

## Dispute Resolution Experience

### David Thyer

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David Thyer is a Grade 1 Arbitrator, Special Referee, Expert Determiner, an Accredited Mediator and an Accredited Adjudicator in building and construction disputes.

David has extensive experience in dealing with disputes between owners, principals, contractors, subcontractors and consultants on infrastructure, commercial, industrial and domestic projects. David as an Arbitrator, Special Referee, Adjudicator, Expert and Mediator has dealt with amounts in dispute up to \$24M on issues such as contract interpretation, incomplete works, variation claims, extension of time claims, delay cost claims, prolongation claims, liquidated damages, defects, rectification costs, contractual default, back charges, quality of work and damages claims. David has experience in the use of expedited procedures to reduce the time and cost involved in resolving disputes.

David was the adjudicator in *Melbourne Steel Erectors v M&I Samaras* [2017] VSC 308.

#### David's dispute resolution experience includes:

- Appointed as adjudicator in April 2018 to determine a payment claim made by contractor against a developer in relation piling works for a project in Cremorne, Victoria (amount in dispute \$114K).
- Appointed as adjudicator in April 2018 to determine a payment claim made by contractor against a principal in relation to upgrade and refurbishments works for an aged care complex in Hoppers Crossing, Victoria (amount in dispute \$461K).
- Appointed as adjudicator in April 2018 to determine a payment claim made by subcontractor against a contractor in relation to an apartments project in Hawthorn East, Victoria (amount in dispute \$73K).
- Appointed as adjudicator in April 2018 to determine a payment claim made by subcontractor against a contractor in relation to an apartments project in Elwood, Victoria (amount in dispute \$21K).
- Appointed as adjudicator in April 2018 to determine a payment claim made by subcontractor against a contractor in relation to an apartments project in Hawthorn East, Victoria (amount in dispute \$38K).
- Appointed as arbitrator in December 2017 to determine a dispute between a subcontractor and a builder in relation to multi-level apartment building in Hawthorn, Victoria (amount in dispute \$58K).
- Appointed as arbitrator in December 2017 to determine a dispute between a subcontractor and a builder in relation to multi-level apartment building in South Melbourne, Victoria (amount in dispute \$130K).
- Appointed as adjudicator in December 2017 to determine a payment claim made by contractor against a principal in relation to structural, mechanical and piping works for upgrade of a smelter in South Australia (amount in dispute \$11.3M).
- Appointed as adjudicator in October 2017 to determine a payment claim made by a subcontractor against a contractor in relation to apartments project in St Kilda, Victoria (amount in dispute \$88K).

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- Appointed as adjudicator in October 2017 to determine a payment claim made by a subcontractor against a contractor in relation to project in Edithvale, Victoria (amount in dispute \$20K).
- Appointed as adjudicator in August 2017 to determine a payment claim made by a subcontractor against a contractor in relation to project in Epping, Victoria (amount in dispute \$281K).
- Appointed as adjudicator in July 2017 to determine a payment claim made by a subcontractor against a contractor in relation to project in Sunshine, Victoria (amount in dispute \$11K).
- Appointed as adjudicator in March 2017 to determine a payment claim made by a subcontractor against a contractor in relation to project in South Yarra, Victoria (amount in dispute \$473K).
- Appointed as adjudicator in December 2016 to determine a payment claim made by a subcontractor against a contractor in relation to a shopping center project in Melbourne, Victoria (amount in dispute \$5.1M).
- Appointed as adjudicator in July 2016 to determine a payment claim made by a contractor against a developer in relation to commercial project in Melbourne, Victoria (amount in dispute \$384K).
- Appointed as adjudicator in July 2016 to determine a payment claim made by a subcontractor against a contractor in relation to commercial project in Melbourne, Victoria (amount in dispute \$215K).
- Appointed as arbitrator in July 2016 to determine a dispute between a contractor and a principal in relation to the construction of a restaurant in Port Pirie, South Australia (amount in dispute \$47K).
- Appointed as adjudicator in April 2016 to determine a payment claim made by a subcontractor against a contractor in relation to commercial project in Parkville, Victoria (amount in dispute \$371K).
- Appointed as adjudicator in March 2016 to determine a payment claim made by a subcontractor against a contractor in relation to commercial project in Parkville, Victoria (amount in dispute \$2.46M).
- Appointed as adjudicator in March 2016 to determine a payment claim made by a Subcontractor against a contractor in relation to project in South Yarra, Victoria (amount in dispute \$110K).
- Appointed as adjudicator in February 2016 to determine a payment claim made by a subcontractor against a contractor in relation to a school project in Melton, Victoria (amount in dispute \$170K).
- Appointed as mediator by the agreement of the parties in February 2016 in relation to a contract dispute between a principal and a contractor for two drainage projects in country Victoria (amount in dispute \$400K).

