ADLSI
Independent Voice of Law

LAWNEWS THIS ISSUE:

LAWNEWS

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+ Law and technology

TECHNOLOGY INNOVATIONS CHANGING THE LEGAL LANDSCAPE

By Lloyd Gallagher, Director/Arbitrator/ Mediator, Gallagher & Co Consultants Ltd

Today, lawyers are bombarded with technological innovations designed to improve access and efficiency. The online world presents lawyers with new challenges in privacy and data protection, as well as in their practice before the courts.

These innovations can be exciting for some but bewildering for others. As new innovations like online dispute resolution and online courts come into their own, benefits are apparent but challenges to counsel also arise.

The purpose of litigation and dispute resolution

Let me begin with a quick look at the main principle that drives parties to litigate. The purpose of litigation is to provide an end to a dispute. This end is designed to be final and to prevent parties from re-addressing arguments – the principle of *res judicata*.

By contrast, in alternative dispute resolution (ADR), trained practitioners work as either arbitrators or mediators (or both in some cases) to assist parties with development of resolutions to their problems with an aim to final resolution. Where the two approaches differ the most is that litigation takes place in the court environment and in general involves matters that require interpretation of the law (*Bulk Gas Users Group v Attorney-General* [1983] NZLR 129 (CA)).

ADLSI's annual evening to thank members of its various Committees for their efforts throughout the year took place at Auckland's Northern Club on Wednesday 12 October 2016. The evening was a great excuse to get together and celebrate the achievements of ADLSI and its Committees. Pictured here are Lucy Carruthers, Alex Sheehan, Emma Caughey and Alasdair Long – all members of ADLSI's recently established Young Lawyers Committee for "newly suited" members of the profession. For more photos from the evening, please turn to pages 4 and 5 within.

Automated online dispute resolution

There is no substitute for the trained legal mind in interpreting things like disputed data or questions of statutory interpretation. However, that does not mean that simple problems cannot have an automated solution, and it is here where automated online dispute resolution (ODR) systems have a role to play. Dispute resolution solutions such as those employed by eBay and developed by Modria are examples of automated systems that can work for simple transactions requiring no maintenance of relationship and involving no real legal technicalities.

Traditional ADR and litigation, on the other hand, are designed to deal with complex issues that may require ongoing relationships and discussion of technicalities (for example, separation agreements, commercial relationships and environmental disputes – I am sure you can think of more!) and as such, require a more considered approach than can be offered by ODR. This is where they and ODR differ – matters involving this level of complexity (and the potential for error where law is not correctly applied) are not, in the author's opinion, suited

Continued on page 2

TECHNOLOGY INNOVATIONS CHANGING THE LEGAL LANDSCAPE

Continued from page 1

to being placed into the realms of automated ODR.

The move to online courtrooms

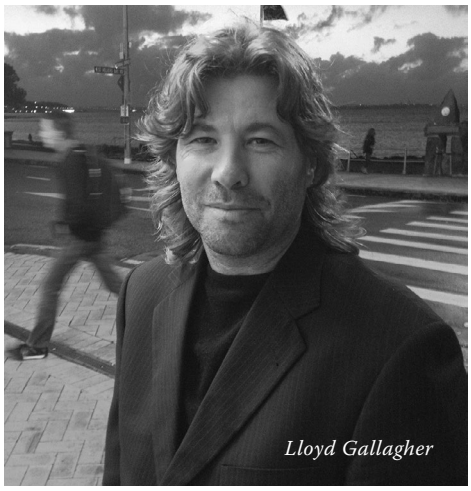
However, properly designed and established online courtrooms (as compared to automated ODR) can be well-placed to assist both judges and ADR practitioners where disputes require a considered approach, because they still allow for litigation and ADR tools to be employed and for the resolution of complex disputes involving considered legal argument and issues such as cultural understanding and relationship maintenance.

In 2013, I developed a system designed to address the considered approach missing in ODR technology, and in a paper and speech to the International Alternative Dispute Resolution Conference held in Toronto, Canada, I presented an online courtroom that allowed parties to interact via secure document and video link exchange to present considered arguments for resolution of disputes. This all-in-one solution allowed ADR and courts to sit and resolve all manner of disputes, not just the simple ones that were the focus of the ODR solutions then available. It also had the advantage of working from any location in the world, with parties located anywhere in the world.

