



Gregory Couston

Of Counsel

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OVERVIEW

Gregory Couston is a commercial disputes/litigation partner. His practice focuses on professional liability, financial sector litigation, insurance coverage issues, property disputes, and contamination/environmental liability.

Gregory's clients include professionals in various fields – with particular emphasis on lawyers; as well as property companies, financial institutions, manufacturers and trading companies, particularly Asian trading companies. He is also a trained and practicing mediator.

Gregory delivers proactive dispute management and outcomes focused service to his clients.

He has, for a number of years, been selected in The Best Lawyers in Australia in the fields of insurance law, and also commercial litigation as one of Australia's leading insurance law and litigation lawyers in the Best Lawyers lists.

Gregory frequently presents, and is regularly published on, liability and risk management issues.

ACHIEVEMENTS

- Listed in the *Best Lawyers in Australia*™
 - Professional Malpractice Litigation, 2023-2024
 - Alternative Dispute Resolution, 2012-2024
 - Litigation, 2012-2024
 - Insurance, 2012-2024

PROFESSIONAL / CIVIC ACTIVITIES

- Australian Insurance Law Association member
- Resolution Institute member

- Nationally accredited mediator (NMAS)
- Charity/orphanage work in Uganda, India and Philippines

SPEAKING ENGAGEMENTS

Gregory frequently presents at liability and risk management seminars and conferences.

EDUCATION

- LL.B., University of Sydney, 1978

ADMISSIONS

- Federal Court of Australia
- High Court of Australia
- High Court of New Zealand
- Supreme Court of New South Wales

OTHER PUBLICATIONS

- "Key Principles of Privilege & Waiver of Privilege," *Law Society Journal*, September 2016
- "Can a lawyer act contrary to a former client's interests", *Law Society Journal (NSW)*, August 2016
- "Informal communications with judges' chambers – a professional and risk management issue", *Law Society Journal (NSW)*, June 2016
- "Lawyers' Liability to non-clients – additional dimensions of liability in finance transactions", *Law Society Journal (NSW)*, October 2014
- "Privilege Lost – preservation of privilege, practice pointers", *Law Society Journal (NSW)*, August 2014
- "Informal Wills – the duty of a lawyer to consider, discuss and make an informal will for a client", *Law Society Journal (NSW)*, July 2014

AREAS OF FOCUS

- Commercial Disputes
- Insurance Recovery and Counseling
- Product Liability
- Securities and Transactional Litigation

REPRESENTATIVE EXPERIENCE

- Defending litigated claims concerning actuarial and valuation issues between shareholders in a significant insurance company.
- Defending multiple claims against a managing agent arising out of a central business district office fire.
- Representing the “determining expert” in Federal Court of Australia proceedings concerning the regulation of credit card charges.
- Conducting a litigated claim against a D&O insurer concerning losses connected with a complex financial transaction in the light of particular ICAC enquiries and findings.
- Acting for the plaintiff in a \$100m damages claim against professional advisors consequent upon alleged negligent/misleading advice concerning complex tax fees.
- Advising Receivers and Secured Lenders, concerning the collapse of a major stockbroking entity, in relation to potential recovery actions against directors and auditors.
- Advising the owner of an offshore platform of entitlements under a construction material damage policy concerning construction and cyclone damage.
- Defending the professional advisers of a major industry superannuation fund, in relation to allegations of incorrect/non-compliant provisions drafted into the public’s superannuation trust deed.
- Acting on a wide range of negligence and Australian Trade Practices claims against solicitors arising from commercial transactions, loans and mortgages, property dealings, development schemes, trusts, wills and the conduct of litigation.
- Defending a Japanese Bank in securities liability claims conducted in USA and Australia; and obtaining “anti-suit”; injunctive relief, preventing the claimants proceeding in both jurisdictions.
- Defending Federal Court of Australia class actions against professional advisors concerning failed property development schemes/proposals.
- Advising a multinational oil company on its insurance rights – in the context of potential prosecution and liability issues concerning importation of defective fuel oil.
- Defending an international oil company in a class action by claimants seeking to recover excise tax collected by the oil company (and others), where the High Court of Australia had determined that the excise was unconstitutional. The claim against our client exceeded AUD100 million. The case was part of a major set of proceedings involving oil retailers and tobacco retailers.
- Advising a number of corporate entities (including a major oil company) on management and liability issues concerning pollution incidents and contaminated properties – including dealings with regulators.
- Managing litigation between a UK group of companies and their Australian and Lloyd’s insurers concerning significant asbestos liability in Australia.

- Defending and managing claims against a major producer of building adhesive products conducted in multiple Australian States involving an allegedly defective swimming pool product.
- Advising on insurance coverage under an Environmental Impairment Policy in the context of hydrocarbon and asbestos contamination of an extensive residential property development in NSW.
- Advising on insurance issues concerning the collapse of a New Zealand finance company.
- Advising an Australian corporate entity on disputed policy response entitlements under an EPL policy in the context of a U.S. class action.
- Conducting insurance coverage dispute for an international supplier of building materials against its liability insurer arising from multiple losses sustained in a foreign jurisdiction.
- Acting for a major bank in respect of proceedings brought by a customer relating to the treatment of superannuation funds.