

## The Hon Peter Heerey AM QC



The Hon Peter Heerey AM QC is a former Judge of the Federal Court of Australia

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### QUALIFICATIONS

Bachelor of Arts  
Bachelor of Laws (Hons) (Tas)

### CORRESPONDENCE

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### CHAMBERS

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### COMMERCIAL LAW

Appellate | Class Actions | Commercial Arbitration | Competition | Consumer Law | Contractual Disputes |  
Corporate Insolvency | Corporations & Securities | Insurance

### INTELLECTUAL PROPERTY

Appellate | Confidential Information | Copyright & Designs | Media & Entertainment | Patents | Privacy &  
Data Protection | Trade Marks

### TORT LAW

Appellate | Class Actions | Commissions & Inquiries | Common Law | Defamation | Professional  
Negligence

### PUBLIC LAW

Administrative Law | Appellate | Commissions & Inquiries | Constitutional Law | Freedom of Information |  
Judicial Review

The Hon Peter Heerey AM QC graduated with degrees in Law (First Class Honours) and Arts from the University of Tasmania.

After four years as a solicitor he commenced practice at the Victorian Bar in 1967. He was appointed Queen's Counsel in 1985 and a Judge of the Federal Court of Australia in 1990. He served on the Court until retirement in 2009. On the Court his work at both trial and appellate level involved commercial law (intellectual property, competition law, corporate and contractual disputes) and public law (judicial review of administrative decisions, taxation etc).

While on the Court he also served as President of the Defence Force Discipline Appeal Tribunal, a panel of Federal Court and State and Territory Supreme Court Judges which hears appeals from Courts Martial and Defence Force Magistrates and as Deputy President of the Australian Competition Tribunal.

Since retirement from the Court he has returned to the Victorian Bar practising in advice, arbitration and mediation.

In 2015 Mr Heerey was appointed by the Federal Minister for Employment to enquire into and report whether there was a reasonable basis for both Houses of Parliament to consider requesting the Governor-General to remove a Vice-President of the Fair Work Commission on the grounds of proved misbehaviour and incapacity. After provision of Mr Heerey's report to the Minister, the Vice-President resigned.

Also since retirement Mr Heerey has served a term as Chair of the Australian Electoral Commission, the body responsible for the conduct of Federal elections in Australia. Mr Heerey chairs the Advisory Board for the Graduate Program in Intellectual Property at the University of Melbourne and is a member of the Advisory Board for the Competition Law Program at the University. He is an Adjunct Professor at the University of Tasmania.

He has published papers in Australian and Overseas professional and academic journals in the areas of corporations law, defamation, expert evidence, intellectual property, law and literature and Federation history and a collection *Excursions in the Law* (Federation Press, 2014) and an autobiography *Can You See the Mountain?* (Hybrid Publishers, 2017).

In 2012 Mr Heerey was appointed a Member in the General Division of the Order of Australia (AM).

He is a Fellow of the Australian Academy of Law.

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## Recent Cases

### NOTABLE CASES

*Alstergren v Owners of the "Territory Pearl"* (1992) 112 ALR 133, maritime collision

*Service Station Association Ltd v Trade Practices Commission* (1992) 109 ALR 465, affirmed by Full Court (1993) 116 ALR 643, price fixing

*Henderson v Amadio Pty Ltd* (1995) 140 ALR 391, affirmed by Full Court (1998) 81 FCR 149, failed property investment scheme, misrepresentation, prospectus breach, solicitors' and valuers' negligence, professional indemnity insurance, 5 month trial, 8 defendants, 20 counsel

*Melway Publishing Pty Ltd v Robert Hicks* (1999) 90 FCR 128, dissent affirmed by High Court (2001) 205 CLR 1, abuse of market power

*Transport Tyre Sales Pty Ltd v Montana Rims & Tyres Pty Ltd* (1999) 93 FCR 421, trade marks

*Boral Besser Masonry Pty Ltd v ACCC* (1999) 166 ALR 410, affirmed by High Court (2003) 215 CLR 374 abuse of market power

*News Ltd v South Sydney Rugby League Club Ltd* (2000) 111 FCR 456, dissent affirmed by High Court (2003) 215 CLR 563, exclusionary provisions

*Roncevich v Repatriation Commission* (2003) 37 AAR 97, dissent affirmed by High Court (2005) 222 CLR 115 Veterans' entitlements

*AMP Financial Planning v CGU Insurance* (2004) 139 FCR 223, affirmed by the High Court (2007) 235 CLR 1, insurance, good faith, estoppel