Problems with ODR

Despite the complexities of our legal frameworks, some still argue that ODR is the only technology needed to resolve disputes, as everything can be boiled down to an algorithm of pros and cons that a heuristic artificial intelligence (AI) system can interpret to achieve resolution. However, these arguments usually come from ODR software developers and anyone who has ever sat across from arguing parties knows that not all disputes are that simple.

Disputes escalate from emotional perspectives that often take the irrational as rational and see disputants approaching litigation with a "scatter gun". Litigants often miss issues or combine issues in a way which even the most advanced AI system is unlikely to be able to detangle. Further, litigants can become disgruntled with resolutions which they consider may have failed to hear or properly take account of their arguments and points of view.



Lloyd Gallagher

Technology should provide tools to assist, not a replacement for, the considered mind and logical approach that allow people – judges and practitioners alike – to reason and determine complex matters involving cognitive and behavioural issues.

Discovery also creates a range of technical difficulties that are not well suited to basic ODR solutions. Lack of data input where a complex problem is in issue and parties are still getting to the heart of the dispute only confuses heuristic responses (similar to how Google searches can be frustrating depending on how you input your search terms).

A further example of the potential unsuitability of automated ODR is where there may be congruent legislation – by which I mean "congruent" in its mathematical sense, i.e. legislation that is of the same shape as another piece of legislation, that has the same meaning, has terms that mirror those of other legislative instruments. While such legislation will have distinguishing elements, legislative provisions often "cross swords" or encroach upon other legislative instruments with similar intent or focus (environmental and resource management law in particular is subject to this problem). These kinds of difficulties can lead an algorithm to make mistakes of which law to apply, and any ODR system must tread carefully to focus its data input upon the correct legislative framework.

People and technology – working together

This is where online courtrooms come into their own, as there is no attempt to substitute trained practitioners or judges out of the equation. Lawyers and judges can still apply the appropriate framework, sift through complexities and bring parties back on task (as seen in *Waitakere City Council v Estate Homes Ltd* [2007] 2 NZLR 149; [2006] NZSC 112, which was a good illustration of practitioners and the Court working through difficulties and challenging arguments and data). Technology should provide tools to assist, not a replacement for, the considered mind and logical approach that allow people – judges and practitioners alike – to reason and determine complex matters involving cognitive and behavioural issues.

As online solutions grow and online courtrooms become adopted, the public still needs to be able to have confidence in and trust the integrity of the legal system. Therefore, any online solutions seeking to be part of that system needs to have a similarly high level of integrity and operate within the controls of our constitutional and legal frameworks, or they will risk the public (and the profession) failing to buy in to them, or seeing them simply as the brainchild of technology providers rather than a considered response to a need. Properly designed and set-up online courts should meet those criteria and will be a design with which the public is familiar – just in the virtual space.

The need to upskill

As more and more providers take the stage with differing ideas, practitioners will need to upskill themselves in these new environments and technologies, understand how litigation interacts

Continued on page 10

LAWNEWS

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+ Update from ADLSI's Immigration & Refugee Law Committee

RSB Pilot threatening to undermine the quality of representation for refugee claimants

By Deborah Manning, Convenor of the Immigration & Refugee Law Committee on its behalf

The Refugee Status Branch (RSB) has recently imposed a pilot for processing refugee and protected person status claims.

A key change is that the RSB proposes to have RSB interviews set down six to eight weeks after a claim for refugee and protected person status is lodged and that a statement must be filed two weeks (ten working days) before an interview, i.e. four to six weeks after a claim is lodged. This potentially reduces preparation time by one third, as currently RSB interviews are set down in practice seven weeks after a claim is lodged with a statement due five working days before interview, i.e. six weeks after a claim is lodged.

The ADLSI Immigration & Refugee Law Committee is concerned that the Refugee Bar was not properly consulted about these changes. Throughout the initial submission stage, the Refugee Bar expressed its serious concerns that the current preparation time of six weeks was inadequate and was expressly against any proposal to abbreviate the preparation time for statements to be provided to the RSB. This is particularly so as the statements are the foundation for a claim for refugee and protected person status – if the statement is rushed, incomplete or deficient in any way, it will undoubtedly and significantly prejudice the claim.

