

TIM FLAHERTY

Barrister

SEVEN WINDEYER CHAMBERS

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Tim took a unique path to the Bar. Having graduated from Sydney University with a Bachelor of Pharmacy Degree in 1990 he commenced work as a registered pharmacist and, soon after, acquired a small pharmacy business of his own. Over the next twenty years Tim gained significant and extensive practical business experience whilst owning and operating a large number of different pharmacies. Tim then sought a new challenge and change of career from about 2007 when he commenced legal studies, following which he was admitted as a solicitor in 2010 and was called to the Bar in 2011.

Naturally, Tim has become a preferred Counsel in matters relating to pharmacy. Both his broad and particularly specialised knowledge of the complex statutory schemes regulating pharmacy have placed him in a unique position to readily assist clients. This specialised knowledge covers the National Health Scheme, both with respect to the location and relocation of approved pharmacies and the commercial relationship between the government and the pharmacist with respect to payment for pharmaceutical benefits. Tim has also assisted pharmacists and other health care professionals in many different professional disciplinary matters before State Regulatory Councils and the Health Care Complaints Commission. Tim has also appeared on behalf of pharmacists in Federal Committees of Inquiry established under the *National Health Act 1953*.

Tim's lengthy practical business experience has placed him well in being able to assist clients in a wide variety of commercial matters. That experience founds the imperative Tim approaches commercial disputes on behalf of his clients, being the cost effective and timely resolution of matters.

Tim has also developed a wide practice, in other areas, including wills and estates, property and building and construction, with a focus on the real issues in dispute in a friendly, common sense and approachable fashion.

ADMISSIONS TO PRACTICE

- 2011 Called to the Bar of New South Wales
- 2010 Admitted as a Solicitor of the Supreme Court of New South Wales

PROFESSIONAL QUALIFICATIONS AND CERTIFICATES

- 2010 Graduate Diploma of Legal Practice: College of Law
- 2010 Diploma of Law: Legal Professions Admission Board
- 1990 Bachelor of Pharmacy: University of Sydney

PRINCIPAL AREAS OF PRACTICE

- Pharmacy Law
- Disciplinary proceedings
- Administrative Law
- Building and Construction
- Commercial Law
- Wills and Estates
- Family Law
- Property

PROFESSIONAL PHARMACY EXPERIENCE

- 2020 Re-registered as a Pharmacist- COVID 19 Pandemic sub-register
- 2013 - 2019 Adjunct Lecturer at Graduate School of Health, University of Technology
- 1991 - 2018 Registered Pharmacist- Pharmacy Council of New South Wales
- 2012 Approved by Pharmacy Council of New South Wales for participation in Committees and mentoring roles
- 2017 Professional Member (Pharmacist) of the New South Wales Civil and Administrative Tribunal
- 2009 - 2015 Specialist Reservist as a Pharmaceutical Officer for the Royal Australian Air Force
- 1999 - 2015 Pharmacy owner of community pharmacies throughout NSW and Queensland

PROFESSIONAL LEGAL EXPERIENCE

- 2009 – 2010 Casual Tipstaff for the Supreme Court of New South Wales
- 2011 – 2012 Barrister at Seven Windeyer Chambers
- 2013 – 2017 Barrister at Queens Square Chambers
- 2018 to now Barrister at Seven Windeyer Chambers

