

David Hughes

CALLED TO THE BAR: 2010

PRACTICE AREAS

- Commercial and Corporate
- Equity
- Competition
- Private and Public International Law
- International Commercial Arbitration
- Administrative and Public Law
- Construction and Technology Law

David is regularly briefed in complex commercial and corporate disputes in the Supreme Court and Federal Court. David also appears regularly in the Federal Court in judicial review applications of administrative decisions.

BOOK

The Interpretation of Contracts in Australia (2012)

Co-authored with Lord Justice Lewison

ACADEMIC

2007 – 2008

University of Oxford Law School BCL (with distinction)

1998 – 2004

University of New South Wales

LLB, B Sc (Pure Mathematics, First Class Honours)

ASSOCIATESHIP

Supreme Court of New South Wales

2006

Research Director to the Chief Justice

2005

Tipstaff to the Chief Justice

PRIOR LEGAL EXPERIENCE

2009 – 2010

Clayton Utz

Solicitor, Commercial Litigation / Insolvency

2008 – 2009

Hague Conference on Private International Law

Legal Officer, Judicial Co-operation and Litigation

MAJOR CASES

Resources and Infrastructure

- **Electricity Generation Corporation v Woodside Energy Ltd, High Court of Australia.** Acted for an electricity-supply corporation in a High Court appeal on the interpretation of a long term gas supply agreement, and questions of economic duress.
- **ICC Arbitration in Singapore.** Acted for a dredging contractor in a wide ranging dispute with a principal over variation claims relating to dredging methodologies, and extensions of time.
- **Wright Prospecting Pty Ltd v Hamersley Iron Pty Ltd, Supreme Court of New South Wales.** Briefed to advise Wright Prospecting in a dispute over the construction of certain royalty agreements relating to iron ore tenements in the Pilbara region of Western Australia.
- **PT Thiess v PT Arutmin, Supreme Court of Queensland.** Acted for an Indonesian coal company in a dispute with a contractor over the proper construction of a settlement deed. The amount in dispute was approximately \$300m.

Telecommunications

- **Optus v Vodafone, Supreme Court of New South Wales.** Acting for Optus in a dispute with Vodafone over obligations in a joint venture agreement.
- **Kordia Solutions v Nokia Siemens Networks, Supreme Court of New South Wales.** Acted for Kordia Solutions in a multi-million dollar contractual dispute between companies involved in servicing and maintaining mobile telecommunications infrastructure.
- **Telstra v NBN.** Briefed to advise and appear for Telstra before an expert legal arbitrator on the construction of a contract. The amount in dispute was approximately \$150m.

Investor Class Actions

- **Caason Investments Pty Ltd v Cao.** Briefed to advise and appear for a non-executive director in proceedings brought by investors, including allegations of market based causation.
- **RiverCity Litigation.** Briefed to advise and appear for Leighton Contractors (now CPB Contractors) in an investor class action turning of the accuracy of, and responsibility for, traffic forecasting material contained within a prospectus.

- **Centro Litigation: Kirby v Centro Properties Ltd, Federal Court of Australia.** Acted for PricewaterhouseCoopers in a large class action brought by holders of securities issued by Centro companies.
- **Mercedes Holdings Pty Ltd v Waters, Federal Court of Australia.** Acted for a director in an investor class action.

Corporate

- **HNA Irish Nominee Ltd v KV Aviation Holdings Pty Ltd, Federal Court of Australia.** Briefed in an oppression dispute between shareholders in corporate vehicles holding a portfolio of 38 commercial aircraft with a combined value of \$1.3b.
- **A&B Leisure Investments Pte Ltd v Staywell Hospitality Group Pty Ltd.** Oppression suit between investors in a hotel group.

Competition

- **ACCC v Cathay Pacific & Ors, Federal Court of Australia.** Acted for Cathay Pacific in proceedings relating to allegations of a world-wide cartel in the airline cargo industry.
- **Acquisition of Macquarie Generation by AGL Energy Limited [2014] ACompT 1.** Acted for AGL Energy in proceedings seeking approval of an acquisition opposed by the ACCC.
- **Other Confidential Briefs.** I have received other briefs to advise major corporations on competition issues relating to mergers and acquisitions, and to prepare for proceedings seeking approval in the Competition Tribunal. Given the sensitivity of this work, I cannot identify the companies.

International

- **Indochina Medical Co Pty Ltd v Nicolai, New South Wales Court of Appeal.** Appeared unled in appellate proceedings relating to an application to take evidence abroad pursuant to the Hague Evidence Convention.

Construction

- **Westpoint Litigation: Baulderstone Hornibrook Pty Ltd v Queensland Investment Corp, Supreme Court of New South Wales.** Acted for a building head contractor in a wide-ranging construction dispute arising from the refurbishment of a major shopping centre in Sydney.
- **Alstom Ltd v Yokogawa Australia & Ors, Supreme Court of South Australia.** Briefed in appellate proceedings between a contractor and subcontractor arising from a \$158m refurbishment project for a power station.

- **Macmahon Mining Services Pty Ltd v Cobar Management Pty Ltd: Supreme Court of New South Wales.** Acted for a contractor in a dispute with a principal under a contract to perform repurposing works and extension works to a mine shaft. The amount in dispute was over \$100m.
- **Bank Guarantees: Expert Determination between Contractor and Subcontractor.** Acted for a subcontractor seeking the return of bank guarantees encashed by receivers appointed to the head contractor following the collapse of the Forge group.
- **Dymocks v Traditional Stone Masonry, Supreme Court of New South Wales.** Acting for Dymocks Book Arcade in proceedings relating to the adequacy of restoration works to the western façade of the Dymocks building in George Street.
- **Ellton Longwall Pty Limited v Thitchener & Ors, Supreme Court of New South Wales.** Acting for a project manager in proceedings relating to alleged defects in a large concrete slab for use in the mining industries. Proceedings involve detailed factual issues relating to geotechnical and structural engineering evidence.
- **OC 68372 v Allianz Australia Insurance & Ors.** Acted for a developer of a strata title development of 128 townhouses sued under implied warranties arising from the Home Building Act. The claim related to structural, geotechnical, hydraulic and building defects and raised complex issues of proportionate liability and the operation of the implied warranties.

Insurance

- **Commonwealth Bank v Savills (Qld).** Briefed to advise and appear for Savills, in proceedings brought by the Commonwealth Bank claiming damages for an allegedly negligent valuation.
- **New South Wales Land and Housing Corporation and Quattro Design Pty Ltd.** Acted for Quattro, in proceedings alleging negligent design.

Administrative law

- **Pfizer v Comptroller-General of Customs.** Acted for Pfizer in an administrative challenge to the imposition of import duties under the Customs Tariff Act 1995 (Cth).
- **Minister for Immigration v CZBP.** Appeared unled for a refugee applicant in the Full Federal Court.
- **SZUNZ v Minister for Immigration.** Appeared unled for the Minister for Immigration in the Full Federal Court.

PUBLICATIONS

- *Australia Joins the Hague Service Convention* (2010) 84(8) Australian Law Journal 532, with Gina Elliott.
- *The Insolubility of Renvoi and its Consequences* (2010) 6(1) Journal of Private International Law 195.
- *A Classification of Fusion after Harris v Digital Pulse* (2006) 29(2) UNSWLJ 32.
- Co-author of chapter on the contract law of Australia in *Droit de l'Australie* (2016, Bibliothèque de l'Association Henri Capitant).

AWARDS

- Commonwealth Scholarship (Oxford)
- Winner, Oxford Mooting Competition 2008

Current as at July 2017