

Claim over
10 CLE/CPD points!

Commercial Litigation & ADR

Achieving commercial outcomes for your client

7-9 May 2008
12-14 May 2008
14-16 May 2008

Sydney
Melbourne
Brisbane

Swissotel
Novotel Melbourne
Stamford Plaza

Don't miss this opportunity to:

- **HEAR** from Sir Laurence Street, former Chief Justice of New South Wales
- **INCREASE** efficiencies by analysing costs and funding aspects
- **SLASH** costs in discovery through litigation preparedness
- **PROTECT** your clients' interests by preserving their legal professional privilege

Expert speakers include:

- **Sir Laurence Street**, former Chief Justice of New South Wales
- **Dr Peter Cashman**, Associate Professor Faculty of Law, University of Sydney
- **Nigel Cotman SC**, NSW Bar
- **Grant Bonner**, Partner, Deacons
- **Tania Sourdin**, Professor of Conflict Resolution, Director, Conflict Resolution and Practice

Must attend workshops!

1. Case preparation and advocacy in commercial matters
2. Alternate dispute resolution

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8:15

Conference registration

9:00

Opening remarks from the chair

MEET YOUR CHAIR

Steven Glass, Partner, **Gilbert + Tobin** (Sydney)
Bronwyn Lincoln, Partner, **Freehills** with **Howard Rapke**, Partner, **Holding Redlich** (Melbourne)
Paul Venus, Partner, **Holding Redlich** (Brisbane)

9:15

Management of commercial dispute resolution

Management of commercial disputes has evolved into a multi-dimensional process. From conventional litigation, embracing combatants and adversaries, other methods of processing disputes have evolved with the advent of consensus-oriented approaches to conflict. This session addresses clients' needs for more sophisticated methods of handling commercial tensions and conflicts arising in the course of their business.

- When good things go wrong – the traditional role and course of litigation
- Putting the commercial relationship in place – the Business Prenuptial
- Contemplating the level of control achieved by parties in different dispute modes
- Comparing the rate and quality of closure in judicial, arbitral and mediated proceedings

MEET YOUR PRESENTER

Sir Laurence Street, Former Chief Justice of New South Wales. Sir Laurence Street was the Chief Justice, Lieutenant Governor of NSW between 1974 and 1988. Since that time, Sir Laurence has played a leading role in introducing and practising commercial mediation/conciliation in Australia and neighbouring countries in this region.

10:00

Identifying and resolving conflicts of interest

A conflict of interest can arise when a professional has a private or personal interest sufficient to appear to influence the objective exercise of his duties.

- The type of interests arising in law practice
- Potential conflicts in commercial litigation
- How interests can interfere with professional responsibilities
- Apparent, potential and actual conflicts
- Perceptions of stakeholders
- A threshold: Would others continue to engage me if they knew?
- Best practice conflict alert, reporting and resolution: lateral hiring; analysing client information; database interrogation

Nathan Mattock, Partner, **Gadens** (Sydney)

Hugh Northam, Partner, **Piper Alderman** (Melbourne)

Alicia Hill, Partner, **Dibbs Abbott Stillman** (Brisbane)

10:45

Morning tea

11:15

Trends in class actions

Class actions are now, more than ever, in a range of matters. Plaintiff and respondent lawyers appreciate the nuances in practice, procedure and the Bench's approach when prosecuting and defending these claims. This session offers serious litigators an opportunity to hear about the current directions in class actions in Australia and overseas

- Looking at the different types of class actions now being taken
- Contemplating parallel proceedings in other jurisdictions
- The meaning of "the same interest"
- Framing relief sought to benefit the whole class
- Properly particularising proceedings at initiation
- Litigation funding and costs
- Distribution amongst stakeholders

John Mitchell, Partner, **Arnold Bloch Leibler** (Sydney)

Kim Parker, Principal, **Maurice Blackburn** (Melbourne)

Zaven Mardirossian, Partner, **Arnold Bloch Leibler** (Brisbane)

12:00

The status of legal professional privilege in 2008

The case of *Telstra Corporation Limited v Minister for Communications, Information Technology and the Arts* (No 2) [2007] FCA 1445 raised the question of legal professional privilege in the context of in-house counsel. With the Australian Law Reform Commission also set to release its Report on Client Legal Privilege, the legal profession can expect to refine both the way in which it communicates and interacts with its clients, as well as the strategic advice given in litigation matters.

