

Dewar's List

Tim Scotter
Aickin Chambers
Level 30, 200 Queen Street, Melbourne, Victoria
T: +613 9225 8506
E: tscotter@vicbar.com.au
List D: +613 9225 7999

Tim was first admitted to practice in New Zealand in 1993. He was admitted in Victoria in 2000 and signed the Bar roll in 2006.

Tim is a member of the Victorian Bar, the Commercial Bar Association and the Australian Insurance Law Association.

Qualifications

LLB; BA – University of Canterbury (1992).

Major in Bachelor of Arts is Economics.

Practice Areas

Appellate	Disciplinary Tribunals
Commercial Law	Trade Practices
Corporations & Securities	Professional Discipline
Insurance	Banking and Finance
Professional Negligence and Torts	Contract
Insolvency	Property
Equity / Trusts / Fraud	Partnerships
Mediation	Administrative Law

From 1 July 2008 liability limited by a scheme approved under Professional Standards Legislation

Professional Experience

Tim is an experienced commercial junior barrister and appears in a wide range of commercial disputes and professional disciplinary matters. He has extensive experience in working on cases as part of a team made up of solicitors and other counsel. He is an experienced trial advocate.

Tim is briefed regularly to give advice (in conference and in writing). He has also been briefed to investigate complaints by an interstate legal regulator since 2015.

Tim has appeared in a wide variety of jurisdictions, including the State Court of Appeal and Supreme Court Trial division, in relation to insurance disputes, equity proceedings, contempt proceedings and insolvency matters.

In recent years, Tim has obtained significant experience in different areas including corporations, professional disciplinary and professional negligence matters.

Matters in which Tim has been involved include:

Commercial – Corporations:

- ***P-value v Vicland Property Group (No 1)*** (2016) VSC 100 – dispute arising out of contract of sale of commercial property and allegations of misleading and deceptive conduct, 20-day trial.
- ***Rowe v AusNet Electricity Services Pty Ltd & Ors*** [2015] VSC 232. Appeared in respect to the class action settlement scheme for the Murrindindi class action.
- ***Inform Numbers Australia Pty Ltd & Anor v Angelovski & Ors*** [2014] VSC 537 - a derivative action against a director arising out of breaches of duties and oppression.
- ***Windemac Pte Ltd v Jada Ex Beverages Pty Ltd & Ors*** [2012] VSC 559 -dispute arising out of a joint venture, breaches of fiduciary duties and knowing assistance.
- ***ExxonMobil Superannuation Plan Pty Ltd v Esso Australia Pty Ltd*** [2010] VSC 357. Appeared for a representative in respect to the ExxonMobil Superannuation Plan (led by Robin Brett QC and Kevin Lyons QC).
- ***Choice Planning Pty Ltd & Anor v Mider @ Franklin Street Pty Ltd & Ors*** [2015] VSC 59. Application for freezing orders on the basis of transfers with the intention to defeat creditors (led by David Collins QC).
- ***Winn v Blue Print Instant Printing Pty Ltd*** [2010] VSCA 35. Successfully resisting application for leave to appeal.

- ***Wellara Holdings Pty Ltd v P-value Pty Ltd*** [2016] VSCA 223 - successful appeal from the judgment of Digby J reducing liability of the insured defendant to 15% (led by David Collins QC).
- ***John Francis Chamberlain & Barry James Bennet v Spry & Ors*** (2008) VSC 562 - construction of Wills and trustee seeking advice (led by Stephen McLeish QC).
- ***Bullhead v Brickmakers Place Pty Ltd & Ors*** [2017] VSC 206
- ***Hi-Rise Access Pty Ltd v Standards Australia Limited*** [2017] FCA 604 – successfully establishing Standards Australia did not engage in trade or commerce (led by David Collins QC).
- ***BHPB Freight Pty Ltd v Cosco Oceania Chartering Pty Ltd (No 3)*** (2009) FCA 1087 - appeared for a ship broker in the Admiralty jurisdiction in respect to a charter party claim.
- ***Alpha Energy Pty Ltd v Violi*** (2010) FCA 1210 -appeared in successful defence of a contempt of court prosecution (led by David Collins QC).
- ***Carew Counsel Pty Ltd v French*** (2002) 4 VR 172; [2002] VSCA 1 - allegations of a breach of duty by solicitor in dealing with a bankrupt estate (led by Gary Bigmore QC).

Professional Negligence:

- ***Talacko & Ors v Talacko*** [2017] VSC 804 – allegations of breaches of the overarching obligations under the *Civil Procedure Act*.
- ***Kooyoufas v Stephen Kourkoulis & Associates*** [2017] VCAT 592. Appeared for the solicitor/defendant in the proceeding alleging failure to advise a discrepancy in a Section 32 Statement.
- ***McGuffie v Norquay*** [2008] VCAT 484. Appeared for an insured solicitor in respect to alleged negligence in dealing with conveyancing of property in New South Wales.

