



The Commercial Law Association of Australia Ltd  
ACN 001 290 115

## Annual Report 2016

---

Building a bridge between commerce and law



# The Commercial Law Association of Australia Ltd

Website: [www.cla.org.au](http://www.cla.org.au)

GPO Box 5186, Sydney, NSW 2001.

Phone (02) 9979 1364

## Board of Directors as at 31 December, 2016

Norman Donato, President

Stephen McMahon

James Biady, Vice-President

Edmund Finnane

Stephen Lamy, Treasurer

Jane Ann Gray

Sally Moten

Verity McWilliam

## Registered Office

7th Floor, 55 York Street, Sydney NSW 2000

## Chief Executive Officer

Max Wilson BA, Grad Cert Management Communication, AFAIM, FCLA. Email: [maxwilson@cla.org.au](mailto:maxwilson@cla.org.au)

## Member Services

Elizabeth Wilson. Email: [memberservices@cla.org.au](mailto:memberservices@cla.org.au)

## Commercial Law Quarterly Editors

Professor Elisabeth Peden BA Hons, LLB Hons (Syd), PHD (Cantab) and Professor Gregory Tolhurst LLM (Syd)

Cover photograph by Anthony Dreise.

Thank you to all those who have supported us throughout the year



# President and Directors' Report

## 2016: YEAR IN REVIEW

It is my pleasure to present this record of activities on behalf of the Directors. I'd like to start my report by thanking Jenny Wily (1), for the contribution she has made to the Board and the Association. Jenny recently retired from the Board after serving as a Director for over 16 years. Appointed on 18 July 2000, Jenny served in several positions including as Vice President and as Treasurer. She made a strong contribution to our corporate governance including updating our constitution.

2016 was another successful year for the Association. We introduced some new services for members, reviewed our use of technology, updated our website capacity, and promoted a very successful program of seminars.

As we continue moving into a digital future, it is also important we maintain our tradition of quality seminars and conferences for our members. Our commitment to providing high quality continuing education through our seminars and events program remains central to the continued success of the Association.

The following is a summary of some of our highlights this year. A comprehensive list of our activities and photos is featured in the following pages.

Our opening seminars for 2016 began in February with Jeffrey Goldberger's (2) tremendously popular Contracts Master Class. This was followed in March by our Mandatory CLE seminar which was once again supported by the Sydney Law School of the University of Notre Dame Australia. The end of the CLE year was rounded off by Russell Miller AM's annual update on Australian Competition and Consumer Law and an IP Master Class chaired by the Hon Justice Jayne Jagot.

We were also delighted to be involved with the launch of the Emeritus Professor John Carter's (3) third edition of *Carter's Guide to Australian Contract Law* during April.

Our popular June Judges Seminar Series was once again a big success. Our thanks to our guest speakers — the Hon Justice Julie Ward, the Hon Justice Fabian Gleeson and the Hon Justice Arthur Emmett.

A special thank you to all our seminar guest speakers and contributors to the Commercial Law Quarterly. Without your support and commitment, we would not be able to maintain our services to members.

The CLA also had a successful year financially with surplus of funds of \$24,325 in 2016. To view the audited reports for 2016, please visit our website

Our \$1,000 Editor's Encouragement Award for a contribution to the *Commercial Law Quarterly* which was won by Melbourne Barrister Anton Trichardt (4) for his paper on 'Breach of Anticipatory Repudiation'. Congratulations to Anton for his award and to those other contributors who also submitted meritorious articles to the journal.

Congratulations also to Michael Amerena, winner of our Bannisters by the Sea membership prize. Michael is a barrister at the Inns of Court in Brisbane. I would like to thank Bannisters for providing the prize.

The CLA utilises the NSW State Library for many of our seminars and conferences. I'd like to thank the management and staff of the library. Their efforts to ensure our events run smoothly is always greatly appreciated. We often hear from members who enjoy attending our events at the library. Our special thanks to Max and Liz Wilson who again provided the foundation and support needed for the CLA's continued success. Finally, a thank you to my fellow Board members for continuing to give their time and effort freely to ensure the success of the CLA.

