

2013  
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 212

LAWBOOK CO.

2013

**SENIOR REPORTERS**

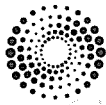
TAMARA BOONE  
DR OREN BIGOS  
SHARON HANSTEIN  
VICTOR KLINE  
RODEN PRITCHARD  
STEPHEN REBIKOFF  
SARAH SOMERSET  
ALEXIS WALLACE

**REPORTER**

ROBERT TURNBULL

**PRODUCTION EDITOR**

MYUNG COLE



**THOMSON REUTERS**

© 2013 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 JAMES LESLIE BAIN ALLSOP, AO

JUDGES

THE HONOURABLE TERENCE JOHN HIGGINS, AO

THE HONOURABLE SHANE RAYMOND MARSHALL

THE HONOURABLE ANTHONY MAX NORTH

THE HONOURABLE JOHN RONALD MANSFIELD, AM

THE HONOURABLE JOHN ALFRED DOWSETT

THE HONOURABLE SUSAN CORALIE KENNY

THE HONOURABLE PETER MICHAEL JACOBSON

THE HONOURABLE ANNABELLE CLAIRE BENNETT, AO

THE HONOURABLE ANTONY NICHOLAS SIOPIIS

THE HONOURABLE RICHARD FRANCIS EDMONDS

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 ANNA JUDITH KATZMANN  
THE HONOURABLE ALAN ROBERTSON  
THE HONOURABLE BERNARD MURPHY  
THE HONOURABLE IAIN ROSS, AO  
THE HONOURABLE JOHN GRIFFITHS  
THE HONOURABLE DUNCAN JAMES COLQUHOUN KERR,  
CHEV LH  
THE HONOURABLE LUCY KATHLEEN FARRELL  
THE HONOURABLE TONY PAGONE  
THE HONOURABLE JENNIFER DAVIES  
THE HONOURABLE DEBBIE MORTIMER  
THE HONOURABLE DARRYL RANGIAH  
THE HONOURABLE RICHARD CONWAY WHITE  
THE HONOURABLE MICHAEL WIGNEY  
(appointed 9 September 2013)  
THE HONOURABLE MELISSA PERRY  
(appointed 23 September 2013)

## Corrigendum

*Ship Hako Endeavour and Others v Programmed Total Marine Services Pty Ltd* (2013) 211 FCR 369:

Page 369, facts, paragraph 2, line 7, insert after item (iii): “(iv) the owner of Hako Fortress had terminated the demise charter under the Barecon 2001 form before PTMS commenced proceedings against the ship, so that s 18(b) was not satisfied.”

Page 369, facts, paragraph 3, line 7, insert after last sentence: “PTMS argued that the shipowner had to retake physical possession of the ship under the Barecon 2001 form before the demise of the ship would be terminated.”

Page 370, insert after holding (3): “(4) The owner of Hako Fortress had terminated the demise of the ship under cl 28 of the Barecon 2001 form by serving a notice of termination prior to the issue of the writ. Under cl 29 of the Barecon 2001 form, the demise charterer became a gratuitous bailee of the ship thereafter and it was not necessary for the shipowner to retake physical possession to bring the charterparty to an end. [63]-[67]

*Patrick Stevedores No 2 Pty Ltd v MV Turakina* (1998) 154 ALR 666, considered.”

Page 397, paragraph [98], line 5, insert before “at 53-54 per Phillimore J”: “*The Tagus* [1903] P 44”.

Page 397, paragraph [101], lines 2-3: delete “(1908) 1908 SC 1168” and substitute “1908 SC 1168”.