



# Anthony Lo Surdo SC

**Year of Call:** 1996

**Year of Silk:** 2011

**Direct Access:** No

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Anthony Lo Surdo SC is a Professional Associate at Outer Temple Chambers based in Sydney, Australia. He is qualified to practise across all states and territories of Australia as well as internationally. He is also an experienced internationally qualified mediator and is repeatedly ranked as a leading mediator in Australia.

Anthony qualified as a barrister in 1996 after over 9 years' practice as a solicitor in leading Australian law firms and was appointed an SC, equivalent to QC, in 2011. He was also Head of his Chambers in Sydney for a number of years.

He has a broad practice both at trial and appellate level spanning diverse areas including commercial, equity, corporations, insurance law, professional indemnity, property and sports law.

He has a particular interest in banking and insolvency and has had many works published and has been named in "Doyles Guide to the Australian Legal Profession" in 2011 and again in 2015-2020 as one of Australia's leading insolvency and restructuring barristers. He also has a large sports related practice.

Anthony is accredited as an advanced mediator, arbitrator and expert determiner. He is regularly retained as a mediator in complex multi-party disputes. He has also been ranked by "Doyles Guide to the Australian Legal Profession" as a leading mediator in New South Wales in 2018-2020. He is also often appointed as an arbitrator in commercial and sports-related disputes both domestically and internationally. He has been recognised by "Doyles Guide to the Australian Legal Profession" as one of Australia's leading Senior Counsel in Arbitration in 2019 and 2020.

He is a CI Arb Fellow and is registered as a Grade 1 Arbitrator in Australia.

Anthony has conducted hundreds of complex multi-party, mostly commercial, mediations since 2009 and many arbitrations both domestically and internationally. Arbitrations conducted by Anthony as President/Chair, as a wingman or as sole arbitrator have extended to a variety of commercial disputes and sports or sports-related disputes including in the Court of Arbitration for Sport (CAS) ranging from disciplinary to commercial and good governance issues.

Anthony has a number of editorial appointments including:

- General Editor, Banking and Finance Law of Australia (LexisNexis)
- Editorial Panel of the Australian Banking and Finance Law Bulletin (LexisNexis)
- Editorial Panel of the Australian Civil Liability Bulletin (LexisNexis)

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- Editorial Panel of the Insolvency Law Bulletin (LexisNexis)

## Areas of Expertise

### Mediation

Anthony has acted as mediator in a vast array of matters since he was first accredited in 1993. He has mediated hundreds of complex, multi-party disputes since 2009. He uses his experience as both Senior Counsel and as a mediator to quickly identify the issues and to gain an understanding of the position of each party in the mediation so as to assist in facilitating a fair and efficient resolution to a dispute.

Anthony is accredited as an advanced mediator by Resolution Institute (formerly LEADR). He is also accredited by the New South Wales Bar Association under the National Mediator Accreditation System Standards (NMAS). He is ranked by "Doyle's Guide to the Australian Legal Profession" as a leading mediator in New South Wales, 2018 and 2020. As part of his ongoing commitment to excellence in mediation, in 2017 Anthony attained certification as a mediator by the International Mediation Institute (IMI) and the Singapore International Mediation Institute (SIMI) and in doing so joins a select number of mediators in Australia to achieve that qualification, and the only Silk.

In recognition of his specialist knowledge of mediation and sports law, in January 2016, Anthony was appointed by the International Council of Arbitration for Sport (ICAS) as a mediator of the Court of Arbitration for Sport (CAS) and in February 2019 he was appointed to the mediation panel of Sport Resolutions (UK).

### Mediation panel appointments

- Court of Arbitration for Sport
- Sports Resolutions (UK)
- International Mediation Institute
- Singapore International Mediation Institute
- AIAC Mediation Panel
- ACICA Mediation Panel
- Resolution Institute Panel of Advanced Mediators
- Supreme Court of NSW Mediation Panel
- District Court of NSW Mediation Panel

### Anthony's work as a mediator includes:

- Banking disputes
- Contractual disputes
- Corporations law disputes including claims arising from insolvency
- Partnership disputes
- Disputes between joint venturers
- Disputes between lenders and valuers involving allegations of negligent property valuation

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- Medical negligence
- Personal injuries
- Claims involving alleged negligence by lawyers
- Claims involving the alleged negligence of town planners
- Claims involving the alleged negligence of accountants
- Claims against investment advisors including financial planners
- Claims against directors and officers
- Employment disputes
- Claims involving restraints of trade
- Building disputes
- Claims involving damages for personal injury
- Shareholder disputes
- Succession claims
- Planning disputes
- Building and construction claims
- Property disputes
- Sports disputes
- Appointed as an expert determiner in a dispute between a landlord and tenant of premises used for short term holiday stays/serviced apartments in Darwin concerning whether the various legislation and regulations imposed to curb the spread of Covid and which resulted in the decimation of the travel industry comprised a force majeure event as defined under the terms of the lease.