*Apco Service Stations Pty Ltd v ACCC* (2005) ATPR 42-078, price fixing

*Eli Lilly & Co v Pfizer Overseas Pharmaceutical* (2005) 218 ALR 408, affirmed by Full Court 920050 225 ALR 416, the Viagra patent

*APF Pty Ltd v Kestrel Holdings Pty Ltd* (2007) 260 ALR 418, affirmed by Full Court [2009] FCAFC 144, sale of land, misrepresentation, valuers' negligence

*ACCC v Visy Industries Holdings Pty Ltd (No 3)* (2007) 244 ALR 673, price fixing, penalty

#### PUBLICATIONS

*Corporate Criminal Responsibility - a Reappraisal* (1962) 1 Tas ULR 677

*The Shareholder's Petition in Cases of Oppression* (1963) 36 ALJ 187

*Directors and Public Issues* (1966) 5 Melb ULR 429

*Looking over the Advocate's Shoulder: an Australian View of Rondelet v Worsley* (1968) 42 ALJ 3

*Winding up on the Just and Equitable Ground - Failure of Substratum* (1973) 47 ALJ 718

*Remedies of Shareholders Monash University/Law Institute Seminar 1982*

*The Company Law Framework for resolving Deadlocks Monash University/Law Institute Seminar 1982*

*Publishing the Defamatory Statements of Others* (1985) 59 ALJ 371

*A Last Hurrah – Privy Council Days, Victorian Bar News, Spring 1986, p 30*

*Pleading Defamatory Meaning* (1987) 61 Law Institute Journal 442

*Defamation Law Reform - Why all the fuss?* (1990) 14 Gazette of Law and Journalism 15

*The Biter Bit - Literary Criticism and the Law of Defamation* (1992) 11 Tas ULR 17 also in *The Happy Couple - Law and Literature* (The Federation Press 1995)

*Law in Vanuatu* (1992) 81 Victorian Bar News 56

*Justice for All? A Summation given to the Closing Session of the 28th Australian Legal Convention at Hobart* (1993) 87 Victorian Bar News 65

*Limitation of Maritime Claims, the Frank Stewart Dethridge Memorial Address given to the 20th Annual Conference*

- of the Maritime Law Association of Australia and New Zealand at Melbourne on 8 November 1993*
- A Year in Santos: Litigation under Part IV of the Trade Practices Act (with A. Kwong), published by the Federal Court of Australia.*
- Away Down South in Dixie (1994) 68 ALJ 641*
- Developments in Part IV and Section 155 of the Trade Practices Act, a paper delivered at the Leo Cussen Institute Melbourne on 28 November 1994*
- The Commonwealth's Use of the External Affairs Power, a paper delivered at the Annual Conference of the Australasian Law Students Association at Hobart on 4 July 1995*
- Truth, Lies and Stereotype: Stories of Mary and Louis, a paper delivered at the Law and Literature Symposium, Boalt Hall Law School, University of California at Berkeley on 2 October 1995, published in (1996) Newc LR Vol 1 No 3,1*
- Designing a Multi-Jurisdictional Courthouse in Melbourne Australia, a paper delivered at the Second International Conference on Courthouse Design at San Francisco on 12 October 1995*
- Canada and Quebec (1997) 102 Victorian Bar News 35*
- Expert Evidence in Intellectual Property Cases, a paper delivered to the Intellectual Property Society of Australia and New Zealand on 12 March 1998, published in (1998) 9 Australian Intellectual Property Journal 92*
- The Supreme Court of Tasmania: Its First Century 1824-1924, book review, (1998) 72 ALJ 315*
- New Commonwealth Courts Building in Melbourne, a paper delivered at Representing Justice, an International Conference on Court Architecture in Practice and in Theory, University of Wollongong on 26 June 1998*
- Trade Practices Act 1974 – 24 Years On, a paper presented at the 1998 Corporate Law Conference sponsored by the Leo Cussen Institute and the Australian Corporate Lawyers Association, 24 September 1998*
- Andrew Inglis Clark, Australian Federation and the Tasmanian Club, Speech at the Tasmanian Club President's Dinner, 2 October 1998, published in (1999) 3 The New Federalist 100*
- Professional Standards Today, a paper presented at the Conference of the Tasmanian Bar Association, Swansea, 31 October 1998*
- Trends in Federal Court Practice, a paper presented at the Insolvency Trustee Service of Australia National Conference, Melbourne, 6 November 1998*
- Modern Judgment Writing, a seminar at the Supreme Court and Federal Court Judges Conference, Sydney, 25 January 1999*
- Character and Personality: Where to for Protection in the Intellectual Property Area, a paper presented at the 13th Annual Conference of the Intellectual Property Society of Australia and New Zealand at Noosa, Queensland on 22 August 1999, published in (1999) 39 Intellectual Property Forum 8*
- Storytelling, Postmodernism and the Law, a paper presented at the Supreme and Federal Court Judges' Conference, Canberra ACT on 25 January 2000, published in (2000) 74 ALJ 681*
- A Judge in Architectland – Some Judicial Thoughts on Court Design, published in Architect Victoria July/August 2001, p 11*
- Expert Evidence: The Australian Experience, a paper delivered to the Copyright Society of Ireland at The Law*

