

The Commercial Law Association of Australia Ltd
ACN 001 290 115

Annual Report 2014

Building a bridge between commerce and law



The Commercial Law Association of Australia Ltd

Website: www.cla.org.au. GPO Box 5186, Sydney, NSW 2001.

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Board of Directors as at 31 December, 2014

Cristean Yazbeck, President

Norman Donato

Jenny Wily, Vice-president

Stephen McMahon

Stephen Lamy, Treasurer

Anthony Dreise

Jane Ann Gray

Edmund Finnane

James Biady

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

Member Services

Elizabeth Wilson. Email: memberservices@cla.org.au

Commercial Law Quarterly Editors

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

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



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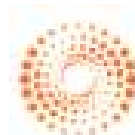
Martin Place Chambers



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President and Directors' Report

2014: YEAR IN REVIEW

It is my pleasure to present this report, my first report as President, on behalf of the Board. As this Annual Report was being written we had some changes to the Board. In February 2015 Cristean Yazbeck (1) resigned as President due to work commitments. My fellow directors and I wish Cristean well and thank him for his contribution. During March Tony Dreise (2) also tendered his resignation after serving on the Board for 13 years. Tony served as the chair for the Legislative Review Task Force and the Publications Committee as well as overseeing the CLA's compliance program. All of us on the Board would like to acknowledge Tony's hard work and contribution to the success of the CLA.

It has been a challenging but rewarding year for the CLA, with projects developed during the year to provide a solid base for growth in the coming years.

During the year we established an online *Commercial Law Quarterly* Library. Members are now able to read online any articles from any edition of the *Commercial Law Quarterly* since 1986. We also have made available online some editions of *The Bulletin*, (the forerunner to the *CLQ*).

This year saw the launch of the Commercial Law Forum, which received strong support from members. My colleagues Andrew Mcpherson, Linda de Rosa, Ed Finnane and our CEO Max Wilson, as part of the Legislative Review Task Force, were integral in developing these Forums. The first forum was held in May, when Chris Bland (3) of Legal Tradecraft Consulting presented on 'Marketing and business development for Legal Practitioners'. At our next Forum in June, Neil Watt (4) led the discussion on 'All you need to know about the Australian Solicitors Conduct Rules'. The forums were free to members and provided an opportunity for participants to enjoy refreshments whilst listening to interesting speakers, participating in discussions and networking with other CLA members. We look forward to continuing the forums for members and their guests in 2015.

Continuing Legal Education remained the dominant focus of the Association. A comprehensive list of our activities and photos is featured in the following pages. The following is a brief summary of some of the seminars held during 2014.

Our opening events for year were the 'Trade Marks, Designs, Copyright' halfday seminar; the Social Media lunchtime seminar (which was free to members), our Mandatory CLE halfday held in conjunction with University of Notre Dame and our annual Contract Review seminar presented by Jeffrey Goldberger. In March, the Property and Planning Law conference and Russell Miller's Consumer Law update completed a successful start to the year.

Our mid-year seminars also proved popular with audiences. Professor John Carter's two seminars in May attracted widespread interest and large audiences. As did our June Judges Series with Justice Margaret Beazley, Justice Steven Rares and Justice Brereton. During July Andrew Macpherson, a long-time member of the CLA, undertook to arrange an interesting seminar on crowd-sourced equity funding. We thank him for his hard work on our behalf.

August saw a 'Contractual Indemnities' seminar with guest speaker Dr Wayne Courtney from Sydney University and chair Paul Rogerson from the NRMA. This was followed by a joint conference with the *Journal of Equity*. Our special thanks to the *Journal of Equity* with whom the Association has had a long and mutually beneficial relationship.

In October Mark Sheller from TressCox Lawyers presented our first 'Start Your Day' seminar on Section 54 of the Insurance Contracts Act and Robert Angyal SC spoke on 'Derogation from the grant'. Our year was rounded off in November when Chris Hodgekiss SC presented his seminar on 'Competition Policy Review: Navigating the Labyrinth'. Special thanks to all our speakers and to members who supported the Association throughout the year.

