



Interview with The Hon. Neil Brown QC

20 JULY 2015

How long have you been a lawyer and when did you become a Queens Counsel (QC)?

I started out as a law clerk in about 1960. I was admitted to practice in 1964 took Silk in 1980.

How long have you been involved in Alternate Dispute Resolution (ADR) ?

From the beginning of my career I took part in mediations, representing one or other of the parties. When I returned to the law after time in the Federal Parliament I started to practice largely in mediation and arbitration and have continued to do so.

What do you find to be the most interesting thing about ADR and why do you believe ADR is such a good mechanism considering the non-judicial proceedings?

Generally it is a lot more informal than litigation and is conducted outside the normal court processes that seem very formal. As the rules of evidence generally do not apply in ADR, it is easier to get to the essence of the dispute and suggest alternative solutions to the dispute. People are generally more relaxed and can discuss the real issues without the formality of court proceedings.

What do you believe to be the strengths of ADR, in particular mediation?

Informality and the lack of the formal structure of court proceedings that limits flexibility in finding solutions to the dispute.

ADR also often tends to come about before the parties have run up big bills of costs and at a time when they can still resolve the dispute economically. Court proceedings do not allow for more free wheeling discussion of novel and original solutions to the dispute which are available in mediation.

Does a mediator have to have an extensive legal background?

Not necessarily, unless the dispute involves questions of law where a legal background is a help. Often it is useful to have a mediator with no legal background but who knows a particular industry or profession well, as they are then able to bring to the problem a knowledge of the field that helps resolve the dispute, e.g. a dispute on the value of goods and services and the loss that has been suffered.

What kind of mediation matters have you been involved in?

All types of commercial disputes. The attached gives you more particulars. I also do some mediation of disputes between insurers and hospital groups as to what the insurer will pay for particular hospital services. There are also mediations of personal disputes like family disputes.

What do you believe are the strengths of arbitration?

They are less formal than court proceedings but subject to rules and therefore are conducted in a regularised format. Also, international arbitration proceedings have the advantage over court proceedings in that an international arbitration award may be enforced under the New York Convention, whereas enforcing court judgments internationally is more complicated and difficult.

Do you have any specialties in ADR?

Yes. The arbitration of internet domain name disputes in Australia and internationally.

What advice could you give to a university student studying law about practicing in ADR?

A student interested in ADR would be well advised to keep studying the subject, joining one of the organisations that promote ADR like LEADR & IAMA and meeting and talking with practitioners in the field. A lot of practical knowledge may be gained by this means.

The Hon Neil Brown QC

SOME REPRESENTATIVE CASES IN WHICH THE HON NEIL BROWN QC HAS MEDIATED AND ARBITRATED AND PRESENTATIONS AT CONFERENCES

Four day mediation of a dispute on competing proposals for the development of a large tract of land in New South Wales.

Mediation of dispute on the provision of fringe benefits under a group of remuneration contracts relating to Fringe Benefits Tax.

Mediation on breach of service contract involving IP.

Mediation of large construction dispute over steel fixing.

Mediation of several disputes between universities/research institutions and investors on the commercialisation of inventions.

Mediation of multi-million dollar dispute between construction company and body corporate of large prestige apartment block

Arbitration of dispute between online gaming company and provider of computer services

Arbitration of industrial relations dispute concerning statutory long service leave scheme

Arbitration of dispute between parties to service contract at large apartment development

Two arbitrations on GST (VAT) relating to small business.

Arbitration of a dispute on the international sale of goods between India and the United States.

Arbitration of a dispute on the sale of Australian wine to the USA.

Arbitration of a dispute between NSW /overseas principal and Victorian agent.

Mediation of a dispute on restraint of trade on former employees and directors.

Mediation of dispute between lender and shareholders and directors of company.

Several disputes on the terms of a consultancy agreement.

Alternative dispute resolution hearing on the price of electricity.

Numerous mediations on quality of work, claims for extras and delays in works.

International arbitration on the sale of goods.

A long series of arbitrations, advice, lecturing and tutoring on domain names.

Maintaining website on domain name arbitration at www.domaintimes.info

Mediation of several disputes between private health insurers and groups of private hospitals on the degree of reimbursement to be paid by the insurer to the hospitals.

Mediation of a multi party dispute over the administration and finances of a public library.

Mediation of dispute in the film industry between Director and Producers.

Mediation stages of a dispute concerning the alleged malpractice of a health professional.

Mediation of dispute between body corporate of block of flats and contract cleaner and maintenance company.

Arbitration of a dispute arising from an international distributor contract.

Sitting as member of several professional association disciplinary committees , in particular accountants and veterinary surgeons.

Arbitration of a dispute between computer service company and its customer as to receipt of money.

Mediation of dispute over professional advice on investment in company shares.

SOME APPEARANCES AS LECTURER

Four times guest lecturer on domain name law at conference held alternatively in Malaysia and Australia

Speaker at Leo Cussen Institute ADR conference in Melbourne on mediation.

Tutor at Chartered Institute of Arbitrators and University of New South Wales on international arbitration.

Chair and Speaker at Greens List seminar on alternative dispute resolution

Speaker at Legalwise Conference –IP and the Online Space

Speaker at various domain name and arbitration conferences and seminars in Hong Kong, Seoul, Washington, Cincinnati, San Francisco, Melbourne, Sydney, Perth, Canberra, Geneva, Vienna, California.

ICC Workshop on International Commercial Arbitration Hong Kong 2-4 July 2010

Annual Conference of the Victorian Bar, 18-19 February 2012

IPSANZ Conference 2-4 September 2011

Department of Justice Seminar on new Commercial Arbitration Act 2011-30 November 2011

ACLA Seminar on Protection of Intellectual Property - 9 November 2011

Hearing cases as a member of The Institute of Chartered Accountants in Australia Professional Conduct Committee; 2011: 3 cases; 2012 :4 cases.

Address to The Victorian Bar on domain names.