



The Commercial Law Association of Australia Ltd  
ACN 001 290 115

## Annual Report 2023

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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)

GPO Box 5186, Sydney, NSW 2001

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## Board of Directors as at 31 December, 2023

Sarah Hill, President

Edmund Finnane

James Biady, Vice-President

Sally Moten

Norman Donato, Treasurer

Michael Drummond

Stephen McMahon

Professor Gerard Ryan

Ben Whitten

Stephen Lamy (retired June, 2023)

## Registered Office

Level 2, Suite 212, 350 George Street, Sydney, NSW 2000

## Chief Executive Officer

Max Wilson BA, Grad Cert Management Communication, AFIMA. 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

Dr Gregory Tolhurst LLM (Syd)

Hon Justice Elisabeth Peden, BA Hons, LLB Hons (Syd), PHD (Cantab)

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



# President and Directors' Report

## 2023: year in review

It's hard to avoid the digital world's impact on our profession lately. If there was a theme to this year it would have to be AI. Endless words written about it, innumerable presentations given about it and a great deal of nervous wondering what to do about it. The CLA was no exception. Our Commercial Law Forum answered the question 'What is ChatGPT?', at least two of our seminars discussed AI and the minute-taking at our board meetings are now assisted by an AI. Clearly our future and that of AI are very much intertwined. Expect to hear more in 2024.

Turning to a more human level, it was a sad day for the CLA when Stephen Lamy — a long-term member of our board — resigned from his position as Treasurer. Stephen has served on the Board for 22 years, holding the position of President for seven of those years. Stephen has been integral to creating the well-managed and vibrant association the CLA is today. We thank him for his many years of service to the CLA and wish him the best in his next endeavours.

I also thank Norman Donato — our immediate past President — for stepping up and taking on the role of Treasurer.

I would also like to particularly mention the enormous support given to us by Emeritus Professor John Carter and Jeffrey Goldberger. Professor Carter presented four lunchtime seminars for us this year — 'Privity of contract', 'Illegal contracts', 'Issues in contract interpretation' and 'Loss of chance damages'. Jeffrey Goldberger talked his way through two three-hour master classes — 'Contract law' and 'Construction law'. Both have a very loyal group of supporters (yes, there is a lot of crossover) who never fail to book in. We are very grateful for the way they have continued to be the backbone of the CLA's seminar series year after year.

## Seminars

We're also pleased to say that the 10th anniversary of the June Judges seminar series was the most successful that we have ever had. We are indebted to the Hon Justices Stevenson, Peden and Rares for bringing that about with their invaluable contribution to the seminar series. Indeed, Justice Peden's seminar on indemnities turned out to be one of the biggest seminars we have ever run.

It was a big year for class actions too. The year started with the 'Emerging trends in Class Action Litigation' half-day seminar which was an enormous success. Most people seemed to find the speakers excellent and the sessions interesting. Which was no great surprise when the speakers included the Hon Justice Michael Lee, Lachlan Armstrong KC and Professor John Swinson among others. A very big thank you to Vicky Antzoulatos and Craig Allsop from Shine Lawyers who when out of their way to help us make this seminar a success.

The 'Class actions: the evolving risk landscape' half-day seminar in October was also very successful. We'd like to thank Herbert Smith Freehills, particularly Jason Betts, very much for all the work they put into it. The seminar's audience was equally appreciative. 'Really great speakers and panellists. I have attended multiple seminars on the same area, and this was the most engaging and topical to date.' You can't ask for a much better accolade than that. Cameron Whittfield's presentation on the digital threat landscape effortlessly managed to enthral and frighten the audience in equal measure. It is certainly worth listening to. You can download it along with the excellent panel discussion from our website.

Our Commercial Law Forum posed the question 'What is ChatGPT?'. Professor John Swinson from the University of Queensland and Stephen Foley from eBrief Ready very thoroughly answered that question and walked us through all the perks and pitfalls of using the technology. If it's a question you still need to answer, you'll find it also on our website.

Professor Gerard Ryan, Angus Macinnis and Robert Pelletier drew a very solid crowd for our annual Mandatory CPD seminar. Our thanks once again to the University of Notre Dame Australia for helping us to organise this seminar.

## Social media

The lynch pin of social media continued to be the CLA LinkedIn page during 2023 with 1,535 followers. We also mirror content on the Facebook page.

The highlights of 2023 were:

- Increased engagement in the form of eyes on our posts, likes, comments and shares. This has been achieved by the use of polls, ensuring we tag Commercial Law Quarterly authors and seminar participants;
- Christine Lithgow continues to share posts and comment on them.
- Successful collaborations both with Shine Lawyers and Herbert Smith Freehills to run 2 x very different class action seminars.
- The ChatGPT forum, saw Professor John Swinson presenting a hands-on, online-only seminar that saw many attendees. Though this was a free seminar it contributed to great growth and feedback in general.
- Online attendance continues to do well from all around the country. Social media helps to spread the word to those not in Sydney.