## Publications

- "Settlement, Singapore Style", Asian Jurist, November 2019
- "New Singapore Convention set to bring greater certainty to international arbitration", NSW Law Society Journal, October 2019
- "The costs of failing to attend a Court-ordered mediation", NSW Law Society Journal, June 2017
- "Ethical Obligations of parties to a mediation" Australian Civil Liability, May 2015
- "Confidentiality, privacy and privilege in a mediation" Australian Civil Liability, April 2015
- "Process and models of mediation, preparation for mediation and choice of mediator" Australian Civil Liability, March 2015

## International Arbitration

Anthony is an accredited arbitrator, a Fellow of the Chartered Institute of Arbitrators and registered in the Australian Register of Practising Arbitrators as a Grade 1 Arbitrator. In June 2016, Anthony was appointed a Fellow of the Australian Centre for International Commercial Arbitration and a Fellow of Resolution Institute. In 2020, he was appointed as a Fellow of the Chartered Institute of Arbitrators.

In January 2016, Anthony was appointed by the International Council of Arbitration for Sport (ICAS) as an arbitrator of the Court of Arbitration for Sport (CAS) and his name appears on both the general list and the football list.

He has sat as both a sole and panel arbitrator including as Chair in over 60 domestic and international arbitrations involving commercial, disciplinary and governance disputes.

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Anthony has extensive sports related arbitration experience which is listed in his Sports Law profile. He is also accredited as an expert determiner.

## Arbitral panel appointments

- Court of Arbitration for Sport (General and Football Lists)
- AIAC Arbitration Panel
- THAC Arbitration Panel
- ACICA Arbitration Panel
- Sport Resolutions (UK), International Panel of Arbitrators
- National Sports Tribunal, Australia
- Acting Racing Appeals Tribunal, NSW
- Football Federation Australia (FFA) Appeals Committee
- FFA Dispute Resolution Chamber
- FFA Disciplinary and Ethics Committee
- FNSW Appeals Tribunal
- District Court of NSW
- Local Court of NSW
- Appointed as president of a CAS panel in a commercial/employment related dispute originating in Kuwait.
- Appointed as sole arbitrator in a domestic commercial arbitration involving a dispute between joint venture partners.
- Appointed by the CAS as sole arbitrator in a commercial/employment related dispute between a China-based football club and a former player.
- Appointed as co-arbitrator in a commercial/employment related proceedings in the CAS involving a China-based football club and a former player.
- Australian Communications and Media Authority's (**ACMA**) register of bargaining code arbitrators and mediators under the **News Media and Digital Platform Mandatory Bargaining Code (Code)** established pursuant to the *Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021*

## Recent (published) cases include

- Arbitration CAS 2017/A/5306, Guangzhou Evergrande Taobao FC v Asian Football Confederation, 5 March 2018
- Arbitration CAS AG18/01-AG/06, Korea Golf Association v Olympic Council of Asia; Indonesia Golf Association v Olympic Council of Asia; Singapore Golf Association v Olympic Council of Asia; Japan Golf Association v Olympic Council of Asia; National Golf Association of the Philippines v Olympic Council of Asia; India Golf Association v Olympic Council of Asia, 22 August 2018

## Sports Law

Anthony has vast expertise in sports law, with much of his ADR work relating to this area of law. [Click here to see Anthony's sports related arbitral capabilities.](#)

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In January 2019, he was appointed as the Acting Racing Appeals Tribunal (NSW). In February 2019, he was appointed to the International Panel of Arbitrators maintained by Sport Resolutions (UK). In March 2020, he was appointed as one of the inaugural part-time members of the National Sports Tribunal.

His mediation panel appointments include the Court of Arbitration for Sport and Sports Resolutions (UK).

## CAS

- In January 2018, Anthony presided over a hearing of a CAS Appeal Panel in Lausanne, Switzerland.
- In April 2018, he was appointed to the CAS ad hoc panel for the Commonwealth Games, Gold Coast, Australia.
- In 2018, Anthony was appointed to the CAS ad hoc panel for the Asian Games, Jakarta, Indonesia.
- In September 2018, Anthony was appointed as a sole arbitrator of an appeal to CAS from a determination of a single judge of the FIFA Players' Status Committee which was heard in Shanghai.
- In December 2018, Anthony presided over a hearing of a CAS Appeal Panel in a disciplinary matter arising in Asia.
- In February 2019, Anthony was appointed to a panel by a party in a commercial dispute.
- In June 2019, Anthony was appointed as the sole arbitrator by parties in a disciplinary matter.
- In August 2019, Anthony was appointed President of a panel in a good governance appeal.
- In September 2019, Anthony was appointed to the Ad hoc panel for the FIBA World Cup.
- In October 2019, Anthony was appointed President of a panel in a commercial dispute.
- In May 2020, Anthony was appointed as the sole arbitrator in a commercial dispute.
- In June 2020, Anthony was appointed to a panel by a party to a commercial dispute.