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- Appointed as adjudicator in January 2016 to determine a payment claim made by a subcontractor against a contractor in relation to a retail development project in Essendon Fields, Victoria (amount in dispute \$106K).
- Appointed as adjudicator in November 2015 to determine a payment claim made by a subcontractor against a contractor in relation to a redevelopment project in Coburg, Victoria (amount in dispute \$58K).
- Appointed as arbitrator in November 2015 to determine a dispute between a subcontractor and a contractor in relation to a commercial and residential development project in Melbourne, Victoria (amount in dispute \$800K).
- Appointed as adjudicator in September 2015 to determine a payment claim made by a subcontractor against a contractor in relation to a project in Kew, Victoria (amount in dispute \$58K).
- Appointed as adjudicator in September 2015 to determine a payment claim made by a subcontractor against a contractor in relation to a project in Carrum Downs, Victoria (amount in dispute \$44K).
- Appointed as adjudicator in May 2015 to determine a payment claim made by a subcontractor against a contractor in relation to a demolition project in Melbourne, Victoria (amount in dispute \$2.75M).
- Appointed as adjudicator in April 2015 to determine a payment claim made by a contractor against an owner in relation to a renovation project in Mornington, Victoria (amount in dispute \$15K).
- Appointed as adjudicator in April 2015 to determine a payment claim made by a subcontractor against a builder in relation to a project in Balwyn, Victoria (amount in dispute \$32K).
- Appointed as adjudicator in January 2015 to determine a payment claim made by a subcontractor against a contractor in relation to a high rise commercial office tower project in Melbourne, Victoria (amount in dispute \$15M).
- Appointed as adjudicator in January 2015 to determine a payment claim made by a subcontractor against a builder in relation to a multi storey apartment complex in South Melbourne, Victoria (amount in dispute \$18K).
- Appointed as adjudicator in December 2014 to determine a payment claim made by a subcontractor against a builder in relation to an extension to an existing house in Hawthorn, Victoria (amount in dispute \$9K).
- Appointed as adjudicator in September 2014 to determine a payment claim made by a contractor against a developer in relation to a high rise commercial office tower project in Melbourne, Victoria (amount in dispute \$23.4M).
- Appointed as adjudicator in August 2014 to determine a payment claim made by a contractor against a developer in relation to a high rise commercial office tower project in Melbourne, Victoria (amount in dispute \$18.4M).

