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Contract Law masterclass 2018

1 March • Amora Jamison Hotel, Sydney

Presented by



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**KEY
MEDIA**

8:00am	Registration opens	
8:45am	Opening remarks from the chairperson: Digital contracts and the future of contract law Claire Bibby , <i>Non-Executive Director, Marist180</i>	
9:00am	Blockchain and the future of smart contracts Over the last 12 months, the legal application of blockchain technology has been growing in sophistication, complexity and acceptance. This session will run through the practical legal challenges of smart contracts. <ul style="list-style-type: none">• How distributed database (ledger) technology works in practice• Challenges and opportunities presented by open-source blockchain platform Ethereum• How to mitigate the risks of bugs in the contract code• Overcoming privacy issues with smart contracts	Speaker: Michael Bacina <i>Partner</i> Piper Alderman
10:00am	Electronic signatures on contracts: mitigating the risks While Australian law recognises the validity of e-signatures, they present some legal risks. How can parties ensure and prove that the signors intend to be bound by the contract? <ul style="list-style-type: none">• Implications of <i>Williams Group Pty Ltd v Crocker</i> [2016] regarding e-signatures• How to confirm the identity of the signor and their intention to be bound by the content of contract• What types of physical record-keeping procedures should be in place when implementing an e-signature program?	Speakers: Timothy Atkin <i>Partner – Commercial Disputes and Litigation</i> Maddocks
10:30am	Morning refreshments and networking break	
11:00am	'I agree': enforcing so-called 'click wrap' agreements Businesses and consumers today often enter into binding contracts through online 'click wrap' agreements. How are courts interpreting the enforceability of such contracts? <ul style="list-style-type: none">• The legal differences between 'clickwrap', 'browsewrap' and 'sign-in wrap' contracts• How unfair contract terms provisions set out in part 2-3 of the Australian Consumer Law apply to online contracts• Implications of <i>Surfstone Pty Ltd v Morgan Consulting Engineers Pty Ltd</i> [2016]• Is the US Uber case <i>Meyer v Kalanick</i> (Uber) [2016] relevant to Australian matters?• Practical tips to enhance the enforceability of online contracts	Speaker: Simon Johnson <i>Partner</i> Corrs Chambers Westgarth
11:45am	Warranties, indemnities and exclusions: balancing the speed of negotiation with risk The indemnity clause remains the most contested clause in any contract negotiation. This session will review trends and best practice in the use of indemnities, exclusion clauses and limits on liability across various sectors. <ul style="list-style-type: none">• What are the most common indemnities being used today?• What are the consequences of a breach of warranties?• The appropriate commercial circumstances for each indemnity• When does the <i>contra proferentem</i> rule apply?• The interaction between insurance policy terms and indemnifications in	Speaker: James Halliday <i>Partner</i> Baker & McKenzie



contractual arrangements

- How important is the removal of an indemnity for consequential loss clause?
- To what extent can indemnities enforced over jointly owned assets and non-contracting parties?

12:30pm

Networking lunch

1:30pm

Contract termination part one: breach, repudiation, renewal and damages

In part one of this two-part session, the presenter will discuss recent developments and cases involving repudiation, damages, renewal and alternative dispute resolution clauses.

- When does a breach of contract constitute a repudiation of that contract?
- Can you recover the cost of management time as damages? *PND Civil Group Pty Ltd v Bastow Civil Constructions Pty Ltd* [2017]
- Implications of *Port Macquarie-Hastings Council v Diveva* [2017] regarding the contractual interpretation of renewal clauses
- Examples of alternative dispute resolution process clauses that can bind parties after termination

Speakers:

Scott Higgins

Partner

Mills Oakley

2:15pm

Contract termination part two: mistake and force majeure

In part two of this two-part session, the presenter will discuss recent developments and cases involving frustration, 'force majeure', mistake and mitigation of loss.

- The doctrine of frustration and force majeure at common law
- Sample 'force majeure' clauses that allow the non-performing party to escape liability
- When does a common mistake, mutual mistake, unilateral mistake or non est factum mistake allow a party to escape a contract?
- How to overcome the practical difficulties in running and proving mitigation of loss arguments

Speaker:

Stephen Klotz

Partner

Hall & Wilcox

3:00pm

Afternoon refreshments & networking break

3:30pm

Negotiating with opposing lawyers – practical tips and ethical dilemmas

How far should you go to advance your client's interests in a contract negotiation? This workshop will share tips on ethical, cooperative negotiation strategies.

- Ensuring that the other party's behaviour does not get in the way of a settlement
- At what point do negotiation tactics transcend the bounds of appropriate behaviour?
- Convincing opposing lawyers to restrict their drafting to what is essential, and omitting boilerplate clauses
- Implications of *Masters Home Improvement Pty Ltd v North East Solutions Pty Ltd* [2017] regarding parties' express obligations to act in good faith to resolve their differences
- Highly competitive tactics compared with cooperative and problem-solving approaches

Speaker:

Simon Ashworth

Partner

Corrs Chambers

Westgarth

4:30pm

Conference concludes

SUPER SAVER OFFER

until 15 December 2017

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