

2003

THE
FEDERAL COURT
REPORTS

THE AUTHORISED REPORTS OF DECISIONS OF
THE FEDERAL COURT OF AUSTRALIA

EDITOR
VICTOR KLINE
Barrister-at-Law

CONSULTING EDITOR
DAVID CATTERNS QC

VOLUME 129

LAWBOOK CO.

2004

REPORTERS

DR J M BENNETT
KATE AXUP
JENNIFER BEARD
OREN BIGOS
IAN FARRELL
CHRISTINA GEE
KATRINA HART
RODEN PRITCHARD
MATTHEW SMITH
DAVID THOMAS
KRISTEN WALKER
ALEXIS WALLACE

PRODUCTION EDITORS

ANNA COX

Published in Sydney by
Lawbook Co.
100 Harris Street, Pyrmont, NSW

ISSN 0085-0462

THOMSON

LAWBOOK CO.

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW

FEDERAL COURT OF AUSTRALIA

CHIEF JUSTICE

THE HONOURABLE MICHAEL ERIC JOHN BLACK, AC

JUDGES

THE HONOURABLE BRYAN ALAN BEAUMONT

THE HONOURABLE MURRAY RUTLEDGE WILCOX

THE HONOURABLE JEFFREY ERNEST JOHN SPENDER

THE HONOURABLE PETER ROSS AWDRY GRAY

THE HONOURABLE DONNELL MICHAEL RYAN

THE HONOURABLE ROBERT SHENTON FRENCH

THE HONOURABLE ALASTAIR BOTHWICK NICHOLSON, AO,
RFD (retired, 31 May 2004)

THE HONOURABLE MALCOLM CAMERON LEE

THE HONOURABLE DONALD GRAHAM HILL

THE HONOURABLE TERENCE JOHN HIGGINS

THE HONOURABLE PETER CADDEN HEEREY

THE HONOURABLE RICHARD ELLARD COOPER

THE HONOURABLE ANTONY PHILIP WHITLAM

THE HONOURABLE CHRISTOPHER JOHN SEYMOUR MET-
FORD CARR

THE HONOURABLE MICHAEL FRANCIS MOORE

THE HONOURABLE CATHERINE MARGARET BRANSON

THE HONOURABLE KEVIN EDMUND LINDGREN

THE HONOURABLE BRIAN JOHN MICHAEL TAMBERLIN

THE HONOURABLE RONALD SACKVILLE

THE HONOURABLE SUSAN MARY KIEFEL

THE HONOURABLE ROBERT DAVID NICHOLSON, AO

THE HONOURABLE PAUL DESMOND FINN

THE HONOURABLE ROSS ALAN SUNDBERG

THE HONOURABLE SHANE RAYMOND MARSHALL

THE HONOURABLE ANTHONY MAX NORTH

THE HONOURABLE RODNEY NEVILLE MADGWICK

THE HONOURABLE RONALD MERKEL
THE HONOURABLE JOHN RONALD MANSFIELD
THE HONOURABLE ALAN HENRY GOLDBERG
THE HONOURABLE ARTHUR ROBERT EMMETT
THE HONOURABLE RAYMOND ANTONY FINKELSTEIN
THE HONOURABLE GEOFFREY MICHAEL GIUDICE
THE HONOURABLE MARK SAMUEL WEINBERG
THE HONOURABLE JOHN ALFRED DOWSETT
THE HONOURABLE PETER GRAHAM HELY
THE HONOURABLE SUSAN CORALIE KENNY
THE HONOURABLE ROGER VINCENT GYLES, AO
THE HONOURABLE RICHARD ALAN CONTI
THE HONOURABLE MARGARET ACKARY STONE
THE HONOURABLE JAMES LESLIE BAIN ALLSOP
THE HONOURABLE GARRY KEITH DOWNES, AM
THE HONOURABLE PETER MICHAEL JACOBSON
THE HONOURABLE BRADLEY MAXWELL SELWAY
THE HONOURABLE ANNABELLE CLAIRE BENNETT
THE HONOURABLE BRUCE THOMAS LANDER
THE HONOURABLE SUSAN MAREE CRENNAN