Professional Disciplinary and Regulatory matters:

- ***Burgess v Michael McGarvie (Legal Services Commissioner)*** [2013] VSCA 142 - appeared for the Commissioner in opposition to an appeal against penalty.
- ***Legal Services Board v Delahunty*** [2011] VSC 453 Appeared for the Board, appointment of a receiver to a law practice with deficiencies in the trust account.
- ***McDonald v Legal Services Commissioner*** [2014] VSC 34 - appeared for the Commissioner on an application for leave to appeal from a disciplinary prosecution.
McDonald v Legal Services Commissioner [2015] VSC 237- appeared for the Commissioner on the appeal from a disciplinary prosecution.
- ***McDonald v Legal Services Commissioner (No 2)*** [2017] VSC 89 - appeared for the Commissioner on an appeal from a disciplinary prosecution

- Appeared for the Victorian Legal Services Commissioner at trial in many prosecutions between 2013 and 2018, including:
 - *Victorian Legal Services Commissioner v Burgess* [2018] VCAT 873
 - *Victorian Legal Services Commissioner v Kotsifas (No 2)* [2017] VCAT 1460, leading to orders for striking off
 - *Victorian Legal Services Commissioner v Kotsifas* [2017] VCAT 489.
 - *Victorian Legal Services Commissioner v Logan* [2017] VCAT 189.
 - *Victorian Legal Services Commissioner v Logan* [2016] VCAT 544.
 - *Victorian Legal Services Commissioner v McDonald* [2016] VCAT 21.
 - *Victorian Legal Services Commissioner v Logan* [2016] VCAT 1193.
 - *Victorian Legal Services Commissioner v Logan* [2016] VCAT 1963.
 - *Victorian Legal Services Commissioner v Burgess* [2015] VCAT 1260.
 - *Victorian Legal Services Commissioner v Anderson* [2015] VCAT 1157.
 - *Victorian Legal Services Commissioner v Kotsifas* [2015] VCAT 1117.
 - *Legal Services Commissioner v Burgess* [2015] VCAT 526.
 - *Legal Services Commissioner v Katz* [2013] VCAT 1606.
 - *Legal Services Commissioner v McDonald* [2013] VCAT 1943.
 - *Legal Services Commissioner v Burgess* [2013] VCAT 350.
- *Victorian Legal Services Commissioner v Galatas* – [2013] VCAT 395 – appeared for the practitioner in a disciplinary prosecution.
- *Legal Services Commissioner v Barton & Ors* [2012] VCAT 74 - appeared for the practitioners in a matter involving detention of moneys for an indefinite period rather than payment of creditors (led by David Collins QC).
- Advising the Victorian Legal Services Board in respect of fidelity fund claims.
- Briefed by the Victorian Bar to advise in respect to the discharge of delegated authority under the *Legal Profession Uniform Law*
- Examinations in the Supreme Court of associates of legal practices seeking to recover lost trust money.

Insolvency:

- *Winn v Blueprint Instant Printing Pty Ltd (No 2)* [2011] FCA 723 - successfully resisting an appeal from the making of a sequestration order.
- *Winn v Blueprint Instant Printing Pty Ltd* [2011] FCA 293 - successfully resisting an appeal by the debtor against a refusal to set aside a bankruptcy notice.

- ***Winn v Blueprint Instant Printing Pty Ltd*** [2010] FCA 1513- successfully resisting application for a stay of a sequestration order.

Insurance:

- ***Kyriakou v Ace Insurance*** [2013] VSCA 150 – appeal on question of whether a claim for under a professional indemnity policy arose out of a breach of duty in a professional capacity and whether exclusion clauses applied (led by Josh Wilson SC).
- ***QBE Insurance (Australia) Limited v Lumley General Insurance Limited*** (2009) 24 VR 326; [2009] VSCA 124 - consideration of the principles governing contribution between insurers where there is double insurance. Appeared for Lumley successfully resisting the appeal (led by Geoff McArthur SC).
- ***Taxi Care Club Limited v Arcuri & Associates Pty Ltd & QBE*** [2014] VSC 231 - successful application on behalf of an insurance broker to strike out a claim by former insured alleging misconduct by the broker and the insurer.

Property:

- ***Chok Man Chan v Chin*** (2013) FCA 1191. Applications for injunctions between associates of estate agents firm alleging allegations of passing off and misleading conduct.
- ***Grant v Harlgate Pty Ltd & Anor*** [2012] VSC 464 - application by purchasers seeking recovery of a deposit from an agent who had wrongfully released it when contract disclaimed by the vendor's liquidator.
- ***Rise Home Loans Pty Ltd v Dickenson & Anor*** [2009] VSC 55 – acting for vendor of land. A contractual dispute involving a nomination and an alleged misdescription of the land.
- ***Rise Home Loans v Dickenson (No 2)*** [2010] VSC 29a - appeal to Robson J in respect to the proceeding above.
- ***Abraham v Johns (No 3)*** [2010] VSC 461. Dispute arising out of a sale of property at auction. Specific performance sought.
- ***Mandy Lee Real Estate Pty Ltd v Coastal Group Properties Pty Ltd & Anor*** [2017] VCC 7. claim by an estate agent for commission in respect to an apartment development. Allegations of engaging in unconscionable conduct.
- ***Tratt v Somersault Network Pty Ltd*** [2015] VCAT 691. Successful application by an Owner's Corporation manager to dismiss proceedings by a disgruntled unit holder.
- ***Max Moar & Queenbridge Pty Ltd v Duman*** [2007] VSC 266. Order 53 proceedings seeking recovery of land. Defence alleging express and constructive trusts (led by David Collins QC).