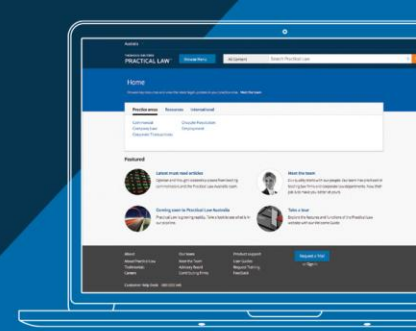


# Practical Law Australia Dispute Resolution

## Table of Contents



“

*Our team has created a tiered service of interlinked practice notes, checklists and precedents to assist lawyers, from junior solicitors to senior partners and barristers, in resolving disputes and conducting litigation from start to finish. The service combines clear practical and tactical guidance with distilled legal analysis and access to primary sources.*

”



**Ian Wylie, Head of Dispute Resolution**

### COMING SOON TO DISPUTE RESOLUTION

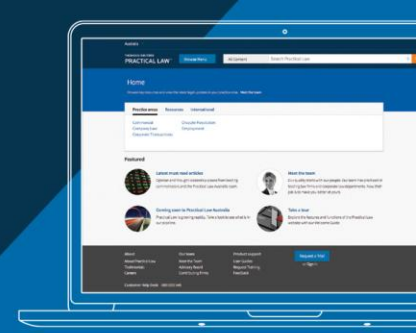
Practical Law is a dynamically evolving service. We plan to develop the following new Dispute Resolution resources (specific resource titles are indicative) by 30 September 2017:

- **Social media issues in litigation**
  - Checklist, Social media discovery, document retention and privacy issues
  - Checklist, Professional and ethical issues for lawyers using social media
- **Liquidation**
  - Practice note, Voidable transactions
  - Practice note, Proofs of debt
  - Practice note, Liquidator's remuneration, disbursements and expenses
  - Checklist, Making and opposing a winding up application
- **Voluntary administration**
  - Checklist, Voluntary administration: flowchart
  - Standard document, Application for extension of convening period

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Standard document, Affidavit to support application for extension of convening period
- **Deeds of company arrangement**
  - Checklist, Quick guide to the effect of a DOCA on the company and key stakeholders
- **Receivership**
  - Checklist, Quick guide to the effect of receivership on the company and key stakeholders
- **All corporate insolvency**
  - Practice note, A guide for landlords: dealing with the external administration of a corporate lessee
- **Personal insolvency**
  - Practice note, Initiating voluntary and compulsory bankruptcy
- **Federal jurisdiction, legislation, time limits and immunities**
  - Practice note, Governing law and jurisdiction clauses
- **Dispute resolution strategy**
  - Practice note, D & O liability insurance
  - Practice note, Taxation implications of litigation and dispute resolution

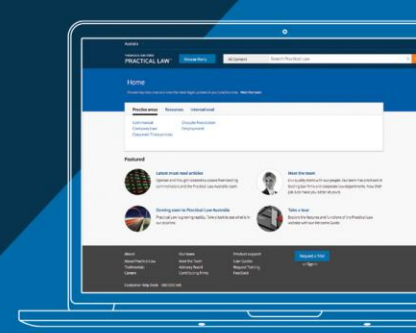
#### ADDITIONAL DISPUTE RESOLUTION TOPICS PLANNED

- **Bankruptcy**
  - Various bankruptcy/personal insolvency resources
- **Misleading conduct claims**
  - Practice note, Misleading conduct
  - Standard document, Misleading conduct claim
  - Checklist, Dos and don'ts
  - Practice note, Deceit and fraud
- **Unconscionable conduct claims**
  - Practice note, Unconscionable conduct

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Standard document, Unconscionable conduct claim
- **Commercial contract claims**
  - Practice note, Commercial contract claims
  - Practice note, Assigning claims and causes of action
  - Standard document, Commercial contract claim
- **Litigation for in-house counsel**
  - Standard document, In-house litigation
  - Checklist, Press releases
  - Standard document, Case summary for the business
  - Standard document, Litigation costs forecast for the business
  - Standard document, Freedom of information request
- **Regulatory investigations**
- **Lawyers' professional responsibilities**

We welcome customer feedback on the development of Practical Law Australia. Should you have comments or suggestions, please contact me at [ian.wylie@tr.com](mailto:ian.wylie@tr.com).

