

## **GANDHI - Principal**

Gandhi advises clients on a broad range of construction and commercial disputes.

He has more than 13 years of experience, as an advocate and solicitor in Singapore and as a barrister and solicitor in Australia.

He has provided advice and representation in complex and high-value disputes, in litigation, arbitration and other alternative dispute resolution proceedings.

He has practised at pre-eminent construction law firms in Singapore and Perth, and at an international law firm in Perth.

He has acted for a broad range of clients, including high net worth individuals, professional firms, listed corporations and multi-national corporations.

He has represented clients in the Federal Court of Australia, State Supreme Courts (Western Australia, Victoria and New South Wales), WA District Court, WA State Administrative Tribunal, domestic and international arbitrations and before regulatory bodies. He has also acted for clients in alternative forms of dispute resolution, including negotiations and mediations.

### **Qualifications & Admissions**

- LLB (Hons) (National University of Singapore), 2000
- LLM, Corporate and Commercial Law (Merit) (King's College London), 2003
- GradDip, Commercial and Resources Law (University of Western Australia), 2011
- Advocate & Solicitor of the Supreme Court of Singapore, 2001
- Solicitor of the Senior Courts of England and Wales, 2007
- Solicitor and Barrister of the Supreme Court of Western Australia, 2010
- Solicitor of the High Court of Australia, 2011
- Barrister and Solicitor of the High Court of New Zealand, 2011

### **Key Experience & Notable Reported Decisions**

Key experience includes:

- Arbitration: Acted for the local subsidiary of a European marine services contractor in defending a claim in excess of \$70 million arising out of services rendered in an offshore environment. The dispute was settled on commercial terms.
- Adjudication: Acted for the local subsidiary of a European marine services provider in successfully pursuing recovery action against a multinational engineering contractor through multiple adjudications under the Construction Contracts (Security of Payments) Act 2004 (NT) for claims in excess of \$40 million.
- Arbitration: Acted for a multi-national firm of consulting engineers in arbitration proceedings against a head contractor in relation to variation, disruption and prolongation claims in excess of \$5 million. The dispute was settled on commercial terms.
- Advisory: Advised the local subsidiary of a European marine services contractor in relation to its claims in excess of \$100 million arising out of the premature termination of an agreement. The dispute was settled on commercial terms.
- Advisory: Advised an ASX listed corporation and its subsidiary in relation to their claim in excess of \$120 million against the supplier of the plant on the basis of misleading and deceptive conduct on the part of the supplier concerning the plant prior to sale.
- Supreme Court Litigation: Acted for the liquidators of the Great Southern group of companies in relation to an application by the plaintiffs to a class action for approval of a settlement, and applications by the liquidators for approval of entry into the settlement deed and for approval of a scheme of arrangement to settle an estimated \$1.6 billion of potential claims by over 40,000 investors in the various managed investment schemes.

- Supreme Court and Federal Court Litigation: Acted for the subsidiary of an international metals producer in an application to set aside a statutory demand before the Supreme Court of Western Australia and in defending winding up proceedings brought in the Federal Court (including by raising an offsetting claim in excess of \$18 million). The matters were settled on commercial terms.
- Med-Arb: Acted for a hospitality services group in med-arb proceedings, which led to the client successfully resisting allegations of breach by the landlord and, thereby, preserving its entitlement to a further lengthy extension to the lease, worth in excess of \$100 million.
- Supreme Court Litigation: Acted for the investment vehicle of a foreign high net worth individual in proceedings brought against a former business partner for misleading or deceptive conduct and breach of fiduciary obligations in the Supreme Court of Western Australia and in defending defamation proceedings brought by the business partner. The matters were settled at trial.
- Supreme Court Litigation: Acted for a group of investors in a number of failed managed investment schemes in successfully defending proceedings brought by a lender before the Supreme Court of New South Wales.
- Supreme Court Litigation: Acted for an unincorporated association in a dispute involving a claim in excess of \$1.3 million against a local government authority arising from the termination of the association's lease and in defending a counterclaim by the local government authority. The matter was settled on commercial terms.
- State Administrative Tribunal: Acted for a Perth demolition and recycling business in a range of planning matters before the State Administrative Tribunal, the most significant of which involved a highly contentious application for planning approval for a crushing and stockpiling facility in Perth. The environmental conditions determined in the matter thereafter formed the standards accepted by the Department of Environment and Conservation and Department of Health for other crushing and recycling plants in Western Australia.

Notable reported decisions include:

- *Australian Maritime Systems Ltd v McConnell Dowell Constructors (Aust) Pty Ltd* [2016] WASC 52 (S): Concerns the payment of indemnity costs for commencing an action in breach of an arbitration clause.
- *Re Great Southern Managers Aust Ltd (in liq)* [2016] VSC 38: Concerns an application on behalf of the liquidators of Great Southern Managers Australia Ltd (in liq), under s411 of the *Corporations Act 2001* (Cth), for approval of a proposed scheme of arrangement.
- *HP Mercantile Pty Ltd v Hartnett & Ors* [2015] NSWSC 1475: Concerns the proper construction of a suite of loan documentation in relation to a number of failed managed investment schemes.
- *Re Great Southern Managers Australia Ltd (in liq)* (unreported, Croft J, 17 December 2014): Concerns an application on behalf of liquidators (in respect of settlement of a series of class actions and individual actions commenced in the Supreme Court of Victoria) for approval of entry into a settlement deed under s477(2B) of the *Corporations Act 2001* (Cth) and directions under s511 of the Act.
- *Re Great Southern Managers Australia Ltd (in liq); ex p Jones, Weaver & Stewart (in their capacity as liquidators of Great Southern Managers Australia Ltd (in liq))* [2014] WASC 312: Concerns an application on behalf of liquidators (in respect of settlement of a series of actions commenced in the Supreme Court of Western Australia) for approval of entry into a settlement deed under s477(2B) of the *Corporations Act 2001* (Cth) and directions under s511 of the Act.
- *Inter Mining Pty Ltd v Lake Johnston Pty Ltd* [2013] FCA 915: Concerns a defective statutory demand.
- *WA Country Builders Pty Ltd v Premium Coastal Property & Anor* [2012] WASC 236: Concerns the ability of a defendant by counterclaim to apply for summary judgment, notwithstanding the absence of an express provision in the Rules of the Supreme Court 1971 (WA) to that effect.
- *Sahana Investments Pty Ltd v 59 Albany Highway Joint Venture Pty Ltd* [2012] WASAT 158: Concerns the application of the principle in *Telstra Corporation Ltd v BT Australasia Pty Ltd*

(1998) 85 FCR 152 as to waiver of legal privilege over documents in relation to a fact or matter in issue.

- *Wong & Anor v Aripin* [2011] WASC 174: Concerns the issue whether foreign publication of defamatory statements can constitute aggravation of defamatory statements made within jurisdiction.

### **Professional Memberships**

- Member, The Law Society of Western Australia
- Member, Society of Construction Law Australia