## Sport Resolutions (UK)

- In 2019, Anthony was appointed as a member of the International Tennis Federation (ITF) International Panel for the Davis Cup and in 2020 to the same panel for the Fed Cup.
- In 2020, Anthony was appointed as Chair of an ITF Independent Tribunal Panel to determine a dispute between the ITF and a Member Federation.

## FFA

- As a member of the FFA Appeals Committee since 2008, Anthony has determined both disciplinary and non-disciplinary disputes that have arisen between the FFA, Member Federations, Clubs, and Players mostly involving players and coaches of international repute.
- As a member of the FFA Dispute Resolution Chamber since 2008, Anthony has determined commercial disputes and appeals that have arisen between the FFA, Member Federations, Clubs, and Players under the FFA Grievance Resolution Regulations, some of which have involved players and coaches of international repute.
- As a member of the FFA Disciplinary and Ethics Committee also since 2008, he has determined disciplinary issues arising from on-field incidents involving players and coaches of international repute competing in Australia's Premier National football league (Hyundai A-League).

## Football NSW

- As the Chairman of the Football NSW Appeals Tribunal since 2012, Anthony has determined

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appeals involving both disciplinary and non-disciplinary disputes that have arisen between FNSW, Members of FNSW, Clubs and Players under the FNSW Grievance and Disciplinary Regulations.

### **Acting Racing Appeals Tribunal**

- As the Acting Racing Appeals Tribunal, Anthony has determined appeals heard on a de novo basis from first instance decisions in the thoroughbred and harness racing industries.

### **Other arbitral appointments**

Anthony has been nominated by the President of Resolution Institute as a sole arbitrator in a domestic commercial dispute and by Surf Life Saving New South Wales to preside over a Judiciary Committee hearing in a code of conduct matter.

### **Advisory and Advocacy**

Professional Sportspersons, Clubs and Associations including for Triathlon Australia in 2012 in an arbitration hearing which concerned an appeal by World Champion Emma Snowsill against her non-inclusion in the Australian Olympic Team, for athletes charged with breaches of the world anti-doping regulations and for Kurtley Beale in a code of conduct hearing brought by the Australian Rugby Union (ARU) in the ARU Code of Conduct Tribunal.

### **Significant cases include**

- In the matter of Kurtley Beale and the Australian Rugby Union (2014)
- Snowsil v Triathlon Australia (2012)

### **Recent publications include**

- "A guide to the new National Sports Tribunal", Law Society Journal, April 2020

### **Commercial Litigation**

Anthony has a broad commercial practice, having worked in an advisory capacity, as an arbitrator and in court.

### **Advisory and Advocacy**

- Directors in relation to breach of directors' duties and insolvent trading claims.
- Lessors (including major shopping centre proprietors) and lessees in relation to disputes which have arisen between them (including proceedings for possession and for relief against forfeiture).
- Vendors and purchasers of land, builders and developers.
- Corporations and individuals in relation to contractual disputes (including share sale agreements and agreements for the sale of interests in other personal property).

### **Significant cases include**

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- Leafy Gully Farm Pty Limited v Mitchell [2016] NSWCA 92
- Leafy Gully Farm Pty Limited v Mitchell [2015] NSWSC 1460
- Vertical Australia Pty Ltd v Air Company Vertical-T LLC [2012] NSWSC 719
- A Little Company Limited v Peters [2007] NSWSC 833

## Recent publications

- "Latest from the High Court on Performance Bonds", NSW Law Society Journal, April 2017
- "Exercising Powers of Advancement under a Trust", NSW Law Society Journal, June 2016
- "Court recognises indirect or market-based causation in shareholder claims" (with Gregory Sirtes SC and Robert White), NSW Law Society Journal, June 2016

## Insolvency & Restructuring

Anthony has a particular interest in banking and insolvency in respect of which he has written extensively and has been named in "Doyle's Guide to the Australian Legal Profession" in 2011 and again in 2015-2020 as one of Australia's leading insolvency and restructuring barristers.