On the financial side the CLA had a deficit of \$28,509 in 2014, but the CLA remains in a good financial position. To view the audited reports for 2014 visit the CLA's website.

2015 is a special year for the CLA as it celebrates its 50th anniversary. We have a number of special events planned and I look forward to our members participating in them. Finally I would to thank my fellow Directors for their generous support and contribution throughout 2014 and I look forward to working with them in 2015.



Norman Donato, President

2014 Seminar Program



Trade marks, Designs, Copyright: everything you'd love to know

14 February, 2014

Donna Bessell, Margaret Shearer, Simon Kneebone, Kate Haddock.

Proudly supported by Banki Haddock Fiora



Social media (especially) for lawyers

14 February, 2014

Cristean Yazbeck, Wenee Yap, Geoff Holland.

Proudly supported by Thomson Reuters



Mandatory CLE seminar

28 February, 2014

Professor Gerard Ryan, Associate Professor Sandra Lynch, Prasan Ulluwishewa, Robert Pelletier.

Proudly supported by the University of Notre Dame Australia

LUNCHTIME SEMINAR



Key contract cases: 2013 in review

28 February, 2014

Jeffrey Goldberger



Property and Planning Law Conference

7 March, 2014

Justice Malcolm Craig, John Atkin, Janet McKelvey, Andrew Isaacs, Fenja Berglund.

Proudly supported by Martin Place Chambers

LUNCHTIME SEMINAR



Australian Consumer Law update

28 March, 2014

Russell Miller AM

**COMMERCIAL
LAW FORUM**



**Marketing and business development opportunities
for legal practitioners**

7 May, 2014
Chris Bland

**CARTER ON
MONDAYS**



The doctrine of consideration

12 May, 2014
Professor John Carter
Proudly supported by Herbert Smith Freehills

The doctrine of privity of contract

19 May, 2014
Professor John Carter
Proudly supported by Herbert Smith Freehills

**COMMERCIAL
LAW FORUM**



**All you need to know about the new Australian Solicitors'
Conduct Rules**

4 June, 2014
Neil Watt

**JUNE JUDGES
SERIES**



The Court of Appeal: more dos and don'ts

6 June, 2014
Justice Margaret Beazley



The commercial consequences of consumer protection legislation

13 June, 2014
Justice Steven Rares



The Corporations List: common and uncommon applications

20 June, 2013
Justice Paul Brereton AM



Are you ready for the SoPA amendments?

27 June, 2014

Michael Rudge SC, Matthew Gissane, David Campbell-Williams, Keith Redenbach, Dr Ashley Tscalos.



Crowd sourced equity funding

25 July, 2014

Dr Terry Cutler, Paul Niederer, Andrew Macpherson, Bradley Kidd, John Kluver.

Proudly supported by Macpherson Greenleaf

LUNCHTIME SEMINAR



Contractual indemnities

15 August, 2014

Dr Wayne Courtney, Paul Rogerson



Trusts and trustees

29 August, 2014

Justice Arthur Emmett, Professor Matthew Conaglen, Professor James Penner, Professor Simone Degeling, Jamie Glister, Professor Elise Bant, Justice Francois Kun, Dr Scott Donald, Justice Julie Ward, Dr Nuncio D'Angelo.

In conjunction with the *Journal of Equity*. Proudly supported by LexisNexis.

START YOUR DAY SEMINAR



Section 54 of the Insurance Contracts Act: future developments

31 October, 2014

Mark Sheller

LUNCHTIME SEMINAR



Derogation from the grant: continuing life for an old doctrine

31 October, 2014

Robert Angyal SC

LUNCHTIME SEMINAR



Competition policy review: navigating the labyrinth

7 November, 2014

Christopher Hodgekiss SC

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 is the Chair of the Legislative Review Task Force and was appointed to the board in May 2008.



