

# Personal Injury

Thursday 17 August 2023

Session 3 – 12.00pm – 1.00pm

## Complexities in product liability claims

Causation and its intersection with an increased risk and increased incidence have raised issues of some complexity and debate for a number of years. The role of the 'but for' test, loss of a chance, material contribution and a necessary condition of the occurrence of harm in common law causation were clarified in 2010 by the High Court of Australia in *Amaca v Ellis* [2010] HCA 5 and *Tabet v Gett* [2010] HCA 12. On the other hand, it appears that questions of causation in the assessment of damages for breaches of statutory guarantees may still involve complex issues that are less than clear. In this session, Colin Loveday will lead a discussion on the recent and evolving jurisprudence of causation in claims for damages under the Australian Consumer Law in recent product liability claims.

## Meet the speaker

### Kyu-Won Kim, Lawyer, Clayton Utz

Kyu-Won joined Clayton Utz in 2020, following several public sector roles, including at the Administrative Appeals Tribunal where he was involved in a range of proceedings relating to a variety of statutory workers' compensation schemes, and at the Therapeutic Goods Administration where he advised on regulatory issues in relation to therapeutic goods. Kyu-Won began his career at Clayton Utz in the public sector litigation team conducting complex litigation and dispute resolution and advising on statutory interpretation, administrative law. He has recently joined Colin Loveday in Clayton Utz's national Product Liability group, where he continues to conduct complex commercial litigation and investigations, as well as advise on regulatory and compliance issues in relation to a wide range of consumer and financial products.

### Colin Loveday, Partner, Clayton Utz

Colin Loveday is internationally recognised as an experienced litigation lawyer specialising in the defence of class actions, complex commercial litigation and product liability claims. He is one of the leaders of the Clayton Utz Class Actions team and the firm's national Product Liability group. Colin has been continuously involved in the development of Australian class action practice and procedure for over 25 years. He has defended some of Australia's most high-profile class actions involving complex consumer product and financial services claims. He has worked extensively with lawyers in other jurisdictions in the coordinated defence of multinational claims, developing international defence strategies and working with international expert witnesses. He also advises corporations and financial institutions on class action risk, regulatory investigations and legal risk. Colin is a former board member for the International Association of Defense Counsel, a member of the International Association of Defense Counsel, the Australian Product Liability Association and the Defence Research Institute, and is former chair of the product law and advertising committee of the International Bar Association.