

A TEN POINT MASTERCLASS – GET YOUR 10 CPD UNITS

Second Annual Commercial Law 10 Point Masterclass

Friday 19 February 2021
Radisson Hotel & Suites, Sydney

- Warranties: A Contractual Safety Net
- Exclusion Clauses – How Far Can You Exclude Liability in Challenging Times?
- Commercial Contracts and the Evolving Obligation of Good Faith
- Counting the Costs of Damages for Breach of Commercial Agreements
- Pre-Contractual Representations: When Can They Come Back to Bite?
- Equitable Remedies in Commercial Law Disputes

Earn 10 CPD units including the compulsory subjects – attend this one-day Masterclass and we'll supply 4 free recorded video webinars – 3 covering each of the compulsory subjects plus one other substantive law program to view at your leisure



Leaders in Online CPD for Lawyers and Accountants



Morning Theme: Commercial Contract Drafting Strategies

9.00 – 9.10am	Introduction and welcome Morning Chair: Robert Schneider, Consultant, HWL Ebsworth Lawyers, Sydney
9.10 – 10.00am	Session 1: Warranties: A Contractual Safety Net A warranty provides a degree of certainty to the contracting party to whom it is made, but the way in which it is drafted will have considerable bearing on the outcome of its breach. This session will provide practitioners with a deep-dive into why precise drafting of warranties is essential and how to avoid costly drafting mistakes, including: <ul style="list-style-type: none">• Is there a difference between a warranty and a representation? Can a warranty ever be a representation?• Warranties as a risk allocation tool• When is a warranty required? Examples for various sale agreements discussed• The time-based nature of a warranty – at what point is it effective?• What are the consequences of a breach of warranty?• What does a warranty need to contain?• Drafting for consequences for breach of warranty:<ul style="list-style-type: none">○ Limiting or excluding damages○ Direct and consequential loss issues• Implied and statutory warranties• Examples of warranties and case studies <i>Speaker: Bridie Nolan, Barrister, 12 Wentworth Selborne Chambers, Sydney</i>
10.00 – 10.10am	Questions and Discussion
10.10 – 11.00am	Session 2: Exclusion Clauses – How Far Can You Exclude Liability in Challenging Times? Contracting parties may be motivated to include broad exclusion clauses in contracts, especially during times of crisis. This session looks at how far this can be taken. It includes: <ul style="list-style-type: none">• Constructing an exclusion clause – a recap• What role does contra proferentem have to play in the new landscape?• How broad can a release be?• Can you release future rights if expressly done?• Detailed examples of exclusion clauses recently considered by Courts• Practical drafting suggestions <i>Speaker: James d'Apice, Special Counsel, Chamberlains, Sydney</i>
11.00 – 11.10am	Questions and Discussion
11.10 – 11.30am	Morning Tea Break



11.30am-12.20pm	Session 3: Commercial Contracts and the Evolving Obligation of Good Faith Good faith plays a crucial role in the law of contract, yet it is still a very grey area of law. This session will look at good faith and the current developments in this essential but undefined area of law: <ul style="list-style-type: none">• What is the current principle of good faith in Australian contract law?• Can good faith as a contractual term be imputed or implied?• Is an express term of good faith enforceable?• Is reasonableness a part of the concept of good faith?• Binding terms• Drafting considerations and tips• Recent cases and developments <i>Speaker: Sydney Jacobs, Barrister, Thirteen Wentworth Chambers, Sydney</i>
12.20 – 12.30pm	Questions and Discussion
12.30pm – 1.10pm	Luncheon

Afternoon Theme: Termination and Breach Issues in Commercial Contracts

1.10 – 1.15pm	Introduction Afternoon Chair: Elisabeth Peden, Barrister, Third Floor Wentworth Chambers, Sydney
1.15pm – 2.05pm	Session 4: Counting the Costs of Damages for Breach of Commercial Agreements Breach of commercial agreements present many potential economic claims against the defaulting part. This session focuses on what is and is not claimable, including recent case law developments. It contains: <ul style="list-style-type: none">• Revisiting Hadley v Baxendale – what refinements have taken place?• Claims for termination of services• Recovery for loss of bargain and profits• What expenses can be recovered for reliance on the contract?• Containing damages for pure economic loss• Claiming damages for 'loss of a chance': is this possible?• Duty to mitigate loss in commercial contract breach• Case update <i>Speaker: Caroline Hutchinson, Principal, Coleman Greig Lawyers, Sydney</i>
2.05 – 2.15pm	Questions and Discussion



