### 2022

## THE

# FEDERAL COURT REPORTS

THE AUTHORISED REPORTS OF DECISIONS OF THE FEDERAL COURT OF AUSTRALIA

EDITOR VICTOR KLINE

CONSULTING EDITORS
DR OREN BIGOS KC
DAVID ASH

VOLUME 292

LAWBOOK CO.

2023

### SENIOR REPORTERS

SAMUEL CUMMINGS VICTOR KLINE RAFFAELE PICCOLO

### REPORTERS

BERNARD ANDARY NATHAN LI

# PRODUCTION EDITOR MYUNG COLE



 $\ \ \,$   $\ \ \,$   $\ \ \,$   $\ \ \,$   $\ \ \,$  Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668  $\ \ \,$  Published in Sydney

Printed by Ligare Pty Ltd, Riverwood, NSW ISSN 0813-7803

### FEDERAL COURT OF AUSTRALIA

### CHIEF JUSTICE

### THE HONOURABLE JAMES LESLIE BAIN ALLSOP, AO

#### **JUDGES**

THE HONOURABLE SUSAN CORALIE KENNY AM

THE HONOURABLE STEVEN DAVID RARES

THE HONOURABLE BERNA COLLIER

THE HONOURABLE ANTHONY JAMES BESANKO

THE HONOURABLE JOHN ALEXANDER LOGAN, RFD

THE HONOURABLE NYE PERRAM

THE HONOURABLE JOHN VICTOR NICHOLAS

THE HONOURABLE DAVID MARKEY YATES

THE HONOURABLE MORDECAI BROMBERG

THE HONOURABLE ANNA JUDITH KATZMANN

THE HONOURABLE BERNARD MURPHY

THE HONOURABLE IAIN ROSS, AO

THE HONOURABLE KATHLEEN FARRELL

THE HONOURABLE DEBRA SUE MORTIMER

THE HONOURABLE DARRYL RANGIAH

THE HONOURABLE MICHAEL WIGNEY

THE HONOURABLE MELISSA PERRY

THE HONOURABLE JONATHAN BARRY RASHLEIGH BEACH

THE HONOURABLE BRIGITTE SANDRA MARKOVIC

THE HONOURABLE MARK KRANZ MOSHINSKY

THE HONOURABLE ROBERT BROMWICH

THE HONOURABLE NATALIE CHARLESWORTH

THE HONOURABLE STEPHEN BURLEY

THE HONOURABLE DAVID JOHN O'CALLAGHAN

THE HONOURABLE MICHAEL BRYAN JOSHUA LEE

THE HONOURABLE ROGER MARC DERRINGTON

THE HONOURABLE DAVID GRAHAM THOMAS

THE HONOURABLE SARAH CATHERINE DERRINGTON AM

THE HONOURABLE KATRINA FRANCES BANKS-SMITH

THE HONOURABLE CRAIG GRIERSON COLVIN

THE HONOURABLE THOMAS MICHAEL THAWLEY

THE HONOURABLE MICHAEL FRANCIS WHEELAHAN

THE HONOURABLE ANGUS MORKEL STEWART

THE HONOURABLE MICHAEL HUGH O'BRYAN

THE HONOURABLE DARREN JOHN JACKSON

THE HONOURABLE JOHN LESLIE SNADEN

THE HONOURABLE STEWART MAXWELL ANDERSON

THE HONOURABLE WENDY JANE ABRAHAM

THE HONOURABLE JOHN HALLEY

THE HONOURABLE ELIZABETH CHEESEMAN

THE HONOURABLE HELEN MARY JOAN ROFE

THE HONOURABLE KYLIE ELIZABETH DOWNES

THE HONOURABLE SCOTT ANTHONY GOODMAN

THE HONOURABLE PATRICK O'SULLIVAN

THE HONOURABLE SHAUN BRENDAN McELWAINE

THE HONOURABLE MICHAEL JAMES FEUTRILL THE HONOURABLE FIONA MEAGHER

THE HONOURABLE TIMOTHY McEVOY

THE HONOURABLE LISA HESPE

THE HONOURABLE ELIZABETH RAPER

THE HONOURABLE GEOFFREY ROSS KENNETT

THE HONOURABLE CATHERINE GAIL BUTTON

THE HONOURABLE IAN McNEIL JACKMAN (appointed 6 February 2023)

THE HONOURABLE ADAM HATCHER (appointed 19 February 2023)