The CLA is always interested in hearing feedback from members as to any topics or speakers they would like to see in our seminar programs, issues or activities that they would like the Association to consider. I look forward to seeing you at future events.

Norman Donato, President



# 2016 Seminar Program

## MASTER CLASS



### Contract law in the cases: 2015 in review

12 February, 2016

Jeffrey Goldberger



## Mandatory CLE seminar

18 March 2016

Professor Gerard Ryan, Professor Iain Benson, Associate Professor Keith Thompson, Prasan Ulluwishewa, Fiona Craig.

Proudly supported by the University of Notre Dame Australia

## LUNCHTIME SEMINAR



### Australian Consumer Law update

18 March, 2016

Russell Miller AM



## MASTER CLASS

### Patents & Trade Marks

29 March, 2016

The Hon Justice Jayne Jagot, Cynthia Cochrane, Thor North, Kim O'Connell

## CARTER ON MONDAYS



### Termination of contracts: the common law rules

11 April, 2016

Emeritus Professor John Carter

**COMMERCIAL  
LAW FORUM**



**How new technology in the Courts will affect you**

26 May, 2016

The Hon Justice David Hammerschlag, Chris D'Aeth,  
The Hon David Clarke MLC

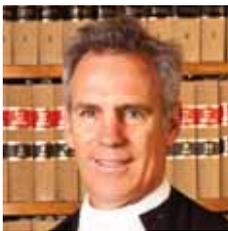
**JUNE JUDGES  
SERIES**



**Recent developments in corporations law**

10 June, 2016

The Hon Justice Julie Ward



**Enforceability of contracts**

17 June, 2016

The Hon Justice Fabian Gleeson



**Principles relating to an Advocate's immunity. What is covered and what is not? *Attwells & Anor v Jackson Lawyers Pty Ltd***

24 June, 2016

The Hon Justice Arthur Emmett

**CARTER ON  
MONDAYS**



**Contract damages following termination. Taking later events into account.**

4 July, 2016

Emeritus Professor John Carter



**Equity and Financial Stress**

29 July, 2016

The Hon Ken Handley AO QC, Ian Jackman SC, Dr Nuncio D'Angelo, Nick Kabilafkas,  
Verity McWilliam, Vanessa Whittaker

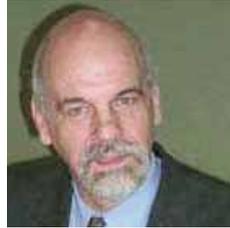
**LUNCHTIME  
SEMINAR**



***Paciocco v ANZ: the consequences for your clients***

19 August, 2016

The Hon Justice Robert McDougall



**Commercial Law & Government**

16 September, 2016

Associate Professor Pauline Ridge, The Hon Justice John Griffiths, Professor Nicholas Seddon, Rani John, Daniel Stewart, Michael O'Meara

Held in conjunction with the Australian National University

**LUNCHTIME  
SEMINAR**



**Update on unjust contracts  
and unconscionability**

21 October, 2016

Dr Elisabeth Peden, Daniel Tynan

**CARTER ON  
MONDAYS**



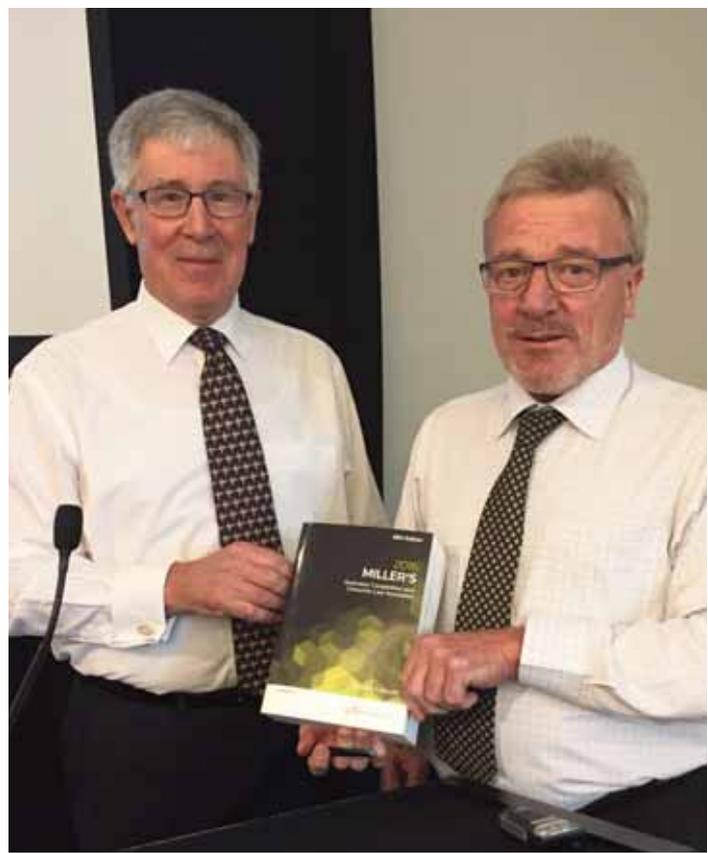
**Interaction between express termination rights  
and common law rights**