SELECT CASES

Pharmacy Law

- *Jele Chemists Pty Ltd v Australian Community Pharmacy Authority* [2022] FCA 1445 – Interlocutory injunction to restrain Secretary of Department of Health determining application under s90 of *National Health Act 1953* Cth
- *Armstrong v Pharmacy Council of New South Wales* [2022] NSWCATOD 155 – Stay of conditions imposed pursuant to s150 of the *Health Practitioner Regulation National Law* on health practitioner’s registration
- *Turner v Pharmacy Council of New South Wales* [2022] NSWCATOD 156 - Stay of conditions imposed pursuant to s150 of the *Health Practitioner Regulation National Law* on health practitioner’s registration
- *Hanna v Pharmacy Council of New South Wales (No 2)* [2021] NSWCATOD 181- Stay of conditions imposed pursuant to s150 of the *Health Practitioner Regulation National Law* on health
- *Hala Phcy Pty Ltd v Australian Community Pharmacy Authority* [2022] AATA 2155 – Judicial Review; ‘Pharmacy Location Rules’ for supply of Pharmaceutical Benefits
- *Myers Pharmacy v Australian Community Pharmacy Authority* [2022] FCA 932 – Judicial Review; Application to supply Pharmaceutical Benefits
- *Darnell v Stonehealth (No 4)* [2021] FCA 823 - Judicial Review; fraud in public law
- *Lucas v Secretary, Department of Health* [2020] FCA 1603- Judicial Review; Statutory Construction; Application to supply Pharmaceutical Benefits
- *Stonehealth Pty Ltd v ZAA Ventures Pty Ltd as Trustee for ZAA investment Trust* [2020] FCA 1287 and *Stonehealth Pty Ltd v ZAA Ventures as trustee for the ZAA Investment Trust* [2020] FCAFC 188 - Judicial Review; Statutory Interpretation; ‘Pharmacy Location Rules’ for supply of Pharmaceutical Benefits
- *Choice Pharmacy Vincentia Pty Ltd v Australian Community Pharmacy Authority* [2020] FCA 93 and *Vincentia MC Pharmacy Pty Ltd v Australian Community Pharmacy Authority* [2020] FCAFC 163 - Judicial Review; Statutory Interpretation; ‘Pharmacy Location Rules’ for supply of Pharmaceutical Benefits
- *Sarah Batterham v The Chemist Cessnock T/A The Chemist Cessnock* [2020] FWC 4053 - Fair Work Act; Unfair dismissal

- ***Philip Colasante Pharmacies Pty Ltd and Australian Community Pharmacy Authority*** [2020] AATA 1529 (15 May 2020) - Merits review; decision not to recommend approval to supply Pharmaceutical Benefits
- ***PLCT Pty Limited v Secretary, Department of Health*** [2019] FCA 2212 - Interlocutory injunction to restrain Secretary of Department of Health determining application under s90 of *National Health Act 1953 Cth*
- ***Ilumba Pty Ltd v Malouf*** [2019] FCA 2095 - Interlocutory application for Discovery
- ***Health Ombudsman v Agnola*** [2019] QCAT 193- Disciplinary proceedings; Health Ombudsman Act 2013 (Qld)
- ***Geneva Laboratories Ltd v Pharmacy Depot Hurstville*** [2018] FCA 516 - Accessorial liability; Trade Marks Act 1995; summary dismissal
- ***Attia v Health Care Complaints Commission*** [2018] NSWCATOD 131- Disciplinary proceedings; application for review
- ***Health Care Complaints Commission v Attia (No 2)*** [2017] NSWCATOD 25 and ***Attia V Health Care Complaints Commission*** [2017] NSWSC 178 and ***Attia v Health Care Complaints Commission*** [2017] NSWSC 1066 - Disciplinary proceedings; application for stay; appeal of cancellation; consideration of ‘practice of a pharmacist’
- ***Health Care Complaints Commission v Kennedy*** [2017] NSWCATOD 72 - Professional member; disciplinary proceedings
- ***Seed and Australian Community Pharmacy Authority*** [2017] AATA 575 - Merits review; decision to not recommend approval to supply pharmaceutical benefits
- ***Assarapin v Australian Community Pharmacy Authority*** [2016] FCAFC 9 - Judicial review; approval to supply pharmaceutical benefits
- ***Nguyen and Australian Community Pharmacy Authority*** [2016] AATA 966 30 November 2016) - Merits review; decision to not recommend approval to supply pharmaceutical benefits
- ***Geneva Laboratories Ltd v Nguyen*** [2014] FCA 1270 - Application for discharge of search and seize orders; *Trade Marks Act 1995*
- ***Commonwealth Bank of Australia t/as Bankwest v Warren George Harrison*** [2014] NSWSC 1436 - Strike out application; banking and guarantees
- ***Foote & Ors v Acceler8 Technologies Pty Ltd & Ors*** [2012] NSWSC 635 - Contract construction; leasing

