



The Commercial Law Association of Australia Ltd  
ACN 001 290 115

## Annual Report 2017

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Building a bridge between commerce and law



# The Commercial Law Association of Australia Ltd

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

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## Board of Directors as at 31 December, 2017

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, AFIML, 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



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# President and Directors' Report

## 2017: YEAR IN REVIEW

As another year comes to an end it is my pleasure to present this report of the activities CLA to members on behalf of the Directors.

### Seminars and events

The CLA's core commitment is to provide a high standard of continuing education through our seminars and events program. The CLA provided a very informative and interesting array of seminars and speakers throughout 2017, as evidenced by the high attendances and feedback we received throughout the year. We particularly would like to thank all our guest speakers and contributors to the CLQ. In summary our highlights this year included the following:

- Jeffrey Goldberger's annual Contracts Master Class, chaired by the Hon Justice Fabian Gleeson;
- Russell Miller AM's update on Australian Competition and Consumer Law;
- PPSA: beyond the basics;
- Mandatory CLE seminar in late March, once again our speakers were from the Sydney Law School of the University of Notre Dame Australia;
- Insolvency law reform: Are you ready?; and
- The Harper reforms: what you need to know.

Emeritus Professor John Carter's 'Carter on Mondays' seminars were among our most popular events. We were honoured to be involved with the Australian launch of *Cootie on the New Zealand Contract Statutes* (Thomson Reuters NZ) by the Hon Kevin Lindgren AM QC. At the launch Professor Carter, one of the book's editors, delivered a special seminar — 'Termination for breach and codification of contract law: lessons from NZ'.

Our popular June Judges seminar series was held with guest speakers the Hon Justice Stephen Robb, the Hon Justice Ruth McColl AO and the Hon Chief Justice James Allsop AO.

We would like to thank Phi Finney McDonald who gave us their support in presenting the 'Class Actions — Different Perspectives' half-day seminar and to the Hon Justice Michael Lee for chairing the seminar. The seminar was a great success.

### Commercial Law Quarterly

In a first for the CLA this year, we launched the first of our theme based issues, focussing on issues and papers from the 'Class Actions — Different Perspectives' half-day seminar. We are looking forward in 2018 to launching our Commuter CLE program and updating the look of the *Commercial Law Quarterly*.

### Commercial Law Forums

Once again, our Commercial Law Forums focussed on issues of importance to our members. Both Forums held this year, 'Make the superannuation changes work for you' and 'How to protect yourself from cyber-crime' were sold out. We plan to continue this successful series in 2018.

### Appointment of new Life Members

The CLA recognised the valuable contributions of members over the years by awarding Life Memberships to the CLA to Tony Dreise (1), David O'Bryen (2) and Fred Chilton (3) along and awarding Honorary Life Members to Russell Miller AM and Jeffrey Goldberger.

### Major sponsor

The CLA was delighted this year to partner with Spicers Retreats. Spicers Retreats have a number of luxury retreats and hotels in NSW and Queensland. They were kind enough to offer a two-day escape at their Sangoma Retreat at Bowen Mountain in NSW as a membership prize. We congratulate the winner — Lex Brown (4) from J A Brown & Co. CLA members were also offered special accommodation rates during our 'How to Retreat from the world successfully this summer' promotion.

### Financial update

The CLA ended the year with a surplus of \$25,057. To view the audited reports for this year, please visit our website. A comprehensive list of our activities and photos of events throughout the year are featured in the following pages. I look forward to seeing you at future events. Finally I take this opportunity to thank my fellow Board members for their valuable contributions during the year.



Norman Donato, President

# 2017 Seminar Program

**MASTER  
CLASS**



**Contract law in the cases: 2016 in review**  
24 February, 2017  
Jeffrey Goldberger

**LUNCHTIME  
SEMINAR**



**Australian Consumer Law update**  
10 March, 2017  
Russell Miller AM

**MASTER  
CLASS**



**PPSA: beyond the basics**

17 March, 2017

Paul Rogerson, Professor Sheelagh McCracken, Tony Coburn, Nicholas Mirzai



**Mandatory CLE seminar**

24 March 2017

Professor Gerard Ryan, Professor Sandra Lynch, Dunstan de Souza,  
Prasan Ulluwishewa, Glenda Carry.

Proudly supported by the University of Notre Dame Australia

**CARTER ON  
MONDAYS**



**Warranties, Guarantees and Indemnities**

1 May, 2017

Emeritus Professor John Carter



**Insolvency law reform: are you ready?**

26 May, 2017

Professor Michael Quinlan, Doran Cook SC, James Marshall, Phil Carter

**COMMERCIAL  
LAW FORUM**



**Make the superannuation changes work for  
you**

31 May, 2017

Stephen Lamy, John Walker

**THE (MOSTLY)  
JUNE JUDGES  
SERIES**



**Practical reflections on success and survival in litigation**

9 June, 2017

The Hon Justice Stephen Robb



**The statutory introduction of unconscionability in trade and com-  
merce: the new business conscience**

16 June, 2017

The Hon Chief Justice James Allsop AO



**Words, words, words! What did you mean? Contractual  
interpretation and the reasonable business person**

18 August, 2017 moved from 23 June, 2017

The Hon Justice Ruth McColl AO



**The Harper Reforms: What you need to know**

11 August, 2017

Russell Miller AM, Katrina Groshinski, Jacqueline Downes, Marcus Bezzi

**CARTER ON MONDAYS**



**Liability for repudiation of a contract**

4 September, 2017  
Emeritus Professor John Carter



**Class actions — Different perspectives**

18 October, 2017  
The Hon Justice Michael Lee, Odette McDonald, Ben Phi, Tim Finney, Emily Dewberry, Wayne Attrill, Jason Betts, Brett Jordan  
Proudly supported by Phi Finney McDonald

**COMMERCIAL LAW FORUM**



**How to protect yourself from cyber crime**

18 October, 2017  
Kelly Butler, Michael Hyatt, Nick Klein, Norman Donato

**CARTER ON MONDAYS**



**Termination for breach and codification of contract law: lessons from New Zealand**

6 November, 2017  
Emeritus Professor John Carter

## Seen at the seminars



## Current Board of Directors



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

Norman is a partner 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 commenced practice in 1983. 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 was admitted as a Solicitor in NSW in 2005. She has a Bachelor of Laws (First Class Hons), and Bachelor of Commerce, both from the University of Sydney. Sally specialises in all aspects of employment and safety law and has spent several years working in large commercial laws firms, Blake Dawson (now Ashurst) and Henry Davis York (merged with Norton Rose Fulbright). She also spent time working in-house at a large NSW Government Agency. Sally joined Landers and Rogers Lawyers in November 2017 as Special Counsel. 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 and safety legislation. Sally joined the CLA's Board of Directors in 2016.

## Standing Committees as at December 31, 2017

### 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.

### 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 30 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.

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 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.