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Contract Law

masterclass 2019

28 February • The Westin Sydney



australasianlawyer.com.au/contract-law-masterclass

Presented by

**KEY
MEDIA**

8:00am

Registration opens

8:45am

Opening remarks from the chairperson:

Speaker:
Joseph Manner
Barrister at Law

9:00am

Ipsa facto clauses and the right to terminate for insolvency

New rules are now in place to restrict the operation of ipso facto clauses in insolvency events. How can you protect your business or clients against insolvency risks?

- Overview of the new provisions (sections 415D-415G, 434J-434M and 451E-451H)
- Enforcing rights to terminate for delay, late payment or licensing issues
- Strategies for minimising exposure to contractor insolvency risk
- Protecting rights against the possibility of future insolvency events
- Enforcing contractual rights against a company in financial difficulty
- Exceptions to the stay on the exercise of ipso facto provisions

Speaker:
David Walter
Partner
Baker & McKenzie

9:45am

Enforceability of click-wrap and browse wrap agreements

Online contract have become the norm, forcing the courts to re-consider the application of age-old principles of contract law. How are the courts treating online contracts?

- The risks involved in clickwrap, sign-in wrap and browsewrap agreements
- Implications of the Uber case (Meyer v Kalanick & Uber Technologies) for Australia
- What counts as reasonably conspicuous notice of terms and conditions?
- Surfstone Pty Ltd v Morgan Consulting Engineers Pty Ltd [2016]
- How to ensure that you're bringing incorporated terms to the contracting party's attention?
- What does the future hold for online contracts?

Speakers:
Tal Williams
Partner
Holman Webb Lawyers

10:30am

Morning refreshments and networking break

11:00am

Australian Consumer Law (ACL) update

Companies that contravene the Australian Consumer Law (ACL) will now face tougher penalties of up to \$10 million per contravention or 10% of annual turnover, making ACL compliance critically important.

- How the courts are determining pecuniary penalties for ACL breaches
- Are non-disparagement clauses void under the Australian Consumer Law?
- The use of limitation periods, liability caps and exclusions on classes of damages to limit the operation of the ACL
- How effective are contractual limitations on ACL rights?
- Practical examples of effective consumer law compliance programs

Speaker:
Lynsey Edgar
Partner
Dentons

11:45am

Enforceability of verbal contracts – lessons from the UK

Two recent cases in the UK provide guidance on the legal standing of non-oral modification clauses in written agreements in Australia.

- When can a written agreement with a non-oral modification (NOM) clause be varied verbally?
- Implications of Blue v Ashley [2017] and Rock Advertising v MWB Business Exchange Centres for Australian contracts
- Dealing with allegations of oral variations or oral collateral contracts
- How to draft an enforceable no oral modification (NOM) clause

Speaker:
Stephen Klotz
Partner
Hall & Wilcox

12:30pm **Networking lunch**

1:30pm

PANEL: Risks and opportunities of blockchain and smart contracts

Blockchain is still a work in progress from a legal and operational perspective. This thought-provoking panel will discuss the enforceability and risks of smart contracts.

- Know your customer checks and blockchain: complying with anti-money laundering and counter terrorism financing (AML/CTF) laws
- What are the risks of blockchain repeating and compounding errors or fraud?
- Does blockchain have mechanisms to detect infiltrators?
- How powerful is private key cryptography as an ownership tool?
- How easy is it to detect and modify errors in blockchain?
- Problems with legal enforceability with a “permissionless” distributed ledger
- Dispute resolution mechanisms relating to distributed ledger technology

Speakers:

Mark Toohey
Legal Director
Adriot Lawyers

Michael Bacina
Partner
Piper Alderman

Richard Prangell
Director
Viridian Lawyers

David Andrews,
Associate
Maddocks

2:30pm

Warranties, indemnities and insurance

This session will discuss the interplay between warranties, indemnities, insurance and limitations of liability in commercial contracts.

- Effective contractual devices to minimise or avoid liability
- Interaction between indemnities and insurance
- Allocating risks in commercial contracts
- How does warranty insurance impact the negotiation of warranties?
- Implications of *Champion Homes Sales Pty Ltd v Commissioner for Fair Trading* [2018] regarding the standard of liability for breaches of statutory warranties
- Warranties for the purpose of contractual provisions or disciplinary provisions
- Caw law overview– how enforceable are broad indemnity clauses?

Speakers:

Ray Giblett
Partner
Norton Rose Fulbright

3:30pm

Afternoon refreshments & networking break

3:50pm

Successful contract negotiation strategies

This practical workshop will help you to hone your negotiation skills so that you can adapt your negotiation style and strategies to your circumstances.

- Selecting the negotiation style that suits the context and commercial circumstances
- Taking control of the timing and pace of a contractual negotiation
- Agreeing settlement parameters and walk-away positions
- Managing difficult clients with unrealistic expectations

Speaker:

Scott Alden
Partner
Holding Redlich

*(Participants may claim
1 CPD Unit: Professional
Skills: 1 hour)*

4:15pm

Legal ethics in contract negotiation

This one hour session will provide guidance on identifying and navigating conflicts of interest in the practice of law, with a particular focus on commercial contract negotiation and drafting.

- Walking the fine line between competitive and unfair advantage
- Confidentiality and client privilege in contract negotiation
- What should you do if you realise that your opponent has made a mistake?
- The ethics and enforceability of non-disclosure agreements in a post #MeToo world

Speaker:

Peter Francis
General Counsel
Maddocks

*(Participants may claim
1 CPD Unit: Professional
Skills: 1 hour)*

5:15pm

Conference concludes

EARLY BIRD OFFER until 18 January 2019

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Contract Law masterclass 2019

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Alternatively, please scan and email this form to
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<input type="checkbox"/> Individual Pass \$1,090 (Regular price \$1,290)	<input type="checkbox"/> Team Pass (4 for the price of 3) \$3,270 (Regular price \$3,870)
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