It was another year of steady growth and 2024 will expand social media alongside paid advertising on the platform.

## Financial update

The CLA ended the year with a deficit of \$7,711.88. To view the audited 2023 financial reports, please visit our website.

Finally, a very appreciative thank you to all those associated with the CLA — our members, speakers, writers, editors, filmographers, executive management, and my fellow board members. The CLA would not exist without your support. I look forward to seeing you soon at one of our functions.

Sarah Hill, President

# 2023 Seminar Program

## **Mandatory CLE halfday seminar**

24 February

Professor Gerard Ryan, University of Notre Dame Australia (Chair); Angus Macinnis, Director of Dispute Resolution, StevensVuaran Lawyers; Robert Pelletier, Lecturer, University of Notre Dame Australia

## **Privity of Contract**

6 March

Emeritus Professor John Carter, consultant, Herbert Smith Freehills

## **Emerging Trends in Class Actions Litigation**

10 March

Vicky Antzoulatos, Joint Head of Class Actions, Shine Lawyers (Chair); Hon Justice Michael Lee, Federal Court of Australia; Craig Allsopp, Joint Head of Class Actions, Shine Lawyers; Lachlan Armstrong KC, List A Barristers, Melbourne; Charlie Morris, Chief Investment Officer, Woodsford, London; Amanda Engels, Partner, Kin & Wood Mallesons; Tim Finney, Director, Phi Finney McDonald; Professor John Swinson, University of Queensland Law School

## **Goldberger on Contract master class**

19 May

Jeffrey Goldberger, Special Counsel, Norton Rose Fulbright, Hon Justice Fabian Gleeson, Supreme Court of NSW (Chair)

## **A Discussion of the Law Relating to Penalties Post-Paciocco**

9 June

Hon Justice James Stevenson, Supreme Court of NSW; Sarah Hill, 4 Selborne Chambers (Chair)

## **Indemnities: tips and traps**

16 June

Hon Justice Elisabeth Peden, Supreme Court of NSW; Sarah Hill, 4 Selborne Chambers (Chair)

## **The Significance of Context in Misleading and Deceptive Conduct Cases**

23 June

Hon Justice Steven Rares, Federal Court of Australia; Sarah Hill, 4 Selborne Chambers (Chair)

## **Illegal Contracts**

17 July

Emeritus Professor John Carter, consultant, Herbert Smith Freehills

## **Construction Law Master Class**

18 August

Jeffrey Goldberger, Special Counsel, Norton Rose Fulbright; Sarah Hill, 4 Selborne Chambers (Chair)

## **Issues in Contract Interpretation**

4 September

Emeritus Professor John Carter, consultant, Herbert Smith Freehills

## **What is ChatGPT? How will it impact on legal practitioners?**

20 September, Commercial Law Forum

Professor John Swinson, University of Queensland; Stephen Foley, Founder & Managing Director, eBrief Ready (Chair)

## **Class Actions: the evolving risk landscape**

20 October

Jason Betts, Partner & Global Co-Head of Class Actions, Herbert Smith Freehills (Chair); Cameron Whittfield, Partner & Head of APAC Cyber Security, Herbert Smith Freehills; Clive Bowman, Global Chief Investment Officer, Omni Bridgeway; Rob Craig KC, Alinea Chambers, Melbourne; Emma Pelka-Caven, Head of Class Actions, Slater and Gordon Lawyers; Melissa Gladstone, Partner, Class Actions, Herbert Smith Freehills

## **Loss of Chance Damages**

20 November

Emeritus Professor John Carter, consultant, Herbert Smith Freehills

**Seen at the seminars**





## Current Board of Directors



### **Sarah Hill BA/LLB (Hons) (USyd)**

Sarah Hill has practised as a barrister in NSW since 2004. She holds a BA/LLB (Hons) from the University of Sydney. She has a broad ranging equity and commercial practice covering such areas of the law as contracts, corporate law, insolvency, equity, property, trusts and wills and estates. Sarah has given presentations in many of these areas at industry conferences and to various legal bodies. She was admitted to the Supreme Court of NSW, the Federal Court of Australia and the High Court of Australia in 2003. Sarah was appointed to the Board of Directors of the CLA in 2018 and is currently serving as 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 practised in superannuation and funds management for more than 30 years. He is currently employed at Insignia Financial Ltd. He has held roles with a number of providers, notably AMP, CBA, ANZ, Challenger and MLC, variously in permanent and contract capacities. His prior career in private practice involved a broad range of commercial, revenue and insolvency experience. 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 also served as Treasurer. After serving for 22 years, Stephen retired from the Board in June, 2023.