### DISPUTE RESOLUTION COVERAGE AS OF 1 AUGUST 2017

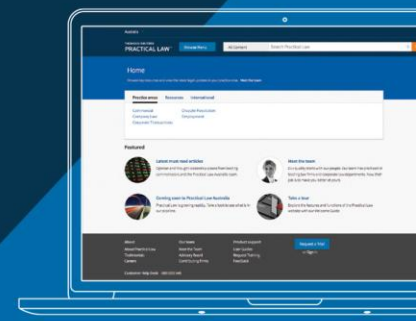
#### Australian Judicial System

- Practice notes
  - Australian judicial system
- Checklists
  - Australian judicial system: flowchart (NEW)
  - State and territory Supreme Court procedure, comparative table

# Practical Law Australia

## Dispute Resolution

### Table of Contents



#### **Federal jurisdiction, legislation, time limits and immunities**

- Practice notes
  - Construing federal legislation
  - Crown and foreign state immunities
  - Federal jurisdiction, the cross vesting scheme and conflicts of law
  - Limitation of actions
- Standard documents
  - Letter to potential applicant advising on limitation
  - Letter to potential respondent advising on limitation
  - Application to transfer proceedings between Federal Court registries
  - Affidavit to support Federal Court transfer application
- Checklists
  - Limitation periods for common actions

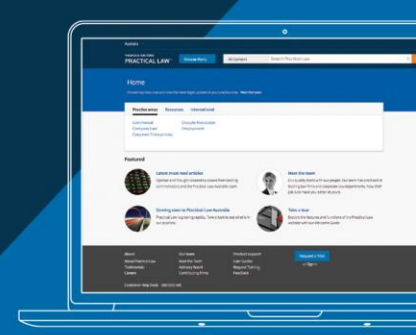
#### **Federal Court claims, overview and pre-action**

- Practice notes
  - Common Federal Court actions
  - Federal court claims overview
  - Pre-action conduct
- Standard documents
  - Letter to applicant client giving overview of the litigation process
  - Letter to respondent client giving overview of the litigation process
  - Letter before claim for breach of contract
  - Letter before claim for negligence or breach of duty
- Checklists
  - Commencing legal proceedings

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Insurance issues in litigation

#### **Commencement: originating process, pleadings and service**

- Practice notes
  - Originating process, pleadings, amendment and Anshun estoppel
  - Service, appearance and extradition
- Standard documents
  - Particulars request
  - Britts' pleading precedents, contract claims
  - Britts' pleading precedents, defences to contract claims
  - Britts' pleading precedents, tort claims
  - Britts' pleading precedents, defences to tort claims
  - Britts' pleading precedents, miscellaneous claims
  - Britts' pleading precedents, miscellaneous defences
  - Britts' pleading precedents, cross-claims, replies to defences, defences to cross-claims

(See also Federal Jurisdiction and legislation, time limits and immunities, Federal Court claims, overview and pre-action, Relief, Interim applications and Costs topics resources)

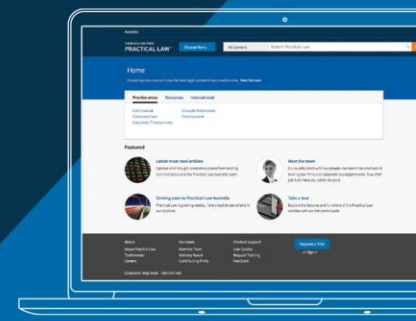
#### **Relief**

- Practice notes
  - Overview, Relief in court proceedings
  - Anton Piller, Mareva and anti-suit injunctions
  - Contribution and proportionate liability
  - Damages in competition and consumer claims
  - Damages in contract and tort
  - Damages in shareholder claims under corporations law
  - Equitable declarations, estoppel and unjust enrichment
  - Equitable remedies to recover money
  - Equitable rectification

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Injunctions, general principles
- Injunctions, special cases and undertakings
- Relief in regulatory proceedings
- Rescission
- Specific performance
- State and territory proportionate liability regimes
  