- Considering the "dominant" purpose threshold
- The roles of in-house counsel and the impartiality requirement
- Onus of proof in privilege claims and evidentiary burden
- Impacts on full and frank disclosure by clients
- Duty to courts and fellow practitioners
- ALRC recommendations

Grant Bonner, Partner, **Deacons** (Sydney)

Domenic Gatto, Senior Associate, **Mallesons Stephen Jaques** (Melbourne)

John Bond SC, Qld Bar (Brisbane)

12:50

Networking lunch for speakers and delegates

1:50

Effective use of expert evidence in litigation and dispute resolution modes

Expert evidence is used in a variety of jurisdictions and proceedings. In many ways an unsung cornerstone of disputes, selecting when and the way in which such evidence is used can be strategically vital to your clients' matters.

- Reviewing the types of experts and evidence available
- Areas of law in which expert evidence is useful
- Forums where experts and their evidence star
- Formats of expert evidence
- Selecting an Expert
- Privilege and communication with experts
- Correct use of experts or evidence in litigation, arbitration, mediation, expert determination and collaborative law practice

Rashda Rana, NSW Bar (Sydney)

Dr Peter Cashman, Associate Professor Faculty of Law, **University of Sydney** (Melbourne)

Andrew Cheetham, Senior Associate, **TressCox Lawyers** (Brisbane)

2:40

eDiscovery

Increased computer hard drive sizes and the need to maintain back-up records of electronic information have resulted in more complex and costly document review and discovery processes. Clients now ask for advice on 'litigation preparedness', due diligence and compliance to ensure their records are managed to enable efficient review and discovery. This session examines the current court trends, client expectations and a range of issues in document management, including commentary on:

- Maintaining electronic information
- Discovery of electronic information
- Using electronic information in litigation

Alistair Little, Partner, **TressCox Lawyers** (Sydney)

Annette Hughes, Partner, **Allens Arthur Robinson** (Melbourne)

Andrew Shute, Senior Associate, **Minter Ellison** (Brisbane)

3:30

Afternoon tea

4:00

Investor and public relations

With the advent of faster and more penetrating media, commercial litigators are working with other professionals to protect their clients' interests in contentious matters.

- Understanding the role and capabilities of the public relations professional
- Recognising situations in which clients' affairs could benefit from management of stakeholder perception
- Working with the client to select its representative
- Instructing the public relations consultant
- The practitioner's ongoing involvement in this process

Jacquelynne Willcox, Director Government Relations & Public Affairs, **Hill & Knowlton** (Sydney, Melbourne and Brisbane)

4:50

Closing remarks from the chair

5:00

Close of day one

8:30

Conference registration

8:50

Opening remarks from the chair

MEET YOUR CHAIR

Steven Glass, Partner, **Gilbert + Tobin** (Sydney)

Howard Rapke, Partner, **Holding Redlich** (Melbourne)

Nic Doucas, Partner, **Blake Dawson Waldron** (Brisbane)

9:00

Dispute clauses

There is a plethora of avenues by which a business relationship dispute can be managed. Assist your clients to elect the most commercially appropriate method and ensure that it is implemented effectively in contract documents. Our speakers explore possibilities offered by:

- The spectrum of solutions from arbitration through to mediation, expert determination and other resolution methods
- Clauses in international trade contracts

Kerry Hogan-Ross and Claire Tait, Partners, **DLA Phillips Fox** (Sydney)

Tim McFarlane, Principal, **McFarlane Legal** (Melbourne)

Drew Castley, Partner, **DLA Phillips Fox** (Brisbane)

9:50

Costs in commercial matters

Amidst concern that the true cost of litigation is being subsidised by the Australian community and public comments from the Bench, practitioners will need to audit practices applied to matter management, costs and costs applications.