2.15pm – 3.05pm	<p>Session 5: Pre-Contractual Representations: When Can They Come Back to Bite?</p> <p>What was said during the negotiations leading up to an agreement can have a major impact on the expectations of each party. Where a pre-contractual representation turns out to be false, the implications for the contract can be significant. The other party may have a right to rescind, or to claim damages. This session will provide practical guidance on how to avoid the pitfalls of pre-contractual representations, including:</p> <ul style="list-style-type: none"> • What is a pre-contractual representation? Understanding the various types: <ul style="list-style-type: none"> ○ Innocent misrepresentation ○ Negligent or fraudulent misrepresentation ○ Representation amounting to misleading or deceptive conduct • The legal effect of pre-contractual representations • When pre-contractual representations affect the risk management of contracts • Managing the risk of pre-contractual representations – the role of exclusion clauses, entire agreement clauses, non-reliance statements and other contractual protections • Case study: Estoppel by pre-contractual representation • Case study: Misrepresentation amounting to an unconscionability claim <p><i>Speaker: Dr Anton Hughes, Barrister, Maurice Byers Chambers, Sydney</i></p>
3.05 – 3.15pm	Questions and Discussion
3.15 – 3.35pm	Afternoon Tea Break
3.35 – 4.25pm	<p>Session 6: Equitable Remedies in Commercial Law Disputes</p> <p>Equity is a discretionary jurisdiction for courts. Do challenging times represent an opportunity for greater use of equitable discretion? This session looks at the impact of challenging times on key equitable remedies used in commercial disputes, including:</p> <ul style="list-style-type: none"> • Injunctions • Specific performance • Equitable damages • Equitable compensation <p><i>Speaker: Brenda Tronson, Barrister, Level 22 Chambers, Sydney</i></p>
4.25 – 4.35pm	Questions and Discussion
4.35pm	Masterclass Close

In addition, all delegates will receive the following recorded webinars. These webinars are being recorded in February and will be provided online by end February 2021 for you to view at your leisure to make up the 10 CPD units.

1. Calling Out Bad Behaviour: The Professional Complaints Process Practice (ethics)
2. Tears Before Bedtime: Drafting Effective Early Termination Clauses (professional skills)
3. A Roadmap for Managing Client Expectations (practice management & business skills)
4. Cost Orders Against Lawyers in Commercial Matters (substantive law)



GENERAL INFORMATION

Masterclass Registration Fee

The registration fee includes attendance at the masterclass, online access to the conference papers and refreshment breaks and lunch.

Masterclass Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the masterclass (as the papers become available), during the masterclass and after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device. At the masterclass TEN will supply printed copies of the PowerPoint presentations used at the masterclass.

CPD - Lawyers

10 CPD units – 6 substantive law units from attending the Masterclass PLUS we will provide you with 4 free recorded video webinars covering each of the compulsory subjects (Ethics, Practice Management & Business Skills and Professional Skills) plus one other substantive law program for you to view at your leisure prior to 31 March 2021. The recorded webinars will be made available for viewing in late February 2021.

CPD Certificate

All delegates will receive a CPD certificate confirming registration and the CPD units applicable

The Venue

Radisson Hotel & Suites

72 Liverpool Street, Sydney

Web: <https://www.radisson.com/sydney-hotel-ns-2000/ausydney>

Masterclass Dress

Smart casual attire is suitable. *(note: the temperature in the conference room varies depending on where you are sitting. Light attire is generally OK, but it is advisable that you bring a jacket/long sleeved top in case you need it.)*

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

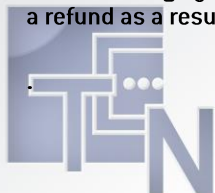
Terms

Program subject to change without notice. The information and views presented in the masterclass are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for masterclass cancellation or any other loss or liability is the refund of the registration fee paid.

TEN reserves the right to convert the conference on no less than 24 hours' notice to an online conference or to cancel the conference if TEN determines that it is unable to hold the conference face to face for any one or more of the following reasons:

- State or national border closures
- Restrictions on movement of persons imposed on persons by any responsible authority in Australia
- The inability or refusal of one or more presenters or TEN team members to attend the conference to present
- In its opinion, it is unsafe to hold the conference face to face for any reason.

If TEN converts the conference from face to face to online or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result, including any travel costs relating to the conference and you will not be entitled to a refund as a result of the conversion.



Registration Form

REGISTRATION IS SIMPLE: complete the form below and fax or post your registration to us or register online.
Television Education Network Pty Ltd (ABN 19 052 319 365)
Mail: GPO Box 61, Melbourne, Victoria 3001 Fax (03) 9670 0588 Phone (03) 8601 7700
Enquiries: Contact our Event Co-Ordinator, Hayley Williams-Cameron (hayley@tved.net.au) [direct: (03) 8601 7730]
Register online: www.tved.net.au – go to Masterclasses

Please register me for 2nd Annual Commercial Law 10 Point Masterclass to be held on Friday 19 February 2021. Registration includes attendance at the masterclass plus 4 free one-hour recorded webinars covering each of the CPD compulsory subjects and 1 additional substantive law unit to view at your leisure. Delegates will earn their 10 CPD units for the CPD year ending 31.3.21 [conf code: SXCFEB21]

- Early Bird Registration – for registrations paid on or before 31 January 2021 - \$880 (\$800 + \$80 GST)
 Full Price Registration – \$990 (\$900 + \$90 GST)

Can't Attend – Purchase the Masterclass Papers

The papers from this masterclass will be available in electronic form only approximately 1 week after the masterclass has been held. You can pre-order the papers now online via our website at www.tved.net.au [go to Conference Papers]. The papers are \$165 (\$150 + \$15 GST) [Code: PSXCFEB21].

NAME & ADDRESS DETAILS

Mr/Mrs/Miss/Ms (circle appropriate) Name:.....
Position in Company/Firm:.....
Company/Firm:.....
Postal Address:
..... State..... Postcode:.....
Telephone: [.....]..... Mobile: [.....].....
Email:

PAYMENT DETAILS (Note: This form will be a Tax Invoice for GST when you make payment)

I enclose a cheque for \$..... payable to: Television Education Network Pty Ltd or
Please debit my: Amex Mastercard Visa

Expiry Date/.....

Name on Card: _____ Signature: _____