General

- ***Bower & Marshall*** [2022] FedCFamC2F 349 – Appeal interim application – parenting orders
- ***Pegasus Supply Solutions Pty Ltd and Collector of Customs*** [2020] AATA (24 November 2020) - s35A Demand under Customs Act; merits review
- ***Vella v Mir*** [2019] NSWCATAP 28 and ***Vella v Mir (No 2)*** [2019] NSWCATAP 240 and ***Vella v Mir (No 3)*** [2020] NSWCATAP 17 - Home Building Act 1989; statutory warranties; successor in title; defective works
- ***Shanmugathaas & Anor v Paramanirupan & Ors*** [2019] NSWSC 1306 - Joint venture; contributions; contract
- ***Shanmugathaas & Anor v Paramanirupan & Ors (No 2)*** [2019] NSWSC 1496 - Slip Rule; approval of receiver's fees
- ***Cole v Raykir Holdings Pty Ltd*** [2019] NSWSC 532 - Contract for the sale of land; notice to complete; guarantees
- ***Rudenko v Rudenko & Sons Pty Ltd*** [2019] NSWSC 532 - Leave to amend pleadings; joint venture agreement
- ***Jianjun International Pty Ltd v Steven Arthur Black Pty Ltd & Ors*** [2018] NSWDC 117 - Contract for sale of business; restraint of trade
- ***Karimi v Medical Council of New South Wales*** [2017] NSWCATOD 180 - Appeal of suspension under s150 of the Health Practitioner Regulation National law
- ***Hathoway & Hathoway*** [2017] FCCA 2884 - Family law; parenting
- ***Wright Medical Australia Pty Limited v Johnston*** [2017] NSWSC 761 - preliminary discovery; confidentiality regimes
- ***Yarraford Pastoral Co Pty Ltd v Lewington*** [2017] NSWSC 316 - Local Court appeal; finality of orders; costs
- ***Storey v The Monitoring Centre Pty Ltd & Ors*** [2015] FCCA 3310 and ***Storey v The Monitoring Centre Pty Ltd & Ors (No 2)*** [2017] FCCA 382 - Fair Work Act; adverse action
- ***Morris Finance Limited v Free, Trustee of the Property of Neil Warren Brown, a Bankrupt*** [2016] NSWSC 516 - s58 Bankruptcy Act 1966; leave to take fresh step in proceedings; whether secured creditor
- ***Thompson & Edmond*** [2016] FCCA 1509 - Family Law; parenting
- ***Vadisanis & Vadisanis and Anor*** [2015] FamCAFC 180 - Family Law; finality of orders; costs.
- ***Berrell v Combined Pastoral Pty Limited*** [2015] NSWSC 1334 - Contract for sale of land; forfeiture of deposit; vacant possession
- ***John Allan Batty v Sharon Doherty and Anor*** [2013] NSWSC 144 - s66G Conveyancing Act; bankrupt co-owner

APPEARANCES

Tim has also advised and/or appeared numerous times in:

- The Local Court of New South Wales in both the Civil and Criminal jurisdiction
- All divisions of the *New South Wales Civil and Administrative Tribunal*
- Court appointed and private mediations for claims under the Succession Act 2005
- Mediations conducted in Commercial and Family law proceedings
- Proceedings conducted under s150 *Health Practitioner Regulation (National Law)* NSW
- Committees of Inquiry conducted pursuant to PART VIII of the *National Health Act* 1953