

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 189**

LAWBOOK CO.

2011

**SENIOR REPORTERS**

DR OREN BIGOS  
VICTOR KLINE  
RODEN PRITCHARD  
STEPHEN REBIKOFF  
SARAH SOMERSET  
ALEXIS WALLACE

**REPORTER**

TAMARA BOONE

**PRODUCTION EDITOR**

LINDA PEARSON



**THOMSON REUTERS**

● 2011 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 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