



## Tim Webster

### Practice Area Leader - Litigation

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## OVERVIEW

Tim Webster is a highly respected commercial litigator who handles disputes for the firm's corporate clients in a range of industries. He currently serves as the co-practice area leader of the firm's global litigation and dispute resolution group, and is a member of the firm's global advisory committee.

Tim has extensive experience and skill in company critical litigation and in managing complex and sensitive matters, including the defence of large class actions.

He has deep experience in the strategic handling and resolution of disputes and potential disputes, enforcement of contractual rights and obligations, and *Corporations Act* matters, including directors' duties and shareholder rights and remedies.

Tim is a fully qualified mediator and has considerable experience in, and knowledge of, appropriate dispute resolution vehicles, including arbitration, mediation and facilitated negotiation.

He is recognised by *Chambers Asia-Pacific*, *Chambers Global* and *The Legal 500 Asia Pacific* for Dispute Resolution – Australia and ranked as one of Australia's leading alternative dispute resolution and litigation lawyers by *The Best Lawyers in Australia*™.

## ACHIEVEMENTS

- Recognised by *Chambers Asia-Pacific* for Dispute Resolution in Australia, 2018-2024

"Tim Webster is both head of the firm's Australian litigation practice and co-head of its global disputes offering, and plays leading roles on high-profile contentious mandates of all kinds." and "He really got our issues, dealt with the proceedings with guile and got us where we needed to be." (*Chambers Asia-Pacific*, 2024)

"We were in very strong and capable hands with Tim leading complex litigation for us, all the way through to settlement. Tim was unflappable and was passionate to ensure that our brand position was known, and respectful of our internal processes. He is also very approachable and easy to get along with." (*Chambers Asia-Pacific*, 2023)

Tim Webster "plays leading roles on high-profile contentious mandates of all kinds. Clients characterise him as 'excellent in his field' and as a source of 'pragmatic, no-nonsense legal advice on disputes.'" (*Chambers Asia-Pacific*, 2022)

A client notes that in addition to having "a great reputation with respect to commercial litigation," Tim Webster is "very knowledgeable, direct and to the point, and a trusted adviser." (*Chambers Asia-Pacific*, 2021)

- Recognised by *The Legal 500 Asia Pacific*
  - Leading Individual for Dispute Resolution: Litigation in Australia, 2021-2024
  - Recommended Lawyer for Dispute Resolution: Litigation in Australia, 2016-2020

"We have worked with Tim Webster. Whilst he leads his team to provide considered legal advice, he ensures that he understands his client's objectives and provides clear and concise recommendations at each stage of the dispute process." - *The Legal 500 Asia Pacific*, 2024

"Clients prize the 'clear and insightful advice' provided by department head Tim Webster." and "Tim Webster was outstanding as our lead partner and clearly articulated the various pathways in the litigation we were involved in. The clear and insightful advice allowed us to make sound decisions." - *The Legal 500 Asia Pacific*, 2021

"Tim Webster... is able to bring a commercial and litigation mindset to all matters." - *The Legal 500 Asia Pacific*, 2020

- Listed in *The Best Lawyers in Australia*™
  - Alternative Dispute Resolution, 2017-2024
  - Litigation, 2019-2022
- Recognised by *Chambers Global* for Dispute Resolution in Australia, 2019-2024

## PROFESSIONAL / CIVIC ACTIVITIES

- Law Society of New South Wales member
- Resolution Institute member

## SPEAKING ENGAGEMENTS

Tim regularly presents seminars and training on topical litigation issues, including legal professional privilege and its application to in-house corporate lawyers.

## EDUCATION

- B.Com, The University of New South Wales, 1992 (*Finance*)
- LL.B., The University of New South Wales, 1992

## ADMISSIONS

- High Court of Australia
- Supreme Court of New South Wales
- Supreme Court of Queensland
- Supreme Court of Victoria

## THOUGHT LEADERSHIP POWERED BY HUB

- 7 December 2022, Will Group Costs Orders "Anchor" Class Actions in Victoria?
- 20 October 2022, High Court of Australia to Hear Appeal on Recognition of ICSID Arbitral Award Against Spain in November 2022
- 1 April 2022, Russia-Ukraine Sanctions in Australia
- 28 March 2022, High Court of Australia Grants Special Leave to Appeal Decision Recognizing ICSID Arbitral Award Against Spain
- February 2022, Legal Professional Privilege
- 18 February 2020, Legal Professional Privilege
- March 2019, Legal Professional Privilege

## OTHER PUBLICATIONS

- "Settlement (Civil Litigation)," Australian chapter in Thomson Reuters' *Practical Law, Cross-Border Dispute Resolution*, March 2017
- "Opinions as Assumptions – Court Rejects Expert Evidence of \$170 million Claim," *Law Society of NSW Journal*, July 2012

## NEWS & EVENTS

- 15 February 2024, *Chambers Global* 2024 Guide Ranks K&L Gates Lawyers, Practices
- 17 January 2024, The Legal 500 Recognises K&L Gates in 2024 Asia Pacific Edition
- 14 December 2023, Chambers Asia-Pacific 2024 Guide Recognises K&L Gates
- 16 February 2023, K&L Gates Recognized in 2023 *Chambers Global* Guide
- 16 January 2023, The Legal 500 Recognizes K&L Gates in 2023 Asia Pacific Edition
- 17 February 2022, K&L Gates Recognized in 2022 Chambers Global Guide