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

Stephen is a specialist Forensic Accountant, a fellow of the Financial Services Institute of Australia (Finsia) and a fellow of the Institute of Chartered Accountants Australia and New Zealand (CAANZ). He is a founding principal of McMahon Worth Forensic Accountants. The firm specialises in forensic and investigative accounting, litigation support, financial evaluation of insurance claims, fraud and corruption investigations, business valuations, financial due diligence along with investigating and solving complex financial and business issues which require the application of a combination of accounting, auditing and detective skills. Stephen has retired from his successful practice. He was appointed as a Director to the CLA in 1998 and has served many years as the Membership and Marketing Chairman. Stephen was awarded Life Membership of the CLA in 2018.



### **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 has delivered seminars to members of the legal profession on areas including commercial damages, equity, insolvency law and de facto relationships law. Edmund is co-author of two books: *Equity Practice and Precedents* (2nd Edition) (Finnane, Newton and Wood, Thomson Reuters, Sydney, 2019), (as well as the first edition of that book published in 2008) and *Pleading Precedents* (Azize, El Khoury and Finnane [6th Ed], Thomson Reuters, Sydney, 2009). From 2009 to 2022 he was the author of the annotations in the Thomson Reuters annual and online publication, *Corporations Legislation with Annotations*. Edmund has been the general editor of the *Company and Securities Law Journal* (Thomson Reuters) since 2018. He was appointed as a director of the CLA in 2009, and also served on the Legislative Review Task Force of the CLA between 2003 and 2014.



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

Norman Donato, admitted as a solicitor in 1987, practises predominantly in corporate finance and corporate & commercial law. Norman has extensive corporate and finance experience acting for national and international clients including government bodies, major banks, public companies, SMEs and entrepreneurs. He is associated with several industry bodies. Norman was appointed to the board of the CLA in 2008, was elected President 2015. After serving seven years in that role, he step-aside and is now Treasurer of the CLA. He holds a directorship with the Pain Foundation Limited, and sits on the investment committee of that charitable organisation. Recently Norman joined the rapidly expanding national law firm, Mills Oakley, as a Banking and Finance and Corporate Commercial partner.



### **Sally Moten LLB (Hons) (USyd), BCom (USyd)**

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 is a partner at Lander & Rogers who specialises in all aspects of employment and safety law. Prior to this, Sally spent several years working in commercial law 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 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.



### **Professor Gerard Ryan BEc (Hons) (USyd), LLB (Hons) (USyd), GradDipLP (UTS), LLM (Hons) (USyd), GCUT (UNDA), FHEA**

Gerard is a Professor of Law at the University of Notre Dame Australia (UNDA). He graduated from the University of Sydney with First Class Honours in Economics and Law. His Masters of Law included an Honours thesis in competition law. Gerard was admitted as a solicitor in 1991. He was a partner in a large city commercial law firm, specialising in commercial work in the energy sector (including electricity derivative transactions, large energy infrastructure projects and regulatory advice). From 2008 to 2012 he was Dean of the School of Law, Sydney at UNDA. His main areas of teaching are contracts, commercial practice, commercial drafting, ethics, corporations law and property. He has supervised research students in contracts, competition law and other areas. Gerard and his UNDA colleagues have conducted the CLA's annual CPD presentation on ethics, practice management and professional skills since March 2011. He joined the CLA Board of Directors in 2018.



### **Ben Whitten LLB, LLM (Com), FCLA**

Ben has practised as a barrister in Queensland since 1999. He holds a Bachelor of Laws and a Master of Laws majoring in commercial law. Ben practises in all aspects of commercial and insurance litigation, with special interests in matters involving technology, engineering and construction issues. Having practised both as a solicitor and as a barrister, he has gained considerable practical experience in representing companies, businesses and individuals in mediations and in interlocutory, trial and appeal hearings in all levels of State and Federal courts. Ben is a committee member of the Building Dispute Practitioners Society, member of the Society of Construction Law of Australia, member of the Australian Insurance Law Association, and an interstate member of the Melbourne Technology Engineering and Construction Chambers. Ben's work has been recognised in *Doyle's Guide* as a recommended leading counsel in construction law from 2019 to 2024. Ben is a Fellow and Director of the CLA, and the inaugural Chairman of the Queensland Division of the CLA. He was appointed to the CLA's Board in 2021.



### **Michael Drummond BA (JCU), LLB (QUT)**

Michael Drummond was a practicing solicitor, working in small, mid-tier and large law firms before opening his own practice. More recently, Michael left private practice to take up the positions of In-house Counsel, Director of Corporate Services and eventually Head of Sales — Global for an Australian coffee roaster operating in Australia, New Zealand, China and the USA. Michael commenced as the Clerk for Hemmant's List in November 2018. He was elected to the Board of the CLA in 2022.

# Standing Committees as at December 31, 2023

## QUEENSLAND BRANCH COMMITTEE

Ben Whitten (Chair)  
Alex Tuhtan  
Richard Schulte  
Michael Drummond  
Samantha Amos  
Edmund Finnane  
James Biady

## MEMBERSHIP & MARKETING COMMITTEE

Stephen McMahon  
Michael Drummond  
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

Sarah Hill  
Hon Justice 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.