7 November, 2016

Emeritus Professor John Carter

## Seen at the seminars



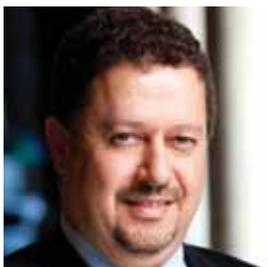


## Current Board of Directors



### **Norman Donato BEc, LLB, LLM, FCLA**

Norman is an executive lawyer at Bartier Perry. He has practised since his admission in 1987 in corporate finance and corporate commercial law. His qualifications include Bachelor degrees in Law and Economics, as well as a Master of Laws. Norman has extensive corporate and finance experience obtained from advising national and international clients including government bodies, major banks, public companies, SMEs and entrepreneurs. He is associated with a number of industry bodies. Norman was appointed to the board in 2008 and is currently the President of the CLA.



### **James Biady BEc, LLB, Accredited Specialist Business Law, FCLA**

Jim Biady is an experienced commercial lawyer who has practiced for over 30 years. He advises clients in a number of specialty areas including structuring of entities, employment law, commercial litigation, dispute resolution, sale & purchases of businesses, sale & purchases of property, wills and estates, as well as commercial leasing. He focuses on understanding each client's business and finding appropriate effective commercial solutions. Jim is a Business Law Specialist accredited by the Law Society of New South Wales. Jim was appointed to the board in 2011 and is currently the Vice-President of the Commercial Law Association.



### **Stephen Lamy BA, LLM, FCLA**

Stephen has been a solicitor for 40 years. He had a variety of private practice positions involving commercial and revenue work before moving in-house in 1990. Stephen's corporate career has included roles with AMP and St George Bank and from 2002 to 2016 with CBA. He has had more than 25 years in funds management with an emphasis on superannuation. Stephen contracts to financial services providers. Stephen joined the CLA's board of directors in August 2002. He became President of the CLA in 2006 and served in this capacity for five years. He currently serves as Treasurer.



### **Stephen McMahon BComm, FCA, F Fin, FCLA**

Stephen is a Chartered Accountant and a fellow of the Financial Services Institute of Australia (Finsia) and the Institute of Chartered Accountants Australia. He is a founding principal of McMahon Worth Forensic Accountants. His firm specialises in forensic and investigative accounting, litigation support, business valuations and due diligence along with investigating and solving complex financial and business issues which require the application of a combination of accounting and detective skills. Stephen's interests are in the Commercial Law and Finance sectors. He was appointed as a Director to the CLA in 1998 and currently serves as the Membership and Marketing Chairman.



### **Jane Ann Gray BA (Hons), LLB (Hons), LLM (Harvard), FCLA**

Jane Ann Gray is a Director at Pricewaterhouse Coopers (PWC Legal). She was admitted as a solicitor in NSW in 1979. She practised for 20 years as a corporate and commercial partner first at Baker & McKenzie then at Atankovic Hartnell, KPMG Legal and Middletons before joining Chang Pistilli & Simmons in July 2006. Chang Pistilli & Simmons merged with Clifford Chance in 2011. Jane Ann's principal areas of practice are mergers and acquisitions including under Chapter 6 of the Corporate Act; business structuring and restructuring including schemes of arrangement; capital raisings; corporate regulation including for listed entities and commercial contracts.



