

2008-2009

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 173

LAWBOOK CO.

2009

SENIOR REPORTERS

DAVID ASH
VICTOR KLINE
RODEN PRITCHARD
STEPHEN REBOKOFF
SARAH SOMERSET
ALEXIS WALLACE

REPORTERS

PAUL ARGENT
TAMARA BOONE
CLARE D'ARCY
ROBERT MULLINS
SAM URE

PRODUCTION EDITOR

LINDA PEARSON

THOMSON REUTERS

© 2009 Thomson Reuters (Professional) Australia Limited
ABN 64 058 914 668

Lawbook Co.

Published in Sydney

Printed by Ligare Pty Ltd, Riverwood, NSW

ISSN 0813-7803

FEDERAL COURT OF AUSTRALIA

CHIEF JUSTICE

THE HONOURABLE MICHAEL ERIC JOHN BLACK, AC

JUDGES

THE HONOURABLE JEFFREY ERNEST JOHN SPENDER

THE HONOURABLE PETER ROSS AWDRY GRAY

THE HONOURABLE DONNELL MICHAEL RYAN

THE HONOURABLE ROBERT SHENTON FRENCH
(resigned, 1 September 2008)

THE HONOURABLE TERENCE JOHN HIGGINS, AO

THE HONOURABLE PETER CADDEN HEEREY
(retired, 16 February 2009)

THE HONOURABLE MICHAEL FRANCIS MOORE

THE HONOURABLE CATHERINE MARGARET BRANSON
(resigned, 13 October 2008)

THE HONOURABLE KEVIN EDMUND LINDGREN

THE HONOURABLE BRIAN JOHN MICHAEL TAMBERLIN
(retired, 30 March 2009)

THE HONOURABLE RONALD SACKVILLE
(resigned, 25 August 2008)

THE HONOURABLE PAUL DESMOND FINN

THE HONOURABLE ROSS ALAN SUNDBERG

THE HONOURABLE SHANE RAYMOND MARSHALL

THE HONOURABLE ANTHONY MAX NORTH

THE HONOURABLE JOHN RONALD MANSFIELD

THE HONOURABLE ALAN HENRY GOLDBERG, AO

THE HONOURABLE ARTHUR ROBERT EMMETT

THE HONOURABLE RAYMOND ANTONY FINKELSTEIN

THE HONOURABLE GEOFFREY MICHAEL GIUDICE

THE HONOURABLE MARK SAMUEL WEINBERG
(resigned, 19 July 2008)

THE HONOURABLE JOHN ALFRED DOWSETT

THE HONOURABLE SUSAN CORALIE KENNY

THE HONOURABLE ROGER VINCENT GYLES, AO
(retired, 22 August 2008)

THE HONOURABLE MARGARET ACKARY STONE

THE HONOURABLE JAMES LESLIE BAIN ALLSOP
(resigned, 2 June 2008)

THE HONOURABLE GARRY KEITH DOWNES, AM

THE HONOURABLE PETER MICHAEL JACOBSON

THE HONOURABLE ANNABELLE CLAIRE BENNETT, AO

THE HONOURABLE BRUCE THOMAS LANDER

THE HONOURABLE ANTHONY NICHOLAS SIOPIIS

THE HONOURABLE RICHARD FRANCIS EDMONDS

THE HONOURABLE PETER ROSS GRAHAM

THE HONOURABLE ANDREW PETER GREENWOOD

THE HONOURABLE STEVEN DAVID RARES

THE HONOURABLE BERNA COLLIER

THE HONOURABLE DENNIS ANTILL COWDROY, OAM

THE HONOURABLE ANTHONY JAMES BESANKO

THE HONOURABLE CHRISTOPHER NEIL JESSUP

THE HONOURABLE RICHARD ROSS SINCLAIR TRACEY,
RFD

THE HONOURABLE JOHN ERIC MIDDLETON

THE HONOURABLE ROBERT JOHN BUCHANAN

THE HONOURABLE JOHN GILMOUR

THE HONOURABLE MICHELLE MARJORIE GORDON

THE HONOURABLE JOHN ALEXANDER LOGAN, RFD

THE HONOURABLE GEOFFREY ALAN FLICK

THE HONOURABLE NEIL WALTER MCKERRACHER

THE HONOURABLE JOHN EDWARD REEVES

THE HONOURABLE NYE PERRAM

THE HONOURABLE JAYNE MARGARET JAGOT

THE HONOURABLE LINDSAY GRAEME FOSTER