- Amendments to Supreme Court Rules on outsourced costs assessments for recovery of costs between parties and assessments under the Legal Profession Act 2007 (Queensland only)
- Advising clients on costs recovery, liability for other parties' costs and commercial aspects
- Procedures in gross sum applications
- Costs in forums other than courts

Deborah Vine Hall, Principal, **DSA Cost Consultants** (Sydney)

Liz Harris, Principal, **Harris Cost Lawyers** (Melbourne)

Paul Garrett, Cost Assessor, **Hickey & Garrett** (Brisbane)

10:40

Morning tea

11:10

Litigation funding and insolvency issues

Litigation funding is now widely accepted as fundamental in providing access to the legal system and as a buttress against potential injustice. However, there are lessons from recent decisions for lawyers and insolvency practitioners to tread carefully to ensure that funded litigation is for the benefit of their principals.

- Recent judicial developments in the High Court of Australia in *Campbell's Cash & Carry Pty Ltd v Fostif Pty Ltd* [2006] HCA 41 and *Mobil Oil Australia Pty Ltd v Trendlen Pty Ltd* [2006] HCA 42 and in the NSW Supreme Court *Hall & ors v Poolman & ors* [2007] NSWSC 1330 and *Hall & ors v Poolman & ors (No 2)* [2007] NSWSC 1494
- Lessons to be learnt for lawyers and insolvency practitioners
- Are there any limits to third party funded litigation?
- Can third parties fund litigation if it is not brought for the benefit of the principal?
- Victorian Session: Recent developments in Victoria and implications for commercially funded litigation in Victoria following the release of a summary of draft civil justice reform proposals by the Victorian Law Reform Commission (VLRC)

Leon Chung, Senior Associate, **Freehills** (Sydney)

Jonathan Kramersh, Partner, **Corrs Chambers Westgarth** (Melbourne)

Greg Rodgers, Partner, **Rodgers Barnes & Green, Lawyers** (Brisbane)

12:00

Contemporary approaches to damages

Whether by 'contumelious disregard' of the rights of the plaintiff, *force majeure*, inability or reluctance to perform a contract, defendants can be liable for damages on a number of bases. Our speakers unveil on prevailing approaches in the commercial litigation context.

- the restitution interest, the reliance interest and the expectation interest
- recovering reliance expenses which exceed the benefit which would have derived from the contract
- causation issues in relation to post-acquisition damages

- damages based on warranty as to performance
- the position as if the contract was not made of that of the performed contract
- equitable approach

Nigel Cotman SC, NSW Bar (Sydney)

Lachlan Armstrong, Victorian Bar (Melbourne)

Mark Darian-Smith, Partner, **Mallesons Stephen Jaques** (Brisbane)

12:45

Networking lunch for speakers and delegates

1:45

"Swifter, cheaper, fairer" – a look at the fast track procedures

Recent disputes including the C7 litigation have provided an impetus for change as to how disputes are handled. Some courts have lists which run on accelerated timetables, strictly adhering to deadlines, with the aim of resulting in speedy disposition of cases. At the same time ADR institutions such as IAMA have developed 'fast track' procedures for the speedier resolution of arbitration disputes. It is timely to look at the availability of this process and to what extent it has achieved its goals to date.

- "Rocket Docket" in Victoria
- IAMA fast track provisions
- Other forums which currently use fast tracking
- Types of matters which are amenable
- Challenges in prosecuting and defending matters in the lists
- The overseas experience
- Achievements in the lists to date

Damian Sturzaker, Partner, **Gadens Lawyers** (Sydney)

Albert Monichino, Victorian Bar (Melbourne)

Frances Williams, Senior Associate, **Corrs Chambers Westgarth** (Brisbane)

2:40

Preparing for mediation

This session highlights a vital distinction between mediation and non-consensual conflict resolution. Our speaker will examine the skills and attributes required to draw out and understand your client's real imperatives in a dispute to assist in the successful outcome of a mediation.