- 13 January 2022, Legal 500 Recognizes K&L Gates in 2022 Asia Pacific Guide
- 16 December 2021, Chambers Asia-Pacific 2022 Guide Recognises K&L Gates
- 24 February 2021, K&L Gates Recognized in 2021 Chambers Global Guide
- 16 December 2020, K&L Gates Recognized in Chambers 2021 Asia Pacific and FinTech Guides

## AREAS OF FOCUS

- Commercial Disputes
- Construction and Infrastructure Dispute Resolution
- International Arbitration
- Product Liability
- Securities and Transactional Litigation

## INDUSTRIES

- Energy
- Energy Disputes
- Industrial and Commercial Coatings
- Manufacturing
- Metals Manufacturing and Fabrications

## EMERGING ISSUES

- Environmental Social Governance (ESG)

## REPRESENTATIVE EXPERIENCE

- Representing a Sydney-based real estate investment management group in landmark litigation seeking to recover unpaid rent from tenants owned by The Just Group, which refused to pay rent in full since the COVID-19 pandemic.
- Defending Honda Australia in the Takata Airbag Consumer Class Action brought on behalf of 437,000 vehicle owners or lessees.
- Representing a large privately owned residential property development and construction group, and a number of its directors and officers, defending a range of allegations made in relation to breach of fiduciary duties and diversion of company funds associated with the operation of the business.

- Defending an international design, engineering and advisory company in the Alucobond Cladding Class Action.
- Defending a number of prominent property developers on class actions filed in the Federal Court by purchasers of units seeking to recover the GST component of their "off the plan" purchase.
- Bringing a negligence claim against PwC in relation to tax advice provided to a Glencore employee concerning the CGT treatment of Swiss Genussscheine upon termination of his employment while in Australia.
- Representing the Kingdom of Spain in the High Court of Australia attempting to resist the enforcement of an €101 million ICSID arbitration award arguing that Spain had not waived its right of foreign state jurisdictional immunity afforded by section 9 of the Foreign States Immunities 1985 (Cth).
- Representing parties in numerous Court approved Schemes of Arrangement, including in the matters of Biosceptre International Limited, Unity Mining Limited, RESIMAC Limited and Everlight Radiology Limited.
- Defending a property development company against significant claims (AU\$170 million) of alleged breach of fiduciary duty and misleading or deceptive conduct, in connection with the settlement of prior litigation concerning the acquisition of a large development site.
- Representing an electricity distributor in a significant and large dispute with BHP Billiton (AU\$50 million plus) under a long term power purchase agreement following the partial privatisation of the electricity industry by the New South Wales Government.
- Representing a US defence contractor in relation to contract disputes arising from a large project (AU\$340 million plus) to supply a new defence communications system to the Australian Department of Defence.
- Representing a construction engineering company in litigation (AU\$7 million plus) arising in relation to the construction of the Epping to Chatswood rail line in Sydney.
- Representing a global mining machinery manufacturer in relation to product liability claims brought by Rio Tinto concerning the alleged failure of hydraulic underground mine roof supports.
- Representing a state owned electricity generator over a period of 15 years on many contract and other disputes under coal supply contracts, design and construct contracts, power purchase agreements and gas supply agreements.
- Representing a US based manufacturer of locomotives in a dispute (USD24 million) with the Australian purchaser in relation to alleged defects and warranty issues.
- Defending a claim by Hastings Funds Management against the shareholder vendors of a waste methane gas powered electricity generation business against a significant claim (AU\$40 million) for alleged breach of warranties contained in a share sale agreement, misleading or deceptive conduct and insider trading claims.
- Representing an Isle of Man hedge fund in litigation seeking urgent declarations and injunctions in relation to the adjournment of a general meeting of unit holders specifically requisitioned to replace the responsible entity of a listed trust, or alternatively, to wind up the trust.

- Representing a construction engineering company in all litigation (AU\$60 million plus) arising from a collapse during construction of the Lane Cove Tunnel in Sydney.
- Litigating a significant claim by a major building products company against CSR (AU\$40 million plus) in relation to the liability to remediate environmental contamination present across five sites in three different States.
- Representing a large construction contractor in relation to the fraudulent misappropriation of funds by its accounts payable manager, including obtaining extensive freezing orders over the employee's bank accounts and assets.
- Representing a property developer defending a claim under section 37A of the Conveyancing Act 1919 (NSW) to set aside the transfer of property on the basis that the transaction was undertaken with intent to defraud creditors. The case was eventually determined on appeal to the High Court of Australia.
- Representing a large construction company in a major dispute with a contractor concerning the construction of the Mt Piper to Marulan 500kV electricity transmission line.
- Acting for an international building products company in its defence of a substantial (NZD1.5 billion) claim brought by the New Zealand Ministry of Education in the High Court of New Zealand.
- Assisting an international building products company in its defence of a NZD220 million and NZD (undisclosed) million class actions in New Zealand brought in respect of cladding used in the construction of hundreds of residential buildings in New Zealand.