## Advisory and Advocacy

- ASIC in relation to breaches of continuous disclosure provisions, breaches of market manipulation requirements, misleading and deceptive conduct and unconscionable conduct, and disciplinary proceeding involving insolvency practitioners.
- Banks and other financial institutions in relation to the enforcement of security interests and banker/customer disputes.
- Creditors of insolvent companies and individuals.
- Insolvency administrators (voluntary administrators, receivers, trustees in bankruptcy and liquidators).
- Insurers in relation to indemnity issues generally, professional indemnity (including advising and appearing in defence of surveyors, architects, valuers, brokers, town planners, builders and lawyers) and product liability.

## Significant cases include

- ASIC v Wily and Hurst [2019] NSWSC 521
- In the matter of Renovation Boys Pty Ltd (admins apptd) [2014] NSWSC 340
- In the matter of Fishinthenet Investments Pty Ltd and Coastal Waters Seafood [2014] NSWSC 260
- Carter, in the matter of Spec FS NSW Pty Ltd (in liq) & Ors [2013] FCA 1027
- In the matter of Hunter Bulk Materials Pty Limited [2011] NSWSC 2011
- Goyal v Chandra 68 NSWLR 313; [2006] NSWSC 239
- Sutherland Re; French Caledonia Travel Service Pty Ltd (in liq) (2004) 59 NSWLR 361; NSWSC 1008
- Dean-Willcocks v Yeshiva Properties No. 1 Pty Ltd (prov liq apptd) & Ors (2004) 48 ACSR 525
- Southern Cross Interiors Pty Limited v Deputy Commissioner of Taxation (2001) 39 ACSR 305; (2001) 19 ACLC 1513; (2001) 53 NSWLR 213; and [2001] NSWSC 621 (Insolvency)
- Anderson Group v Davies and Others (2001) 53 NSWLR 401 & (2001) 19 ACLC 1112; [2001] NSWSC 356
- In the matter of Ricon Constructions Pty Limited (in liquidation) and the Corporation Law (1997) 43 NSWLR 174
- Appeared at a hearing in the Federal Court of Australia in Victoria for two prominent national and international

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building companies (CPB, formerly Leighton Holdings and Thiess) in relation to claims brought by liquidators of the Hastie Group. The proceedings include directions sought by the liquidators as to aspects of the conduct of certain claims in relation to alleged outstanding receivables and an interesting claim in relation to the recoverability of bank guarantees provided by companies in the Hastie Group to secure their obligations under the various building contracts to CPB and Thiess.

## Recent publications

- "Liquidator's Liens: the principle in Universal Distributing considered" *Insolvency Law Bulletin*, LexisNexis, June 2014 (2014. Vol 15 No 3)
- "Disclaimed Leases: Tenant Risk and Liquidation" (with Peter Agardy), *NSW Law Society Journal*, March 2014

## Banking & Finance

Anthony has advised numerous banks and other financial institutions in relation to the enforcement of security interests and banker/customer disputes. He has acted in a mediation role in various banking disputes.

## Recent cases include

- *Webuildem Pty Limited v Arab Bank of Australia Limited* [2013] FCA
- *In the matter of Webuildem Pty Limited* [2012] NSWSC 708
- *Westpac Banking Corporation v Munk* [2012] NSWSC 504

## Recent publications

- "The Contractual Effect of the Code of Banking Practice" *NSW Law Society Journal*, September 2016 *Financial Services Newsletter*, LexisNexis, September 2016
- "*Fischer v Nemeske Pty Ltd* [2016] HCA 11", *Australian Banking and Finance Law Bulletin*, LexisNexis, May 2016

## Disciplinary & Regulatory

Anthony has a long established disciplinary and regulatory practice.

## Significant cases include

- *In the matter of Kurtley Beale and the Australian Rugby Union* (2014)
- *Nguyen v Australian Securities and Investments Commission* [2012] AATA 156 (Regulatory)
- *Cityview Corporation Limited v Australian Securities and Investments Commission* [2010] AATA 503

## Recent publications include

- "Civil Penalties: Everything Old is New Again" (with Conor Bannan), *NSW Law Society Journal*, March 2016
- *Klusman v Australian Securities and Investments Commission* [2011] AATA 150

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## Professional Negligence

Anthony's practice also covers professional negligence. His work has included:

- Claims involving alleged negligence by lawyers
- Claims involving the alleged negligence of town planners
- Claims involving the alleged negligence of accountants

## Memberships

- Fellow, Chartered Institute of Arbitrators
- Fellow, ACICA
- Fellow, Resolution Institute
- Member, AIAC
- Member, THAC
- NSW Bar Association
- Queensland Bar Association
- Victorian Bar Association
- Australia and New Zealand Sports Law Association (ANZSLA)

## Awards

- Named as a leading mediator in NSW by Doyles Guide for 5 consecutive years

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