What appears to be missing from this pilot is the interests of the refugee claimant. Here, RSB's desire for extra time to carry out pre-interview research should not be at the refugee claimant's expense. Such an approach cannot be said to accord with the required natural justice and fairness.

The RSB claims that the "[pilot] procedures have been developed pursuant to section 136(3) of the *Immigration Act 2009*". However, the Committee queries whether the pilot can be correctly premised upon this section, which provides that "the refugee and protection officer may determine the procedures that will be followed on the claim". The section empowers the officer to adopt the procedures required by a particular claim; it does not invest in the RSB the power to impose a pilot scheme which seeks to abbreviate the time for statements and interviews regarding all claims.

	Statement	Interview	Statement due after filing claim
Current timelines	1 week before the interview	7 weeks after the claim is lodged	6 weeks
Pilot timelines	2 weeks before the interview	6-8 weeks after the claim is lodged	4-6 weeks

It is to be noted that legal aid cannot be applied for until a claim is filed. Thus, to accommodate these time pressures, refugee practitioners are often acting without a grant of legal aid for a number of weeks. This causes high stress and difficulties for practitioners trying to maintain a refugee law practice. Unsurprisingly, there has been an exodus of lawyers from this area of law which will be exacerbated by the pilot's timeline changes. Lawyers will strive to meet the timelines, to their detriment, because they do not want to get the officer processing the claim offside causing damage to their client's claim. Thus, aside from real concerns about the quality of representation, this is also an issue of health and wellness for members of our profession.

During discussions with the RSB, the ADLSI Immigration & Refugee Law Committee was assured that, for the duration of the pilot process, refugee interviews would be set down eight weeks after lodgment of a claim and that, if possible, statements would be filed within ten working days prior to interview. Alternatively, if RSB interviews were set down sooner than eight weeks, then the standard five day filing period would apply.

The MBIE Refugee Unit National Manager has confirmed that, during the pilot, the RSB wished to receive continuous feedback from practitioners. Most importantly, he noted that no complaint or other action would be taken against practitioners unable to meet the new timeframes, as any problems or issues would be considered to be part of the pilot review process. The RSB has also stressed that the pilot would be operated with a high degree of flexibility. Irrespective of these assurances, the Committee wishes to note that the pilot's timeframes are not formal deadlines (as in Court or Tribunal proceedings) but merely preferred timelines.

The ADLSI Immigration & Refugee Law Committee is highly concerned at both the process followed by the RSB to commence this pilot and the proposed changes. The RSB has failed to engage in meaningful consultation with the Refugee Bar and has pressed on with implementing a pilot despite clear concerns raised by the Committee in a preliminary discussion and in its submissions regarding the original review. In particular, the RSB has ignored submissions concerning workable timeframes and has put counsel and claimants under further pressure, while giving its staff more preparation time for interviews.

The Committee considers that, if the RSB needs more time to complete its processes, it should extend the timeframes rather than carve out time from the claimant's preparation. The Committee does not want timeliness to overtake quality in an area of law which can so meaningfully impact upon a claimant's life. Moreover, there is real concern that these "flexible" timeframes will solidify into policy if they are allowed to proceed unchallenged.

The ADLSI Immigration & Refugee Law Committee has been consulting extensively with the Refugee Bar and will continue to do so. The Committee is also in the process of preparing formal correspondence to the RSB, MBIE managers and the Minister of Immigration about the inadequate consultation process and the above concerns regarding the pilot's timeframes

The RSB has advised that the pilot will run until 30 June 2017.

The Committee invites practitioners to contact the Committee Secretary, Jodi Libbey, at jodi.libbey@adls.org.nz, or the Committee Convenor, Deborah Manning, at deborah@deborahmanning.co.nz, with any comments or concerns. LN

+ ADLSI notice

Resignation of Council member

On Friday 14 October, the President received notice from David Roughan that he was resigning from ADLSI's Council.

"It is with regret I must tender my resignation as an elected Council member of ADLSI effective immediately. I find my time on the Council is impinging on the time I must give to my practice to a greater extent than I can continue to allow," said Mr Roughan.