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- Appointed as adjudicator in August 2014 to determine a payment claim made by an equipment hire company against a subcontractor in relation to paper mill project in Victoria (amount in dispute \$48K).
- Appointed as adjudicator in August 2014 to determine a payment claim made by an architect against a principal in relation to primary care centre project in Victoria (amount in dispute \$44K).
- Appointed as adjudicator in July 2014 to determine a payment claim made by a subcontractor against a contractor in relation to school project in Victoria (amount in dispute \$16K).
- Appointed as adjudicator in July 2014 to determine a payment claim made by a contractor against a developer in relation to a high-rise apartment project in Victoria (amount in dispute \$1.7M).
- Appointed as adjudicator in April 2014 to determine a payment claim made by a subcontractor against a contractor in relation to a high-rise apartment project in Melbourne, Victoria (amount in dispute \$1.1M).
- Appointed as adjudicator in February 2014 to determine a payment claim made by a subcontractor against a contractor in relation to building project in Melbourne, Victoria (amount in dispute \$2.6M).
- Appointed as adjudicator in January 2014 to determine two payment claims made by a subcontractor against a contractor in relation to a high-rise apartment project and an academic building project in Melbourne, Victoria (amounts in dispute \$1.5M and \$1.7M).
- Appointed as a Supreme Court Special Referee in December 2013 to prepare a report in on defects in a nursing home in relation to a dispute between a landlord and a tenant.
- Appointed as adjudicator in November 2013 to determine a payment claim made by a contractor against a principal in relation to the expansion of an existing ethylene production facility (amount in dispute \$8.5M).
- Appointed as arbitrator in October 2013 to determine a dispute between a contractor and a principal in relation to construction of two warehouses (amount in dispute \$30K). Issues in dispute included defects and the scope of works under the contract.
- Appointed as adjudicator in February 2013 to determine a payment claim made by a subcontractor against a contractor in relation to the M80 Ring Road Upgrade (amount in dispute \$1.3M).
- Appointed as adjudicator in January 2013 to determine a payment claim made by an engineering consultant against a developer in relation to residential apartment development in Melbourne, Victoria (amount in dispute \$205K).
- Appointed as adjudicator in November 2012 to determine two payment claims made by an electrical Subcontractor against a contractor in relation to two wind farm projects in country Victoria (amounts in dispute \$367K and \$383K).
- Appointed as arbitrator in December 2011 in relation to a dispute between a contractor and a principal in relation construction of a factory (amount in dispute \$665K). Issues in dispute included delay, termination, defective works, over payment, damages.

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- Appointed as mediator in September 2011 in relation to a dispute between a contractor and a principal in relation to a number of school projects (amount in dispute \$6.5M). Issues in dispute included breach of contract, delay, deduction of work and quantification of damages.
- Appointed as arbitrator by the agreement of the parties in July 2011 to determine a dispute between a contractor and a principal in relation to unpaid fees and variations (amount in dispute \$827K).
- Appointed as arbitrator by the agreement of the parties in June 2011 to determine a dispute between a contractor and a principal over unpaid variation claims for a project in Tasmania (amount in dispute \$275K).
- Appointed as arbitrator in June 2011 to determine a dispute between a contractor and a proprietor over unpaid contract works and variations for a primary school project (amount in dispute \$90K).
- Appointed as arbitrator in May 2011 to determine two disputes between a client and an architect over unpaid fees (amounts in dispute \$175K and \$420K).
- Appointed as arbitrator by agreement of the parties in December 2010 to determine a dispute between a proprietor and a contractor over the construction of a warehouse (amount in dispute \$2.2M).
- Appointed as adjudicator in June 2010 to determine a payment claim made by a subcontractor against a contractor in relation to alterations to a restaurant (amount in dispute \$64K).
- Appointed as expert determiner May 2010 to determine a dispute between a landlord and a tenant in relation to the landlord's performance of its works under an Agreement for Lease (amount in dispute \$2M)
- Appointed as expert determiner in July 2009 to determine a dispute between a consultant and a developer in relation to monies payable pursuant a consultancy agreement (amount in dispute \$1M).
- Appointed as mediator/conciliator in March 2009 in relation to a dispute between a contractor and a principal in relation to shop fit out (amount in dispute \$30K).
- Appointed as arbitrator in March 2009 to determine a dispute between a contractor and a principal in relation to shop fit out (amount in dispute \$30K).
- Appointed as adjudicator in March 2009 to determine a payment claim made by a builder against a principal in relation to a development of four town houses in Mornington, Victoria (amount in dispute \$166K).
- Appointed as adjudicator in October 2008 to determine a payment claim made by a contractor against a principal in relation to a contract for the supply and maintenance of variable message signs on arterial roads and freeways on the Victorian road network.
- Appointed as adjudicator in September 2008 to determine a payment claim made by a contractor against a principal in relation to a contract for the supply and maintenance of variable message signs on arterial roads and freeways on the Victorian road network (amount in dispute \$164K).