*Library, Dublin on 5 December 2001, published in The Bar Review, Journal of the Bar of Ireland, vol 7 p 166*

*Expert Evidence, a paper delivered to the World Intellectual Property Organisation Asia-Pacific Regional Colloquium for Judiciary on Intellectual Property at New Delhi, India on 6 February 2002*

*Trade Secrets, a paper delivered at the WIPO Colloquium at New Delhi on 7 February 2002*

*Some Aspects of European Competition Law, a paper delivered at the Trade Practices & Consumer Law Conference at Sydney on 11 May 2002*

*Aesthetics, Culture and the Whole Damn Thing, a paper delivered to the Law and Literature Association of Australia at the University of Melbourne on 29 November 2002, published in Law & Literature (University of California Press for the Cardozo School of Law), Vol 15, Fall 2003, 295*

*The Directly Elected Irish Presidency and its Relevance for Australia, published in the Constitutional Law and Policy Review, Vol 5 no 1 December 2002*

*Substantial Market Power after Boral, a paper delivered to the Fourteenth Annual Workshop of the Competition Law and Policy Institute of New Zealand, Auckland NZ on 23 August 2003*

*Past Present and Future of section 46, a paper delivered to the Conference on Trade Practices Law and Economics, Victor Harbour SA on 13 September 2003*

*Owen Dixon: A Biography (Book Review) (2003) 77 ALJ 882*

*Expert Evidence – Recent Australian Developments (2004) Civil Justice Quarterly (UK) 386*

*Expert Evidence: Recent Developments, a paper delivered at the Australian Bar Association Conference, Florence Italy on 5 July 2004*

*The Merchant of Venice and the Trade Practices Act, a paper delivered at the University of South Australia Trade Practices Workshop, Barossa Valley SA, 17 October 2008, published in (2010) 84 ALJ 112*

*Andrew Inglis Clark: The Man and His Legacy, (2009) 83 ALJ 199*

*RPM for RPM: National Phonograph Company of Australia v Menck in Landmarks in Australian Intellectual Property Law, (Kenyon, Richardson and Ricketson eds) Cambridge University Press, 2009 (with Nicole Malone)*

*Rediscovering Rhetoric; Law, Language and the Practice of Persuasion. Book review, (2009) 83 ALJ 486*

*Price Signalling Forum, Gilbert+Tobin, 14 April 2011*

*An Innocent Abroad in Mediationland, a paper presented at the Australian Bar Association Conference, Dresden, Germany, 28 June 2011*

*Judges at Work: Making Decisions and Writing about Them, (2010) 149 Victorian Bar News 6*

*How Judges Think, book review, (2011) 150 Victorian Bar News 77*

*Shootout at the Real Chance Cafe; Aiming s 50 (2012) 39 Australian Business Law Review 457*

*Interlocutory Injunctions, a presentation at Mallesons 22 February 2012 (with Rowena Orr)*

*Litigants in Person, Leo Cussen Institute, 6 March 2012*

*How to Conduct a Hearing, AAT Conference, Lorne, 20 March 2012*

*Australian Competition Law in International Trade: Help or Hindrance? Australian Club, 19 April 2012*

*IP Litigation: A View from the Bench IP* (2012) 91 Intellectual Property Forum 29

*American Original: The Life and Constitution of Supreme Court Justice Antonin Scalia* , Book review, (2012)

Victorian Bar Review 1, (2012) 31 University of Tasmania Law Review, 155

*The Years of Lyndon Johnson: the Passage of Power* , Book review, Australian Book Review, November 2012, 34

*Corrupt Conduct: the ICAC's Cunneen Inquiry* (2015) NSW Bar News (Winter) 49

#### BOOKS

*Excursions in the Law*, Desert Pea Press, 2014

*A Moment's Delight – Occasional Verse*, 1999, second edition 2009

### Memberships

Victorian Bar - Commercial Bar Association

Australian Academy of Law

Australian Association of Constitutional Law

Intellectual Property Society of Australia and New Zealand

Judicial Conference of Australia