The Council has accepted this resignation. Further information as to the appointment of a new Council member will follow in due course.

LN

+ ADLSI event review

"Thank you" evening for 2016 Committee members

Recently, ADLSI held its annual Committees "Thank you" evening – a chance for ADLSI to show its appreciation of the work done by its Committees throughout the year and also to welcome those new Committee members who have recently come on board.

ADLSI President Brian Keene QC thanked the Committee members for their contributions during the past year, noting the importance of their work to both ADLSI and to the profession, particularly as it comes on top of already busy schedules and, for some, may involve travel or remote attendance at Committee meetings.

Mr Keene QC drew attention to some of the key achievements during 2016, particularly the initiatives to more actively engage with and support the next generation of the profession. Other Committee highlights for the year included things such as drafting new forms, making submissions on legislation, organising and delivering CPD, and providing input to *Law News* on topical issues and matters of practice and procedure for the profession.

For further information on any of the Committees please contact Jodi Libbey at jodi.libbey@adls.org.nz.

Continued on page 5

John Hagen, Deborah Manning, Jade Magrath and Brian Keene QC

Maree Cassaidy and Linda Lim

Helen Young, John Burns and Brett Cunningham

Tim Jones and Graham Wear

Fletcher Pilditch, William McCartney, Bob Eades and Brett Harris

Kate Sheehan and Brian Carter

Continued from page 4

Jacqueline Parker and Erin Woolley

Tonderai Mukusha, Bryce Town and Joanna Pidgeon

Kate Diesfeld, Samuel Ames, Seung Youn and Samuel Learmonth

His Honour Judge Philip Recordon and Brian Keene QC

+ Case summary

Zhang & Anor v Auckland Council [2016] NZCA 332 (Kós P, Mallon and Whata JJ)

Prepared by Sacha Jugum, Editor of ADLSI's Bulletin

***Resource Management Act 1991* section 338(1) – application for leave to bring second appeal on pre-trial admissibility of evidence ruling – contravening a district plan by exceeding density provisions – contravening abatement notices – search warrant – applicable principles – reasonableness of search – proportionality – validness of search warrant – no issues of general or public importance – no evidence of miscarriage of justice – application for leave to bring a second appeal declined.**

Facts: The applicants were charged with contravening a district plan by exceeding density provisions – one applicant was charged with contravention of an abatement notice – Auckland Council (AC) had [after a time of correspondence and seeking compliance] obtained a search warrant and executed a search of the property in question with 12 persons in attendance including the investigator, council staff, police, interpreter and a locksmith – AC relied on evidence found during this search – issues of pre-trial admissibility were argued on several grounds based around the validity and reasonableness of the search – the applicants argued that the attendance of 12 people and the extent of the search was unreasonable – the applicants also argued that the search warrant was "overbroad" in using the words "any dwelling" and did not contain sufficient detail in other areas – the District Court held that the evidence was admissible, as the search warrant was valid and the search reasonable – the applicants appealed to the High Court who "largely agreed" with the District Court but did find the "deployment" of 12 people to search the property was unreasonable due to a lack of urgency, and when the applicants had no history of violence or active obstruction.

The High Court held exclusion of the evidence would be a disproportionate response to the "moderately serious" breach of the right to freedom from unreasonable search – the applicants applied for leave to bring a second appeal in relation to the pre-trial ruling on admissibility of evidence – nine proposed points on appeal – applicable principles – whether factual matters or matters of general/public importance – consideration of privacy interests – argument of substantive matters [which are to be determined at trial, rather than on appeal].

Held: None of the proposed grounds of appeal raises an issue of general or public importance – the applicants have not shown that a miscarriage of justice may occur if leave is declined – application for leave to bring a second appeal is declined.

A PDF of this case is available from the Judicial Decisions Online section of the Ministry of Justice website – https://forms.justice.govt.nz/jdo/Introduction.jsp. LN

Accounting for investment properties under the Public Benefit Entity (PBE) Standards

By Mwauluka Mubano, Audit Manager, RSM

With the advent of the new Public Benefit Entity (PBE) financial reporting standards as issued by the External Reporting Board (XRB), there are some key changes in the way that entities are required to account for certain transactions and balances. One such change is in the way that entities are now required to account for their investment properties.

