2010

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 187

LAWBOOK CO.

2010

SENIOR REPORTERS

RODEN PRITCHARD STEPHEN REBIKOFF SARAH SOMERSET ALEXIS WALLACE

REPORTERS

TAMARA BOONE RACHEL MANSTED

PRODUCTION EDITOR LINDA PEARSON



© 2010 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

CHIEF JUSTICE

THE HONOURABLE PATRICK ANTHONY KEANE THE HONOURABLE MICHAEL ERIC JOHN BLACK, AC (retired, 22 March 2010)

JUDGES

THE HONOURABLE JEFFREY ERNEST JOHN SPENDER (resigned, 18 July 2010) THE HONOURABLE PETER ROSS AWDRY GRAY THE HONOURABLE DONNELL MICHAEL RYAN THE HONOURABLE TERENCE JOHN HIGGINS, AO THE HONOURABLE MICHAEL FRANCIS MOORE THE HONOURABLE KEVIN EDMUND LINDGREN (retired, 12 February 2010) THE HONOURABLE PAUL DESMOND FINN THE HONOURABLE ROSS ALAN SUNDBERG (resigned, 8 August 2010) THE HONOURABLE SHANE RAYMOND MARSHALL THE HONOURABLE ANTHONY MAX NORTH THE HONOURABLE JOHN RONALD MANSFIELD, AM THE HONOURABLE ALAN HENRY GOLDBERG, AO (resigned, 4 July 2010) THE HONOURABLE ARTHUR ROBERT EMMETT THE HONOURABLE RAYMOND ANTONY FINKELSTEIN THE HONOURABLE GEOFFREY MICHAEL GIUDICE, AO THE HONOURABLE JOHN ALFRED DOWSETT THE HONOURABLE SUSAN CORALIE KENNY THE HONOURABLE MARGARET ACKARY STONE 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 SIOPIS THE HONOURABLE RICHARD FRANCIS EDMONDS

THE HONOURABLE PETER ROSS GRAHAM (retired, 5 September 2010) 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 THE HONOURABLE MICHAEL LAURENCE BARKER THE HONOURABLE JOHN VICTOR NICHOLAS THE HONOURABLE DAVID MARKEY YATES THE HONOURABLE MORDECAI BROMBERG THE HONOURABLE JULIE ANNE DODDS-STREETON THE HONOURABLE ANNE JUDITH KATZMANN