

ALB

MASTERCLASS SERIES

# Liquidated damages

WORKSHOP

Sydney: Wednesday 10 March 2010  
Sir Stamford at Circular Quay, 93 Macquarie Street

## agenda

- 9:00 Overview of liquidated damages**
- Clarifying what liquidated damages clauses are and how and when it is best to use them
  - Indemnity, liquidated damage or insurance; which is the right clause for your contract?
  - Defining the two- part process of liquidated damages: Establishing liability and getting the money
- Shaun Bailey, special counsel, Corrs Chambers Westgarth**

- 9:50 Case studies of decisions and clause examples: Uncovering problem areas**  
Cases to be examined include:
- *Peerless Holdings Pty Ltd v Environmental Systems Pty Ltd [2008]*
    - *Hadley v Baxendale [1854]*
    - *Dunlop Pneumatic Tyre Co Ltd v New Garage & Motor Co Ltd [1915]*
  - *GEC Marconi Systems Pty Ltd v BHP Information Technology Pty Ltd [2003]*
- Mark Darian-Smith, partner, Mallesons Stephen Jaques**

- **Practical drafting exercises to ensure your liquidated damages clauses are watertight**
- **Case study reviews: How to use precedents in your own liquidated damages clauses**
- **How to protect your clauses from being interpreted as a penalty and calculating loss in the event of a contractual breach**

**11:00 Practical drafting workshop: Ensuring your clauses are enforceable**

- Should a liquidated damages clause be used?
- Examining specific drafting issues for liquidated damages clauses including:
  - Reflecting a genuine pre-estimate
  - Examining differing rates
  - Catering for separable portions
  - Understanding the interaction with other contractual clauses (e.g. limitations of liability for consequential loss)
  - Clarifying the general law rights if liquidated damages clauses are disabled
  - Addressing exclusion of head of loss
- Should a ceiling on the liquidated damages payable be sought and agreed upon?

**Paul Deschamps, partner, Herbert Geer**

*Note. Includes 20min refreshment break*



**Shaun Bailey**  
special counsel  
Corrs Chambers Westgarth



**Mark Darian-Smith**  
partner  
Mallesons Stephen Jaques



**Paul Deschamps**  
partner  
Herbert Geer

### Key benefits

- Earn up to 3 CLE/CPD points
- Hear the latest case law updates and legislative reforms
- Develop new strategies and innovative practices
- Receive comprehensive course notes
- Increase your industry contacts through networking

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# Australian Consumer Law

## WORKSHOP

Sydney: Wednesday 10 March 2010  
Sir Stamford at Circular Quay, 93 Macquarie Street

### agenda

- 1:30 Understanding the new Australian Consumer Law**
- Understanding the prohibition on unfair contract terms proposed by the Australian Consumer Law
  - Discussing the implication of the proposed definitions of standard form consumer contracts
  - Exploring how to identify issues and mitigate risks when drafting contracts
- Ayman Guirguis, partner, Blake Dawson**

- 2:20 Enforcement power and remedies under the Australian Consumer Law**
- Exploring the new enforcement “superpowers” and remedies available under the new Australian Consumer Law
    - Changes to the civil penalties regime
    - Substantiation notices and how to respond to them
    - Infringement notices and disqualification orders
    - Examining the new powers of the ACCC and ASIC, including the public warning powers
- Michael Corrigan, partner and Stephanie Panayi, senior associate, Clayton Utz**

- **Be a frontrunner in understanding the new legislative regime overhauling the Australian consumer contract process**
- **New enforcement “superpowers”:** Explore the remedies available to you under the new Australian Consumer Law
- **Examine the new powers granted to the ACCC and ASIC**
- **Unfair terms: How to comply with the new definitions**

- 3:30 July 1, 2010 and beyond**
- Tranche 2: What to expect in the second stage of Australian Consumer Law reforms – product safety obligation
  - Examining the broader test for bans and recalls under the new legislation
  - Understanding the changes to section 53 of the *Trade Practices Act*
  - Reviewing other proposed changes under Tranche 2, including:
    - Telemarketing and door-to-door
    - Bills and receipts
    - Lay-by sales
    - Dual pricing
- Greg Wrobel, partner, Holding Redlich**

*Note. Includes 20min refreshment break*



**Ayman Guirguis**  
partner  
Blake Dawson



**Michael Corrigan**  
partner  
Clayton Utz



**Stephanie Panayi**  
senior associate  
Clayton Utz



**Greg Wrobel**  
partner  
Holding Redlich

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# HOW TO REGISTER

ONLINE [www.albmasterclass.com](http://www.albmasterclass.com)  
 E-MAIL [michael.cullen@keymedia.com.au](mailto:michael.cullen@keymedia.com.au)  
 FAX +612 8437 4753  
 PHONE +612 8437 4704  
 MAIL **Attn: Michael Cullen**  
**Key Media Pty Ltd**  
**Level 10, 1 Chandos Street**  
**St Leonards NSW 2065**

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## Registration form

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POSTAL ADDRESS

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A LIST OF SEMINAR PARTICIPANTS MAY BE PROVIDED TO OUR PRESENTERS.  
 TICK THIS BOX IF YOU WISH TO BE EXCLUDED FROM THE LIST

### PAYMENT DETAILS

**Please reserve me \_\_\_\_\_ place(s)**

Sydney  
 Liquidated Damages workshop  
 9am-11am  
 \$544.50 incl GST

Sydney  
 Australian Consumer Law workshop  
 1.30pm-4.30pm  
 \$544.50 incl GST

Both Sydney workshops  
 \$1089.00 incl GST

TOTAL PAYMENT \$ \_\_\_\_\_ INCL GST

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Please supply your credit card details below

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EXPIRY DATE / NAME ON CARD

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FIRST NAME LAST NAME

JOB TITLE E-MAIL

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