2010 WESTERN AUSTRALIAN REPORTS

INCORPORATING WESTERN AUSTRALIAN LAW REPORTS

The Authorised Law Reports of the SUPREME COURT OF WESTERN AUSTRALIA

EDITOR SAM VANDONGEN SC

CONSULTING EDITOR JOSHUA THOMSON

VOLUME 41

LAWBOOK CO.

2012

REPORTERS

PETER CLAY
HOLLIS DUFOUR
CATHERINE GARDE
CAMILLE GOUCKE
HENRY JACKSON
STUART PACKHAM
ANTHONY PAPAMATHEOS
SHANE GEOFFREY STEWART
CLARA WREN
WILLIAM YOO

PRODUCTION EDITOR
MYUNG COLE

© State of Western Australia (2012)

This publication is copyright. Except as permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or communicated by any process without the prior written permission of the Attorney General of Western Australia.



2012 Thomson Reuters (Professional) Australia Limited
ABN 64 058 914 668
Published in Sydney

ISSN 0083-8764

Lawbook Co.

SUPREME COURT OF WESTERN AUSTRALIA

Chief Justice

THE HONOURABLE WAYNE STEWART MARTIN

COURT OF APPEAL

President

THE HONOURABLE CARMEL JOY McLURE

Judges

THE HONOURABLE CHRISTOPHER JAMES LONSDALE PULLIN
THE HONOURABLE MICHAEL JOHN BUSS
THE HONOURABLE DAVID WALLACE NEWNES
THE HONOURABLE GRAEME HAROLD MURPHY
(appointed a Justice of Appeal, 3 August 2010)
THE HONOURABLE ROBERT ANTHONY MAZZA
(appointed a Justice of Appeal, 16 December 2011)

GENERAL DIVISION

Judges

THE HONOURABLE MICHAEL JOHN MURRAY
(retired, 15 January 2012)

THE HONOURABLE JOHN RODERICK McKECHNIE
THE HONOURABLE ERIC MICHAEL HEENAN
THE HONOURABLE NARELLE JOHNSON
THE HONOURABLE RENE LUCIEN LE MIERE
THE HONOURABLE CAROLYN FRANCES JENKINS
THE HONOURABLE RALPH LLOYD SIMMONDS
THE HONOURABLE ANDREW ROBERT BEECH
THE HONOURABLE JOHN ANTHONY CHANEY
THE HONOURABLE KENNETH JAMES MARTIN
THE HONOURABLE STEPHEN DAVID HALL
THE HONOURABLE EDWIN MICHAEL CORBOY
(appointed, 16 April 2010)
THE HONOURABLE JANINE PRITCHARD

(appointed, 11 June 2010)
THE HONOURABLE JEREMY DAVID ALLANSON
(appointed, 9 August 2010)

THE HONOURABLE JAMES JOSHUA EDELMAN (appointed, 25 July 2011)

Master

CRAIG WILLIAM SANDERSON

EDITORIAL COMMITTEE

Chairman

THE HONOURABLE KENNETH JAMES MARTIN

Editor

SAM VANDONGEN SC

Members

C L ZELESTIS, QC CG COLVIN SC

Corrigendum

 $41\ WAR$ 353: Please note: "Murphy JA" should be replaced with "Murphy J" throughout the judgment.