

ELEVEN WENTWORTH





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 acts for and advises public and private companies, investment and retail banks, superannuation funds, other trustees, government agencies and individuals.

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Admission to the Bar:

2014

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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

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:

Masters of Laws (University of Sydney) (2017)

Bachelor of Arts (History) / Bachelor of Laws (1st class Honours with the University Medal) (Macquarie University) (2009)

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

APPELLATE

Shellharbour City Council v Minister for Local Government [2017] NSWCA 256 (Basten, Macfarlan JJA and Sackville AJA) (for the Minister for Local Government, unled, instructed by NSW Crown Solicitor).

Mosman Municipal Council v Minister for Local Government (No 2); North Sydney Council v Minister for Local Government (No 2) [2017] NSWCA 255 (Basten, Macfarlan JJA and Sackville AJA) (for the Minister for Local Government, led by NC Hutley and JJ Hutton, instructed by NSW Crown Solicitor).

Hunter's Hill Council v Minister for Local Government & Ors [2017] NSWCA 188 (Basten, Macfarlan JJA and Sackville AJA) (for the Minister for Local Government, led by NC Hutley and JJ Hutton, with D Birch, instructed by NSW Crown Solicitor).

LCM Litigation Fund Pty Ltd v Coope [2017] NSWCA 200 (Macfarlan, Simpson JJA and Emmett AJA) (led by A J Sullivan QC, instructed by Piper Alderman).

Woollahra Municipal Council v Minister for Local Government [2016] NSWCA 380 (Bathurst CJ, Beazley P and Ward JA) (for Minister for Local Government, led by NC Hutley and JJ Hutton, instructed by Crown Solicitors Office).

Jabulani Pty Ltd v Walkabout II Pty Ltd [2016] NSWCA 267 (Bathurst CJ, Leeming and Payne JJA) (for Walkabout, led by K Andronos SC).

Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [2016] WASCA 50; (2016) 49 WAR 476; 330 ALR 140 (McLure P, Newnes JA and Corboy J) (for HPPL, led by PJ Brereton SC and CN Bova, instructed by Jackson MacDonald).

Prieston v Warwick John Williams Pty Ltd [2017] NSWSC 1577 (Bellew J) (for the respondent, unled).

Seymour v Jaeger [2017] NSWSC 25 (Fagan J) (for Ms Jaeger, unled).

Sargeant v HE & FE Campbell Agricultural Machinery Repairs [2016] NSWSC 544 (for Sargeant, unled).

GENERAL COMMERCIAL MATTERS

CPB Contractors Pty Limited v Celsus Pty Ltd [2017] FCA 1620 (Lee J) (for CPB Contractors, led by B Walker SC and E Hyde, instructed by King & Wood Mallesons)

Woolworths Limited v About life Pty Ltd [2017] NSWSC 1117 (Emmett AJA) (for Harris Farm, led by P Wood, with B K Lim, instructed by Arnold Bloch Leibler)

V8 Supercars Holdings Pty Ltd v Sanpoint Pty Ltd [2017] NSWSC 1043 (Robb J) (for V8 Supercars Holdings Pty Ltd, led by P Braham SC and M Izzo, instructed by Deutsch Miller)

Hancock Prospecting Pty Ltd v 150 Investments Pty Ltd [2017] FCA 250 (Yates J) (for HPPL, led by JC Giles SC and Colquhoun, instructed by Corrs Chambers Westgarth).

Morton v Bolinda Publishing Pty Limited [2017] FCA 187 (Burley J) (for Bolinda Publishing, led by PW Wood, instructed by Arnold Bloch Leibler).

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EDT Global Pty Ltd & Anor v Entire Building Solutions Pty Ltd & Anor [2017] NSWDC 51 (Neilson DCJ) (for EDT Global, unled, instructed by Marque Lawyers)

DM & Longbow Pty Limited v Registrar-General of NSW [2016] NSWSC 1844 (2016) 18 BPR 36585 (Darke J) (for DM & Longbow and ors, led by M Richmond SC, instructed by Glass Goodwin Solicitors).

LCM Litigation Fund Pty Ltd v Coope [2016] NSWSC 1221 (for LCM, led by A Sullivan QC, instructed by Piper Alderman).

Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 5) [2016] WASC 58 (Le Miere J) (led by CN Bova, instructed by Jackson McDonald).

Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd (No 6) [2016] WASC 218 (Le Miere J) (led by CN Bova, instructed by Jackson McDonald).

Addenbrooke Pty Ltd v Duncan & Ors (2015) 107 ACSR 600 (Foster J) (led by J Williams, instructed by TressCox Lawyers).

British Marine PLC v Wollongong Coal Ltd & Anor [2015] FCA 403 (Buchanan J) (led by EGH Cox, instructed by).

V8 Supercars Holdings Pty Ltd v Lucas Dumbrell Investments Pty Ltd & Anor [2014] NSWSC 1391 (Prembroke J) (led by P Braham SC and M Izzo).

Banks v Alphonse Pty Ltd [2014] NSWSC 1437 (Brereton J) (led by CN Bova, instructed by King & Wood Mallesons).

Corporations and Insolvency

In the matter of SG Capricorn Investments Pty Ltd & Ors [2018] NSWSC 214 (Black J) (unled, instructed by Arnold Bloch Leibler)

In the matter of SG Capricorn Investments Pty Ltd & Ors [2018] NSWSC 12 (Black J) (unled, instructed by Arnold Bloch Leibler)

In the matter of ABI Australia Holdings Pty Ltd [2017] NSWSC 1822 (Black J) (for ABI Australia & Ors, unled, instructed by Clifford Chance).

In the matter of Eastmark Holdings Pty Ltd (2015) 109 ACSR 116 (Brereton J) (led by NC Hutley SC, instructed by Jones Day).

In the matter of Eastmark Holdings Pty Ltd [2015] NSWSC 2070 (led by CRC Newlinds SC, instructed by Jones Day).

In the matter of Eastmark Holdings Pty Ltd [2015] NSWSC 2071 (led by CRC Newlinds SC, instructed by Jones Day).

In the matter of Eastmark Holdings Pty Ltd [2015] NSWSC 2075 (unled, instructed by Jones Day)

In the matter of Kata-Lyn Pty Ltd [2014] NSWSC 1246 (Black J) (unled, instructed by Yeldham Price O'Brien and Lusk).

In the matter of U&D Coal Limited [2014] NSWSC 1128 (Brereton J) (led by AS Bell SC, instructed by Jones Day).

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Various examinations.

Class Actions

Smith v KPMG Advisory Services (Australia) Pty Ltd (ongoing) (led by JC Giles SC, instructed by Piper Alderman) (shareholder action concerning independent expert report issued by defendant in relation to an off-market takeover bid received by a company)

Davis v Quintis Limited & Ors (Ongoing) (led by JC Giles SC, instructed by Piper Alderman) (shareholder action concerning the financial statements)

Hudson v Commonwealth of Australia (Ongoing) (led by WAD Edwards, instructed by Shine Lawyers) (action concerning contamination of land surround Defence Force base at Oakey, Queensland).

Administrative Law

Randwick City Council v Minister for Local Government (Moore J) (led by R Lancaster SC, instructed by NSW Crown Solicitor)

Re WS [2017] NSWSC 745 (Lindsay J) (unled, instructed by NSW Crown Solicitor)

Woollahra Municipal Council v Minister for Local Government (2015) 218 LGERA 65 (Preston CJ) (led by NC Hutley and JJ Hutton, instructed by NSW Crown Solicitor).

Walcha Council v Minister of Local Government [2016] NSWLEC 60 (Preston CJ) (led by NJ Williams SC and JJ Hutton, instructed by NSW Crown Solicitor).

Hunter's Hill Council v Minister of Local Government [2016] NSWLEC 124 (Moore J) (led by NC Hutley and JJ Hutton, instructed by NSW Crown Solicitor).

Oberon Council v v Minister of Local Government [2016] NSWLEC 131 (Preston CJ) (led by NC Hutley and JJ Hutton, instructed by NSW Crown Solicitor).

North Sydney Council v Minister for Local Government [2016] NSWLEC 161 (Robson J) (unled, instructed by NSW Crown Solicitor).

Other

Reynolds v Highfields [2016] FWC 1187 (Roberts Cmr) (unled, instructed by Corrs Chambers Westgarth) (unfair dismissal application).

Various arbitrations and expert determinations.