- How best to present your proposal
- When to negotiate and when to leave the table
- How to evaluate any proposal received

Alan Limbury, Managing Director, **Strategic Resolution** (Sydney)

Georgina Grigoriou, Vic Bar (Melbourne)

Ian Hanger QC, Qld Bar (Brisbane)

3:30

Afternoon tea

4:00

Commercial resolution of technical disputes implementing the adroit principles

Many organisations have low levels of corporate competency in dispute resolution techniques. The ADRoIT Principles have been developed to assist organisations develop the most efficient dispute resolution regime for their kind of business. Originally developed for IT and technical dispute subject matter, the key focus is to make litigation a last resort and to resolve even factually complicated disputes in an expeditious and relationship-preserving manner. The Adroit Principles drive a method of resolving issues at appropriate levels within an organisation, using relevant information and other resources to avoid commercial disruption whilst any dispute resolution process is on foot.

- Introduction to ADRoIT Principles
- Organisational competency in dispute resolution
- Maximising dispute resolution efficiency
- Key attributes of an in-house dispute resolution regime

Philip Argy, Principal & Chief Executive, **ArgyStar.com**

(Sydney, Melbourne and Brisbane)

4:50

Closing remarks from the chair

5:00

Close of day two

Day 3 Sydney: Friday 9 May 2008
Melbourne: Wednesday 14 May 2008
Brisbane: Friday 16 May 2008

CASE PREPARATION AND ADVOCACY IN COMMERCIAL MATTERS

8:30

Workshop A registration

9:00

The experts make this look easy, so here is the opportunity to acquire that level of skill which will give the practitioner confidence in the carriage and conduct of commercial litigation.

- Case theory and identifying the focus of your commercial cases
- The pleadings as a checklist
- The Uniform Evidence Acts
- Using documentary evidence persuasively
- Your opponent's evidentiary weaknesses
- Interlocutory evidence
- Preparing for trial:
 - back to the pleadings
 - Notices to Admit
 - Aides memoires
- Avoiding conflicts of duty to your client and the Court

Workshop Facilitators

WORKSHOP
FACILITATORS

Fenja Berglund, NSW Bar (Sydney)
Jamie Richardson and Emily C V Porter,
both of the Victorian Bar (Melbourne)
Dominic Pyle, Qld Bar (Brisbane)

12:00

Networking lunch for speakers and delegates registered both workshops

ALTERNATE DISPUTE RESOLUTION

12:45

Workshop B registration

1:00

This workshop allows the commercial lawyer to gain a deeper understanding of non-litigious methods for managing their clients' commercial issues. More than treating the process as being conducted in the shadows of the courts, this is an opportunity to grasp and implement sustainable methods to avoid litigation.

- Exploring ADR options and appropriate uses
- Engaging case studies
- The lawyer's mindset: legal rights of client's best interests
- Applying the ADR technique in commercial situations
- What the client is likely to ask or be fearful of
- How to choose a facilitator/ mediator /expert
- About national accreditation
- Tools and tips for lawyers engaged in ADR processes in their clients' interest

Workshop Facilitators

WORKSHOP
FACILITATORS

Shirli Kirschner, Principal, **Resolve Advisors Pty Ltd** (Sydney)
David Bryson, Mediator, **Resolve Advisors Pty Ltd** (Melbourne)
Tania Sourdin, Professor of Conflict Resolution, Director,
Conflict Resolution and Practice, (Brisbane)

5:15

Close of workshops



Bar Association Members

Earn CPD points and receive a 10% discount!

This event is accredited by:

Victorian Bar



A member of the Victorian Bar attending this conference will receive 1 CPD point per hour up to a maximum 5 CPD points in the fields of Substantive Law/Professional Skills.

New South Wales Bar Association



A member of the NSW Bar Association attending this conference will receive a maximum of 6 CPD points (1 point per hour).

Bar Association of Queensland

A member of the Bar Association of Queensland will receive CPD points at this event. Please contact the Association for further details.

To receive your 10% discount, please complete your Association membership details on the registration form.



Why attend this event?