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- Appointed as adjudicator in August 2008 to determine a payment claim made by a builder's supervisor against principal in relation a development of 15 units as part of a retirement village project in Victoria (amount in dispute \$77K).
- Appointed as arbitrator in May 2008 to determine a dispute between a contractor and a subcontractor in relation to construction of an in-loading conveyor for coal in Mackay, Queensland (amount in dispute \$50K).
- Appointed as arbitrator in March 2008 to determine a dispute between a builder and a principal in relation to construction of a shop and office building in Victoria.
- Appointed as adjudicator in March 2008 to determine a payment claim made by a subcontractor against a contractor in relation to a School Project in Victoria (amount in dispute \$51K).
- Appointed as arbitrator in December 2007 to determine a dispute between a proprietor and a contractor in relation to construction of a three-level office retail complex in Victoria (amount in dispute \$60K).
- Appointed as adjudicator in December 2007 to determine a payment claim made by a contractor against a principal in relation to biodiesel plant in Victoria (amount in dispute \$1M). Matters in dispute included release of performance security, whether a performance certificate was due under the contract, whether tests on completion had been completed, defects rectification and whether the works had been taken over by the principal.
- Appointed as arbitrator in November 2007 to determine a dispute between a principal and a contractor in relation to a golf course in Victoria (amount in dispute \$400K).
- Appointed as arbitrator in October 2007 to determine a dispute between a builder and a principal in relation to the construction of a 75 bed aged care facility in Victoria (amount in dispute \$200K).
- Appointed as adjudicator in July 2007 to determine a payment claim made by a contractor against a principal in relation to a multi story apartment building in Melbourne (amount in dispute \$1M).
- Appointed as arbitrator in April 2007 to determine a dispute between a principal and a contractor in relation to a freeway project in Victoria (amount in dispute \$1.2M).
- Appointed as mediator in March 2007 in relation to a dispute between two architects concerning copyright over a design.
- Appointed as adjudicator in August 2006 to determine a payment claim made by a subcontractor against a contractor in relation to gas pipeline project in Victoria (amount in dispute \$5.7M). Matters in dispute included, entitlement to compensation under the contract, requirements of the contract, whether terms of the contract were amended or waived, whether or not adjudicators under the Act have jurisdiction to consider contractors' set off claims based on equitable and common law set off rights and subcontractors' statutory entitlement to payment of previous payment claim.
- Appointed as co-arbitrator in August 2006 to determine a dispute between a subcontractor and a builder in relation home improvement contract (amount in dispute \$50K). Matters in dispute included variations and other unpaid claims.

