holt Harvey* (Fair Trading Act prosecution arising from mis-selling of structural lumber; included major civil proceeding, with appeals to Supreme Court: [2010] 1 NZLR 379).
- Acted for a finance company in relation to investigation into allegations relating to criminal proceeds.

Criminal Cases

- *R v Ross & Wehipeihana* (SFO prosecution arising from \$40 million property development loan obtained under false pretences: [2018] NZHC 2552).

- *R v Te Amo* (allegation of manslaughter following altercation on street, victim with pre-existing medical condition, High Court, September 2015).
- *R v Churchis* (murder of disabled homeless man by street kid; High Court, July 2014).
- *R v Mayer* (SFO prosecution arising from \$50 million fraud; two trials, the first spanning approximately 12 weeks of court time; the second 5 weeks, District Court, 2011-12 and 2013).
- *R v Friedlander* (SFO prosecution arising from false bankruptcy filings, including allegations of misconduct by solicitors, stay application, immunity issues, December 2012).
- *R v McDonald* (murder of flatmate, who broke into his own flat after his paranoid, drug-affected flatmate locked him out of the house, High Court, October 2011).
- *R v Fraser & Selby* (murder following an altercation after a party; two accused tracked the deceased for several kilometres and chased him down a street before stabbing him multiple times, High Court, September 2009).
- *R v Rajamani* (murder of wife by husband (a conservative Hindu), who initially claimed it was accidental but subsequently suggested it arose because of an affair she was having with a Pakistani Muslim, High Court, June 2008 (retrial following Supreme Court ruling on jury numbers)).
- *R v Ahuvale* and *R v Tampin* (allegations of murder, where accused was found to be insane at time of offending).
- *R v Wills* (allegation of murder of new partner by ex-husband).
- *R v Shepherd* (murder of landlady).
- *R v Rajamani* (murder, original trial, as above).
- *R v Zhou* (murder of wife by husband who claimed a particular sensitivity arising from his medical condition).
- *Operation Bestland* (murder of young Chinese man, whose body was found in a suitcase in Auckland harbour).
- *R v Veevors* (rape and attempted murder of homeless woman, with no memory of the attack, High Court, February 2007).
- *R v Highman* (3 complainant rape/sexual assault case, offending spanning back 40 years, District Court, February 2005).
- *Operation Eagle, R v Chubb* (8 complainant rape/sexual assault case, High Court, November 2004).
- *R v Ayub* (real estate fraud, High Court, September 2004).

US experience

Before returning to New Zealand in March 2004, John practiced law in New York for nearly 10 years.

Initially, he worked at Sullivan & Cromwell, a major international law firm. His work at Sullivan included a wide range of litigation, but with a particular emphasis on:

- Antitrust and insurance litigation, including a multi-national case brought on behalf of CSR Limited against its insurers, which led to the High Court of Australia's leading decision on anti-suit injunctions. See, *CSR Limited v Cigna Insurance Australia Limited & Others*, (1997) 146 ALR 402.
- Securities litigation, including acting for directors, defending litigation brought against them by shareholders; and acting for companies seeking to takeover, or subject to takeover.
- Class action litigation, in particular defence of product liability claims brought in numerous states throughout the US.
- White collar criminal defence, including investigations by the SEC, USDOJ, the Federal Reserve, NASD, and other regulatory agencies. Probably the most significant, and public, of those cases was the investigation of the Bank of New York and some of its senior personnel for allegedly allowing billions of dollars of what was said to be Russian mob money to flow through its New York office to accounts in Russia.
 - See, <http://www.independent.co.uk/news/world/russian-mafia-laundered-10bn-at-bank-of-new-york-p-1113796.html>.

After six years at Sullivan & Cromwell, John moved to the District Attorney's Office in Brooklyn, where he was a felony prosecutor. He worked at the DA's office for three and a half years, becoming Deputy Bureau Chief of the Rackets Bureau. During his time at the DA's Office, he conducted a number of trials involving fraud and serious violence. His most important cases were:

- The investigation and prosecution of a corrupt judge, a lawyer who appeared before him, and several of his court staff, for which he received an award from the National District Attorney's Association. See, <http://www.nytimes.com/2003/04/24/nyregion/brooklyn-judge-faces-charges-of-corruption.html>.
- The investigation of a securities fraud-linked arson, in conjunction with the US Attorney's Office. See, <http://www.justice.gov/usao/nye/pr/2005/2005nov22.html>.

Qualifications

BCom LLB (Hons) (Auck)
LLM (Chicago)

Admitted: 1992

Barrister Sole: 2015

Silk: 2017