- Best practice perspectives on current commercial litigation challenges
- Fresh speakers who excel in their practice

Who should attend

- Solicitors
- Barristers
- Associates
- Senior Associates
- In-house Lawyers
- Government Lawyers
- Litigators
- Dispute Resolution Specialists

CONFERENCE DATE AND VENUE

Sydney 7-9 May 2008
Swissotel
 68 Market Street,
 Sydney NSW 2000
 Tel: +61 2 9238 8888
 www.swissotel.com

Melbourne 12-14 May 2008
Novotel Melbourne on Collins
 270 Collins Street,
 Melbourne 3000
 Tel: +61 3 9667 5800
 www.novotel.com.au

Brisbane 14-16 May 2008
Stamford Plaza Brisbane
 Cnr Edward & Margaret Streets
 Brisbane, QLD 4000 Australia
 Tel: +61 7 3221 1999
 www.stamford.com.au/spb/

PROGRAM CHANGES

Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details at any time if required.

CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by 9 April 2008. If we receive written notification between 10-April and 23-April 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 23-April 2008. You may nominate a replacement, however no refund will be issued.

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Tick here if you DO NOT wish to receive information about upcoming events

What your colleagues had to say about previous conferences:

"...was great and I will be using all knowledge gained from the course to further assist clients effectively."
 Joanne Harris, Solicitor, Sneddon Hall & Gallop Lawyers

All presentations were very informative..
 Michael Clements, Watson & McLeod.

TEAM DISCOUNTS*

Register a team of 3 for the Commercial Litigation and ADR conference at the same time, from the same organisation and receive a **free pass** for the 4th delegate.

* Early Bird, Team Discounts and any other discount cannot be taken concurrently

Four easy ways to register

Phone 1800 772 772
Fax (02) 9422 2338
Online www.lexisnexis.com.au/pd

Mail Conference Co-ordinator, LexisNexis
 Locked Bag 2222,
 Chatswood Delivery Centre, Chatswood NSW 2067

Please complete sections A, B and C

Conference code: **Sydney PD3508, Melbourne PD3608, Brisbane PD3708**

ABN: 70 001 002 357

I would like to register for the Commercial Litigation & ADR conference

Sydney Melbourne Brisbane

A EARLY BIRD SPECIAL (expires on 20 March 2008)

<input type="checkbox"/> 2 day conference + 2 workshops	\$2500 + GST = \$2750
<input type="checkbox"/> 2 day conference + 1 workshop#	\$2050 + GST = \$2255
<input type="checkbox"/> 2 days conference	\$1700 + GST = \$1870
<input type="checkbox"/> 2 workshops	\$ 760 + GST = \$ 836
<input type="checkbox"/> 1 workshop#	\$ 400 + GST = \$ 440

#I will be attending workshop Workshop A Workshop B

BAR ASSOCIATION MEMBERS

I am entitled to a 10% discount as a member of the following Bar Association

NSW VIC QLD Member # _____

CONFERENCE RESOURCES

I am unable to attend but would like to purchase a set of conference papers for Commercial Litigation and ADR 2008 \$300 + GST = \$330

STANDARD PRICE (expires on 20 March 2008)

<input type="checkbox"/> 2 day conference + 2 workshops	\$2727.27 + GST = \$3000
<input type="checkbox"/> 2 day conference + 1 workshop#	\$2227.24 + GST = \$2450
<input type="checkbox"/> 2 days conference	\$1800.00 + GST = \$1980
<input type="checkbox"/> 2 workshops	\$ 863.00 + GST = \$ 950
<input type="checkbox"/> 1 workshop#	\$ 450.00 + GST = \$ 495

I would like to purchase a copy of:

- Legal Professional Privilege in Australia – 2nd Edition for \$168 (inc GST)
 Advocacy in Practice – 4th Edition for \$225 (inc GST)
 Conflict Management: A practical guide – 3rd Edition \$82.00 (inc GST) ISBN 9780409324716

B Payment Details Payment is due upon registration

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C Delegate details (for additional delegates please photocopy form)

Mr/Ms/Dr _____
first name surname

Position _____

Organisation _____

Postal Address _____

Suburb _____ Postcode _____ State _____

Telephone _____

Fax _____

Email _____

YES! I would like to receive information on upcoming events via email.