- Standard documents
  - Freezing orders
  - Search orders
  
- Toolkits
  - Injunctions
  - Relief

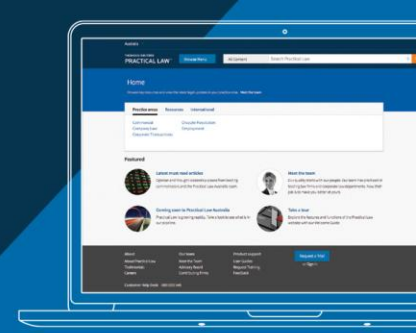
### ADR and compromise

- Practice notes
  - ADR processes, conciliation, neutral evaluation, expert determination and court referrals
  - Commercial arbitration, overview
  - Commercial arbitration, conduct and enforcement
  - Calderbank offers
  - Mediation, principles
  - Mediation, preparation and conduct
  - Offers of compromise
  - Settlement agreements, principles and preparation
  - Settlement agreements, enforcement
  
- Checklists
  - Analysis of best and worst case scenarios for mediation
  - Table distinguishing Calderbank offers and offers of compromise
  - Flowchart, statutory regime applicable to offers of compromise
  - Drafting a settlement agreement or deed, checklist

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Standard documents
  - ADR Policy
  - Mediation agreement
  - Settlement agreement
  - Settlement deed
- Standard clauses
  - Mediation clause
  - Arbitration agreement

(See also Costs topic resources)

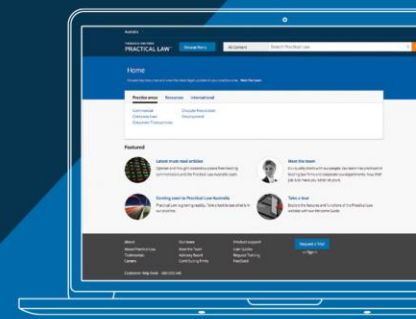
### Costs

- Practice notes
  - Costs, assessment and enforcement
  - Costs, general principles
  - Costs, solicitor and client agreements
  - Costs, third parties and special cases
  - Security for costs
- Checklists
  - Costs, common terms and orders
  - Security for costs
- Standard documents
  - Security for costs, Application for security for costs
  - Security for costs, Draft order
  - Security for costs, Lawyer's affidavit to support application
  - Security for costs, Letter requesting financial information
  - Security for costs, Letter requesting security for costs
  - Security for costs, Notice to produce financial material

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Security for costs, 'Without prejudice' letter

- Toolkits

- Security for costs

(See also Interim applications and ADR and compromise topics resources)

### Case management

- Practice notes

- Case management principles
- Federal Court National Practice Area procedures
- Overview of Federal Court docket system and general case management procedures
- Procedural fairness

- Standard documents

- First directions or case management hearing, draft orders

(See also Interim applications, Evidence and Trial practice topics resources)

### Interim Applications

- Practice notes

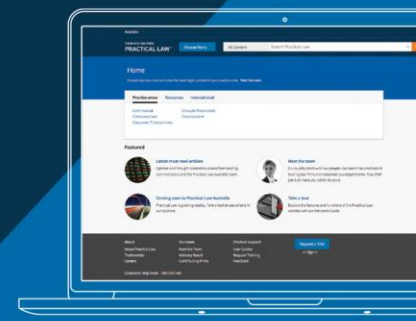
- Adjournment and extension applications
- Amendment applications
- Bias applications
- Conflicts of interest and duty
- Contempt
- Default judgment, stay and vexatious proceedings
- Interlocutory applications, practice and procedure
- Particulars applications



# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Parties to proceedings
  - Separating and consolidating issues and hearings
  - Strike out applications
  - Summary judgment applications
  - Transfer applications
- Toolkits
    - Interlocutory applications

(See also, for example, Costs topic, Security for costs documents and Federal jurisdiction topic, transfer application documents)

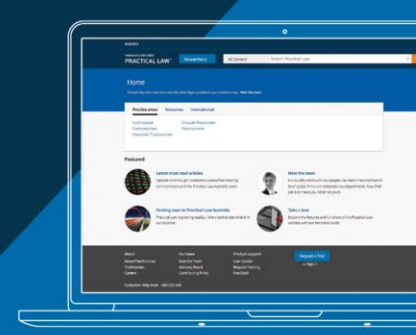
### Disclosure

- Practice notes
  - Discovery applications and notices
  - Discovery: consequences of non-disclosure
  - Discovery involving third parties
  - Discovery: reviewing the client's documents (NEW)
  - Discovery: reviewing the opponent's documents (NEW)
  - Discovery: scoping and conducting a search for documents (NEW)
  - Discovery: standard and electronic
  - Freedom of information (FOI) requests
  - Freedom of information (FOI), reviews and appeals
  - Interrogatories
  - Subpoenas
- Checklists
  - Table of document retention obligations
  - FOI applications flowcharts
  - FOI applications, Table of exempt and conditionally exempt documents
  - Subpoenas, Practical tips