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- Appointed as independent assessor in May 2006 by agreement of the parties to determine a dispute between principal and a contractor in relation to construction of a number of residential units and related works for a retirement village in Victoria. Matters in dispute included variations, cost of rectification works, extensions of time, liquidated damages, delay damages, practical completion, backcharges, sewerage works and rectification of defects.
- Appointed as adjudicator in April 2006 to determine a payment claim made by a subcontractor against a contractor in relation to gas pipeline project in Victoria (amount in dispute \$143K). Matters in dispute included adjudicator's jurisdiction, validity of payment claim, whether there was a concluded contract, whether the payment claim was defective and whether the services claimed were 'construction work' or 'related goods and services' as defined by the Act.
- Appointed adjudicator in February 2006 to determine a payment claim made by a subcontractor against a contractor in relation to a development in Martha Cove (amount in dispute \$646K). Matters in dispute included validity of the payment claim, variations, additional costs flowing from directions to change the order and timing of the works, extensions of time, delay costs and liquidated damages.
- Appointed adjudicator in February 2006 to determine a payment claim made by a contractor against a principal in relation to a city apartment tower development (amount in dispute \$1.1M). Matters in dispute included value of work completed, variations, extensions of time, acceleration costs and liquidated damages.
- Appointed adjudicator in August 2005 to determine a payment claim made by a structural steel subcontractor against a contractor in relation a major redevelopment project in Melbourne (amount in dispute \$2.9M). Matters in dispute included interpretation of the contract, value of subcontract work completed, savings, applicable rates for variations, measurement of variations and entitlement to variations.
- Appointed adjudicator in June 2005 to determine a payment claim made by a subcontractor against a contractor in relation to mausoleum project (amount in dispute \$16K). Matters in dispute included variations, credits, extensions of time and delay costs.
- Appointed adjudicator in March 2005 to determine a payment claim made by a plumbing subcontractor against a contractor.
- Appointed adjudicator in December 2004 to determine a payment claim made by an excavation contractor against a principal in relation to a large city development (amount in dispute \$550K). Matters in dispute included interpretation of the contract, value of work completed and variation claims.
- Appointed adjudicator in December 2004 to determine a payment claim made by a subcontractor against a contractor in relation to a large city development (amount in dispute \$1,5M). Matters in dispute included value of work completed, variation claims, counterclaim for loss and damage and back charges.
- Appointed adjudicator in September 2004 to determine a payment claim made by a contractor against a builder in relation to a private residence (amount in dispute \$36K). Matters in dispute included interpretation of the contract, variations, defects, back charges, delay costs and interest.

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- Appointed arbitrator in July 2004 to determine a dispute between a builder and a structural steel contractor in relation to a primary school project (amount in dispute \$88K). Matters in dispute included default by subcontractor and a damages claim.
- Appointed arbitrator in July 2004 to determine a dispute between a builder and a structural steel contractor in relation to a community centre project (amount in dispute \$219K). Matters in dispute included default by subcontractor and a damages claim.
- Appointed arbitrator in June 2004 to determine a dispute between a builder and a structural steel contractor in relation to a hospital project (amount in dispute \$214K). Matters in dispute included unpaid contract work, defects, delay costs and liquidated damages.
- Appointed arbitrator in May 2004 to determine a dispute between a contractor and a principal in relation to an office & warehouse/factory development (amount in dispute \$582K). Matters in dispute included defects in relation to the concrete slab, cashing of bank guarantee, damage to reputation, rectification costs and a loss and damage claim.
- Appointed arbitrator in October 2003 to determine a dispute between contractor and a principal in relation to landscaping civil works for a large estate project (amount in dispute \$686K). Matters in dispute included the superintendent's authority, extension of time and delay costs.
- Appointed adjudicator in August 2003 to determine a payment claim made by a precast concrete contractor against a builder in relation to a three-storey medical centre (amount in dispute \$18K). Matters in dispute included interpretation of the contract, value of work completed and defects.
- Mediated domestic building dispute in July 2003 between an owner and a builder (amount in dispute \$40K). Matters in dispute included defects, variation claims and liquidated damages.
- Appointed co-arbitrator in February 2003 to determine a dispute between a principal and a builder in relation to a school upgrade project (amount in dispute \$81K). Matters in dispute included variations and a prolongation claim.
- Appointed expert in October 2002 to determine a dispute between a principal and a design consultant in relation to a drainage project (amount in dispute \$24K). Matters in dispute included unpaid variation claims and completion of the design.
- Appointed arbitrator in August 2002 to determine a dispute between a builder and a principal in relation to a factory project (amount in dispute \$70K). Matters in dispute included variations, back charges and cost of defects rectification.
- Appointed arbitrator in February 2002 to determine a dispute between an electrical contractor and a builder in relation to an office fit out (amount in dispute \$22K). Matters in dispute included deductions made for retention, incomplete works and back charges.