In this article, I outline the key recognition and measurement requirements outlined in PBE IPSAS 16 Investment Property. I also highlight some of the key differences with the previous generally accepted accounting principles (GAAP) and some important first-time adoption choices. (Please note that this standard only applies to Tier 1 and Tier 2 PBEs.)

Definitions and scope

An investment property is defined as land or a building (or part of a building) held to earn rentals or for capital appreciation or both, rather than for (i) use in the production or supply of goods or services or for administrative purposes; or (ii) sale in the ordinary course of operations. Such land or buildings can be held by the owner or under a finance lease.

Land or buildings used for administrative purposes or in the production or supply of goods or services are not included as part of investment properties and these include:

- owner-occupied property, including property occupied by employees (whether or not the employees pay rent at market rates);
- property that is being constructed or developed for future use as owner-occupied property;
- property held to provide a social service and which also generates cash flows (e.g. housing stock for low income families at below market rentals);
- property leased to another entity under a finance lease;
- property held for sale in the ordinary course of business; or
- property held for strategic services.

The above property types would therefore not meet the definition of an investment property. This also includes any owner-managed hotels or hostels.

Careful consideration may also be required for group entities that have a property management entity to manage office buildings. Property leased to, and occupied by, a controlling entity or another controlled entity does not qualify as an investment property in the consolidated financial statements, because it is deemed as owner-occupied from the perspective of the economic entity. However, such a property would meet the definition of an investment property in the separate financial statements of the property management entity, i.e. the entity that owns the property. As an example, where a parent entity has leased property to controlled entities, the property would be classified as an investment property in the parent numbers with the classification changing to property, plant and equipment in the consolidated numbers.

An entity can recognise investment properties in its statement of financial position when, and only when, it meets two conditions: it is probable that the future economic benefits or service potential associated with the investment property will flow to the entity; and the cost or fair value of the investment property can be measured reliably.

Recognition and initial measurement

An entity can recognise investment properties in its statement of financial position when, and only when, it meets the following two conditions:

- it is probable that the future economic benefits or service potential associated with the investment property will flow to the entity; and
- the cost or fair value of the investment property can be measured reliably.

Once the above conditions are met, investment properties are then measured initially at their cost (which is the amount expended to acquire an asset at the time of acquisition or construction). Any transaction costs are also captured and capitalised at this stage. However, when an investment property has been acquired through a non-exchange transaction at no cost, or for a nominal charge, the cost in such instances is measured at the fair value of the property as at the date of acquisition.

Subsequent measurement

After the initial recognition described above, the next step would be for an entity to choose its accounting policy. There are two options available for PBEs applying PBE IPSAS 16.

Fair value model

Under this model, an investment property is subsequently measured at fair value at each reporting date, and any changes in fair value are recognised in surplus or deficit for the period in which they arise.

The fair value model is now optional for both Tier 1 and Tier 2 PBEs whereas under old GAAP, this was mandatory for entities that did not qualify for differential reporting. Such non-qualifying entities had the option of recognising the fair value changes either in equity or in surplus or deficit. Such an option has now been removed, with all fair value changes being recognised in surplus or deficit. Consequently, for entities that used to recognise fair value movements in equity, this change will result in more volatility in their reported surplus or deficit.

Cost model

Under this model, an investment property is measured at depreciated cost, less any accumulated impairment losses. Entities adopting this model apply the cost model used for property, plant and equipment.

Under old GAAP, the cost model was only available to entities qualifying for differential reporting. This model has now been made available to both Tier 1 and Tier 2 entities. A point to note is that entities applying this model are now required to disclose in their notes the fair value of the investment property. However, in an effort to reduce compliance costs, entities applying the cost model, that are eligible to use Tier 2 PBE Standards, are exempted from disclosing the fair value of their investment properties.