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Standard documents
    - Discovery confidentiality regime
    - Discovery orders
    - Letter to litigation client on disclosure obligations
    - Litigation hold notice
  - Toolkits
    - Document disclosure toolkit
- (See also Privileges and confidentiality topic resources)

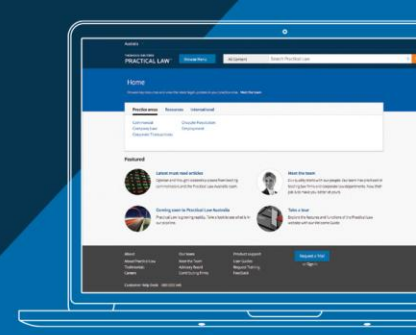
### Privileges and Confidentiality

- Practice notes
  - Confidentiality and access to court documents
  - How legal professional privilege applies to special cases
  - Legal professional privilege
  - Without prejudice and other privileges
- Checklists
  - Preserving privilege in practice
- Standard documents
  - Interim confidentiality orders and undertakings to preserve confidentiality pre-trial
  - Suppression and non-publication orders on trial, Identity in federal prosecution
  - Suppression and non-publication orders on trial, Agreed facts
  - Suppression and non-publication orders on trial, Confidential documents
  - Suppression and non-publication orders on and post-trial, Interim general non-publication order

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Toolkits
  - Confidentiality orders and undertakings, suppression and non-publication orders

(See also Disclosure topic resources)

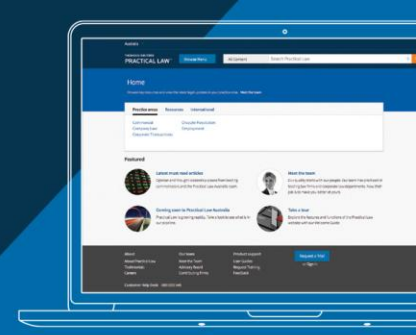
### Evidence

- Practice notes
  - Overview, Evidence in court proceedings
  - Admissions
  - Annexures and exhibits
  - Business records and other exceptions to the hearsay rule
  - Credibility and character evidence
  - Discretionary and mandatory exclusion of evidence
  - Evidence of contracts and other documents
  - Evidence of foreign law
  - Expert opinion evidence practice
  - Hearsay
  - Judgment and conviction evidence
  - Lay witness evidence practice
  - Opinion evidence
  - Overseas witness evidence
  - Preparing factual evidence
  - Proof and inferences
  - Relevance
  - Standards of proof
  - Survey evidence
  - Tendency and coincidence evidence
  - Video-link evidence
- Checklists
  - Expert compliance and admissibility basic guide
  - Expert document management and protection basic guide
  - Expert oral evidence basic guide
  - Flowchart, admissibility of evidence overview

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Flowchart, admissions
  - Flowchart, admissions as exception to the hearsay and opinion rules in civil proceedings
  - Flowchart, admissions as exception to the hearsay and opinion rules in criminal proceedings
  - Flowchart, client legal privilege
  - Flowchart, coincidence evidence
  - Flowchart, credibility evidence
  - Flowchart, hearsay in civil proceedings
  - Flowchart, hearsay in criminal proceedings
  - Flowchart, hearsay overview
  - Flowchart, opinion evidence overview
  - Flowchart, opinion evidence
  - Flowchart, picture identification evidence
  - Flowchart, privilege against self-incrimination
  - Flowchart, tendency evidence
  - Flowchart, visual identification evidence
- Standard documents
    - Expert witness: letter of instructions (NEW)
    - Letter to witness about preparing their witness statement (NEW)

(See also Trial practice standard documents, Privileges and confidentiality topic and Disclosure standard documents)

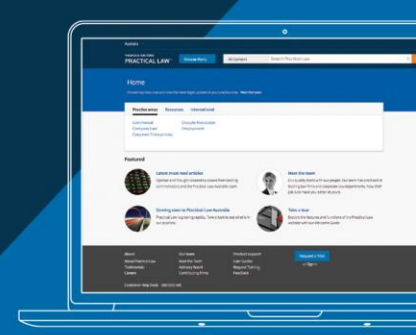
### Trial practice

- Practice notes
  - Civil trial practice
  - Preparing lay witnesses for trial
  - Trial applications
  - Document management in hearings
- Standard documents
  - Objections to expert evidence
  - Objections to written evidence