Jenny Wily LLB (Hons) BCL (Hons), FCLA

Jenny is a solicitor in practice on her own account at Wily Legal and Consulting Pty Limited, having formerly been a Partner with Norton Rose for a number of years. In her current practice, Jenny provides legal and consulting services primarily in the areas of funds management, AFS licensing, compliance and corporate structuring and governance. Jenny has been a Director of the CLA since July 2000.



Stephen Lamy BA, LLM, FCLA

Stephen was admitted as solicitor in NSW in 1974 and England and Wales 1979. 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 with CBA. He has had more than 20 years in funds management with emphasis on superannuation. Stephen has a strong interest in legal education and developments in areas outside of his specialisation. 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.



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.



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 and is also the Deputy Chairman of that Association's Legislative Review Task Force. 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*.



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

Jane Ann Gray is Special Counsel within the Corporate Group at Clifford Chance. 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.



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.



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 Federal Constitutional Law at the University of NSW. She authored the Administrative Law Chapter of *Court Forms Precedents & Pleadings NSW* (2013, LexisNexis).

Standing Committees as at December 31, 2014

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 2014 our discussion group on LinkedIn grew to over 750 members.

PUBLICATIONS COMMITTEE

Tony Dreise, Chair (resigned 2 March, 2015)
Professor Elisabeth Peden
Professor Gregory Tolhurst
Max Wilson

The *Commercial Law Quarterly* is the official publication of the Commercial Law Association. The journal has been published continuously for 28 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.

This 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. We also seeking copies of **The Bulletin**, the forerunner of CLQ, so we can add them to the library. 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. Submissions should be sent to Professor Gregory Tolhurst, Faculty of Law F10, Eastern Avenue, University of Sydney, NSW 2006 or DX 983 Sydney.

COMMERCIAL LAW FORUM COMMITTEE

Norman Donato
Edmund Finanne
Linda De Rosa
Andrew Macpherson
Max Wilson

The Commercial Law Forum is an initiative of the LRTE. Its 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 Forum's are limited to 30 people. During 2014, Forums were held in May and June at no charge for members.

50TH ANNIVERSARY COMMITTEE

Emeritus Professor John Carter
Professor Elisabeth Peden
Norman Donato
Stephen McMahon
Max Wilson
Cristean Yazbeck (resigned 25 February 2015)

In 2015 the Association celebrates its 50th anniversary. A committee was formed to organise special events for the anniversary. The main focus of the celebrations will be a one-day conference — '50 years of Commercial Law' — which will be held at the NSW State Library on Friday, 31 July 2015.



Legislative Review Task Force as at December 31, 2014

The three key roles of the LRTF are to

- Review, and make submissions to appropriate bodies, on legislation and legislative proposals and legal issues of interest to the commercial and legal community.
- Encourage an interest in legal and legislative issues of a commercial nature.
- Promote the practical and principled application of the law in the commercial sphere.

Chair

Norman Donato FCLA, Executive Lawyer, Bartier Perry

Deputy Chair

Edmund Finnane FCLA, Barrister-at-Law, Wentworth Selborne Chambers

Secretary

Andrew Macpherson MCLA, Macpherson Greenleaf Lawyers

Members

Gavin Bartier FCLA, Acting Director, Legislation, Legislation and Policy Branch, Department of Lands NSW

Brian Gillard FCLA, Director, Gillard Consulting Lawyers

Dr John Keogh FCLA, Barrister-at-Law, Culwulla Chambers

Nicholas Newton FCLA, Barrister-at-Law, 13 Wentworth Selborne Chambers

Stephen Phillips MCLA, General Manager, Customers and Commercial Development, Company Secretary, Hunter Water Corporation

Linda De Rosa, Lawyer

COMMERCIAL LAW FORUM

The Commercial Law Forum is an initiative of the LRTF. Its aim is to encourage discussion, debate and the sharing of information between members. Events are held where members can come together in an informal way after business hours to listen to a guest speaker and network with other members. The Forum's are limited to 30 people. During 2014, Forums were held in May and June at no charge for members.