


ELEVEN WENTWORTH



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Tom O'Brien

Tom is a university medalist and former High Court Associate, who practices in a broad range of areas, with a particular focus upon commercial litigation. Prior to coming to the bar, Tom worked as a solicitor at King & Wood Mallesons for over four years, where he was involved in a broad range of commercial and public law litigation. Tom has acted for and advised public and private companies, investment and retail banks, superannuation funds, other trustees, government agencies and individuals.

In addition to practicing at the bar, Tom is a reporter for the New South Wales Law Reports and is currently undertaking his LLM at Sydney University, with a High Distinction average.

Contact details:

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Admission to the Bar:

2014

Principal areas of practice:

Tom accepts briefs in all areas, including:

- Administrative & public law
- Appellate practice
- Arbitration
- Commercial
- Corporations law
- Constitutional law
- Equity
- Insolvency & bankruptcy
- Professional liability
- Public & private international law
- Real property

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Publications:

O'Brien, "The Change of Position Defence: a note on *AFS v Hills industries*" [2014] HCA 14" (August 2014) *Bar News*

O'Brien, "Breach Ordinarily No Bar to Termination" (2014) 88 *Australian Law Journal* 38

O'Brien and Oreb, "Australian International Arbitration Act Held to be Constitutional" (March 2013) *ACICA News*

Mills, Morris and O'Brien, "Andrews v ANZ – the High Court and the Doctrine of Penalties", KWM Client Alert, 6 September 2012

O'Brien, "More on the Dispensation of Readiness and Willingness" (2011) 85 *Australian Law Journal* 539

Qualifications:

Bachelor of Arts (History) / Bachelor of Laws (1st class Honours with the University Medal) (Macquarie University) (2003 – 2008)

- Dean's Award for Outstanding Contribution to the Community (2006).
- Division of Law Prize for Modern Corporate Governance (2007).
- Dean's Award for Outstanding Academic Achievement in Law.

Master of Laws (University of Sydney) (2015, expected)

- Highest mark in Breach of Contract.

Background:

2010 – 2014: Solicitor at King & Wood Mallesons.

2009: Associate to the Honourable WMC Gummow of the High Court of Australia

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Selected Appearances

Federal Court of Australia		
<i>Addenbrooke Pty Ltd v Duncan & Ors</i>	[2015] FCA 793 (Foster J); (2015) 107 ACSR 600	Final Hearing – alleged misleading or deceptive conduct in placement of shares – led by AS Bell SC and J Williams; unled for part of hearing
<i>British Marine PLC v Wollongong Coal Ltd & Anor</i>	[2015] FCA 403 (Buchanan J)	Final Hearing – admiralty – contractual dispute in relation to a letter of comfort – led by EGH Cox
Supreme Court of New South Wales		
<i>In the matter of Eastmark Holdings Pty Ltd</i>	September 2015 (Brereton J), reserved	Final Hearing – application to terminate a deed of company arrangement – led by R Newlinds SC
<i>In the matter of Eastmark Holdings Pty Ltd</i>	[2015] NSWSC 1437 (Brereton J)	Separate question – insolvency – whether deed of company arrangement invalid for requiring third-party releases – led by N Hutley SC
<i>In the matter of Eastmark Holdings Pty Ltd</i>	July 2015 (Brereton J), unreported	Interlocutory – application to set aside notices to produce - unled
<i>In the matter of Eastmark Holdings Pty Ltd</i>	June 2015 (Brereton J), unreported	Interlocutory – application to set aside notices to produce – application for security for costs – led by R Newlinds SC
<i>In the matter of Kata-Lyn Pty Ltd</i>	[2014] NSWSC 1246 (Black J).	Interlocutory – application to set aside final judgment - unled
<i>In the matter of U&D Coal Ltd</i>	July 2014 (Brereton J)	Final Hearing – Oppression upon majority shareholder – settled on final hearing day – led by AS Bell SC

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<i>V8 Supercars Holdings Pty Ltd v Lucas Dumbrell Investments Pty Ltd & Anor</i>	[2014] NSWSC 1391 (Pembroke J)	Separate question – contractual construction (balance of matter part heard) – led by P Braham SC and M Izzo
<i>Banks v Alphonse Pty Ltd</i>	[2014] NSWSC 1437 (Brereton J)	Interlocutory – application for summary judgment / strike out – led by CN Bova
Supreme Court of Western Australia		
<i>Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd & Ors</i>	May 2015 (Le Miere J), Western Australian Supreme Court	Interlocutory – application to restrain legal practitioner from acting against former client – settled after initial hearing – led by T Blackburn SC
District Court of New South Wales		
<i>Finch v Telstra Corporations Ltd</i>	December 2014, unreported	Final hearing – application for preliminary discovery – unled
Local Court of New South Wales		
<i>National Fire Solutions (Vic) Pty Ltd v Juilliard Corporation Pty Ltd</i>	September 2015, unreported	Interlocutory – arbitration clause – application for permanent stay of proceedings – unled
<i>Keller v Ace Insurance</i>	March 2015, unreported	Final hearing – insurance claim – unled
<i>Peter Glass & Associates v Richard Poole & Anor</i>	November 2014, unreported	Final hearing – disputed invoice – unled
<i>Techwriter Placements Pty Ltd v Crafted Pty Ltd</i>	July 2014, unreported	Final hearing – recruitment contract – interpretation – unled

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Miscellaneous		
<i>MacDougall v Assarapin</i>	May 2015, NCAT	Appeal hearing – dismissal of residential tenancy application - unled
<i>Acted for an ASX-listed mining company in a number of arbitrations concerning contractual disputes</i>	Arbitrations, 2014 and 2015	Led by AS Bell SC
<i>Acted for a listed company in an appeal to the ASX Appeal Tribunal</i>	2014	Led by AS Bell SC