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Letter to witness about giving evidence at trial

- Toolkits

- Civil trial practice

(See also Evidence, Privileges and confidentiality and Disclosure topics resources)

### Judgments, orders and enforcement

- Practice notes

- Entry and enforcement of judgments and orders
- Registration of, staying and setting aside domestic and foreign judgments
- Varying, setting aside and staying judgments and orders

- Standard documents

- Letter to client: options to enforce a money judgment or order (NEW)

(See also Interim applications, Costs and Appeals topics resources)

### Appeals

- Practice notes

- Appeals, principles
- Appeals, practice and procedure
- Leave to appeal, principles, practice and procedure
- Appeals from non-judicial bodies, overview

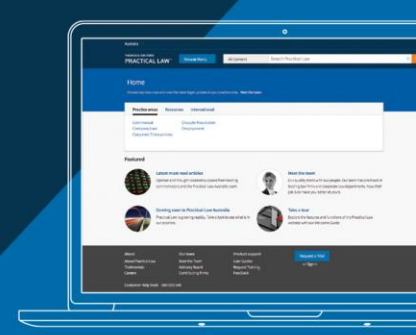
- Standard documents

- Leave to appeal: orders (NEW)
- Notice of appeal (NEW)

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Checklists
  - Leave to appeal: federal and state comparison table (NEW)
  - Appeals, timeline

### State and territory litigation practice

- Practice notes
  - Australian Capital Territory court practice and procedure
  - New South Wales Supreme Court practice and procedure
  - Northern Territory court practice and procedure
  - Queensland court practice and procedure
  - South Australian court practice and procedure
  - Tasmanian court practice and procedure
  - Victorian Civil and Administrative Tribunal (VCAT) practice and procedure
  - Victorian Magistrates Court practice and procedure
  - Victorian Supreme Court practice and procedure
  - Western Australian court practice and procedure

### Representative proceedings

- Practice notes
  - Overview, Class actions in Australia
  - Litigation funding

(See also Privileges and confidentiality, Relief, Interim applications, Disclosure and Costs topics resources)

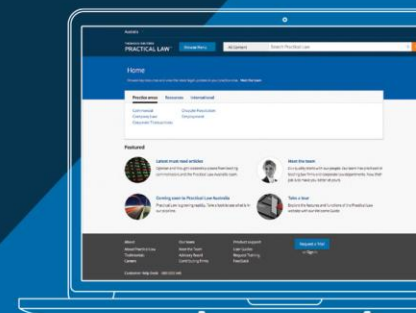
### Social media issues litigation

- Practice note: Overview
  - Social media: claims (NEW)

# Practical Law Australia

## Dispute Resolution

### Table of Contents



- Practice notes
  - Social media: jurisdiction and service (NEW)

#### **Deeds of company arrangement**

- Practice note: Overview
  - Deeds of company arrangement (NEW)

#### **Liquidation**

- Practice note: Overview
  - Liquidation (NEW)
- Practice notes
  - Voluntary winding up (NEW)
  - Statutory demands (NEW)
  - Creditor winding up applications (NEW)
- Checklists
  - Quick guide to the effect of liquidation on the company and key stakeholders (NEW)

#### **Receivership**

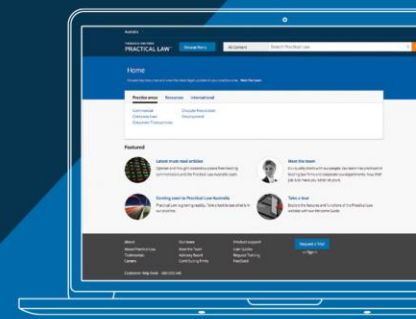
- Practice note: Overview
  - Receivership (private appointments) (NEW)

#### **Voluntary administration**

- Practice note: Overview
  - Voluntary administration (NEW)

# Practical Law Australia Dispute Resolution

## Table of Contents



- Practice notes
  - Pre-pack arrangements in corporate insolvency
- Checklists
  - Quick guide to the effect of voluntary administration on the company and key stakeholders (NEW)