**Edmund Finnane BA and LLB (ANU), LLM (Corporate & Commercial Law) (UNSW), FCLA**

Edmund Finnane has practised as a barrister in NSW since 1997. He has a wide ranging practice in commercial law and equity. Edmund is particularly interested in corporate insolvency, mortgage law, equity and contract law. He is a director of the CLA. Edmund has delivered seminars to members of the legal profession on areas including commercial damages, equity, insolvency law and de facto relationships law. He is co-author of two books: *Equity Practice and Precedents* (Finnane, Newton and Wood, Thomson Lawbook Co, Sydney, 2008) and *Pleading Precedents* (Azize, El Khoury and Finnane [6th Ed], Thomson Reuters, Sydney, 2009). He is the author of the annotations in the Thomson Reuters annual and online publication, *Corporations Legislation with Annotations*.



**Verity McWilliam BA (Hons I), LLB (ANU),  
Master of International Law (USyd)**

Verity McWilliam has practised as a barrister in NSW since 2006. She has a wide ranging practice covering such areas of the law as commercial, constitutional, contracts, administrative, equity, employment, environment and local government. She was admitted to the Supreme Court of NSW, the Federal Court of Australia and the High Court of Australia in 2002. Verity is also an Adjunct Lecturer in Public Law at the University of NSW. She authored the Administrative Law Chapter of *Court Forms Precedents & Pleadings NSW* (2013, LexisNexis). Verity is the Chair of the Association's publications committee.



**Sally Moten**

Sally Moten has practised as a solicitor in NSW since 2005. She holds a Bachelor of Laws (First Class Hons) and a Bachelor of Commerce, both from the University of Sydney. Sally specialises in all aspects of employment and safety law and has spent a number of years working in large commercial law firms, both at Blake Dawson (now Ashurst) and currently at Henry Davis York. She also spent time working in-house in a large NSW government agency. Sally provides advice on matters ranging from performance management and disciplinary matters to defending unfair dismissal and discrimination claims, managing industrial disputes, advising on restructuring of organisations, defending WHS prosecutions and providing WHS advice on compliance with safety legislation.

# Standing Committees as at December 31, 2016

## MEMBERSHIP & MARKETING COMMITTEE

Stephen McMahon  
Jim Biady  
Max Wilson

An important element of the Association's image is to ensure that marketing assists in attracting legal practitioners and those involved in commerce to our Association's activities. By promoting our seminar programs and other programs we aim to encourage people to join the Association. Listening to our members and reacting to their needs is also very important in maintaining membership. During 2016 our discussion group on LinkedIn grew to 950 members.

## PUBLICATIONS COMMITTEE

Verity McWilliam  
Professor Elisabeth Peden  
Dr Gregory Tolhurst  
Max Wilson

The *Commercial Law Quarterly* is the official publication of the Commercial Law Association. The journal has been published continuously for 29 years and is a highly respected reference material for those involved with the practice of law. All manuscripts submitted to the *Quarterly* are refereed prior to acceptance for publication. The journal contains articles and news about commercial law issues from around Australia and overseas. One of the main objectives of the Commercial Law Association is to make business people aware of the constant changes to the law and make law-makers aware of the constantly changing business environment. Through the publication of the *Commercial Law Quarterly*, the Association aims to:

- encourage members of the commercial and corporate community and the legal profession to examine and consider jointly commercial law usages and practices;
- disseminate information on concerning new legislation proposed or enacted by the Parliaments of Australia or overseas relating to commercial or corporate law usages and practices.

Last year we embarked on a major program to ensure that all copies of the *Commercial Law Quarterly* from 1986 to the present day are available online. There is also a number of copies of *The Bulletin* (CLQ's predecessor) in the library, but we are still seeking some issues. The library is now available on our website.

The Editors welcome the submission of notes to cases and issues of law reform and longer articles.

## COMMERCIAL LAW FORUM COMMITTEE

Norman Donato  
Edmund Finanne  
Max Wilson

The Commercial Law Forum's aim is to organise events where members can come together in an informal way after business hours to listen to a guest speaker and network with other members. The Forums are limited to 30 people.