The model that an entity chooses from the above options is then required to be applied to all of its investment properties. However, the requirement above is softened in an instance where fair value cannot be readily determined. If an entity applies the fair value model but, when a particular property is acquired, there is clear evidence that the entity will not be able to determine fair value on a continuing basis, the cost model is used for such a property. In such an instance, the cost model will continue to be applied for such a property until it is disposed of. Additionally, the residual value of the property is assumed to

Continued on page 10

+ *ADLSI Committees*

New Trust Law Committee to be established

ADLSI's Council has decided to establish a new Trust Law Committee.

Trust law is an area which may once have been regarded as settled, but has now become more fluid and uncertain. Given recent case law and proposed legislative developments, together with the fact that trust law is practised by over 40% of the legal profession, the ADLSI Council considers the time is right to create a specialised Committee focusing on this area of law. Bill Patterson (Partner, Patterson Hopkins) has agreed to act as Convenor of the Committee.

It is envisaged that the new Committee will provide expert and practical advice for our members and the wider profession, as well as being an independent voice able to comment meaningfully on developments in trust law. The Committee will monitor reforms and unfolding case law, raise awareness of key trust law issues and their implications for our members and their clients, and engage with government departments and other stakeholder organisations and professionals.

Accordingly, ADLSI is now inviting lawyers currently specialising in trust law to apply for the ADLSI Trust Law Committee.

It is anticipated that the Committee will meet once a month at Chancery Chambers in Auckland, although ADLSI encourages applications from members throughout New Zealand who are able to participate via phone and video conferencing.

Applications close **5pm, Friday 4 November 2016**. A link to the application form can be found by visiting the ADLSI website http://www.adls.org.nz/for-the-profession/trust-law-committee-application/.

Any practitioners wanting further information should contact Jodi Libbey on (09) 306 5744 or by email at jodi.libbey@adls.org.nz. LN

+ *ADLSI event*

Law Dinner for Sir Grant Hammond, KNZM

ADLSI invites members of the legal profession to come together and honour Sir Grant Hammond, KNZM at a dinner to be held at the Northern Club on Friday 11 November 2016.

We hope you can join us for this convivial evening to honour Sir Grant Hammond's outstanding academic and judicial contribution to the law, and his extensive role in law reform as past President of the New Zealand Law Commission.

Date: Friday 11 November 2016

Timing: 7.00pm for arrival and drinks; 7.30pm for dinner

Dress code: Black Tie

Venue: The Northern Club, 19 Princes Street, Auckland

Tickets: $105.00 + GST ($120.75 incl. GST) per ticket for ADLSI members and current & retired members of the judiciary;
$135.00 + GST ($155.25 incl. GST) per ticket for non-members.

*To register for this dinner, please visit www.adls.org.nz; alternatively, contact adls.events@adls.org.nz or (09) 303 5287. Spaces are limited so register before **Friday 4 November 2016** to secure your space, subject to availability. ADLSI's standard cancellation policy applies for this event.*

+ *AWLA event*

Financial planning for lawyers

How do you make the most of your income? Keen to fast track to financial independence? Looking to protect and manage your wealth?

Many lawyers have questions about wealth management strategies, and in particular, steps towards making smart financial decisions, structuring affairs, and managing wealth through transitions.

This breakfast session (which is kindly supported by Bell Gully) is an opportunity to pick the brains of experienced wealth advisory professionals. Laetitia Peterson (Founder and CEO, The Private Office) and Peter Lee (Former Chief Executive, Institute of Financial Advisors) will share their tips and answer your questions regarding optimising your net worth to lead the lifestyle you want.

This event is open to AWLA members and guests (women and men). Attendees are welcome to submit questions in advance in confidence.

Date & timing: Monday 7 November 2016, 8am-9.15am (breakfast provided at 8am, panel discussion 8.15-8.45am, followed by questions)

Venue: Bell Gully, Vero Centre, 48 Shortland Street, Auckland Central

Tickets: $10 per person for members; $20 per person for non-members.

*For more information or to RSVP, please contact admin@awla.nz by **Sunday 30 October 2016** (unless sold out earlier).*

+ *ADLSI Council*

Contact details for ADLSI Council

Here are the contact details for your ADLSI Council. They welcome your queries and suggestions.

Brian Keene QC (President)
Ph. 09 366 0306 ***E.*** brian@keene.co.nz

Joanna Pidgeon (Vice-President)
Ph. 09 337 0826 ***E.*** joanna@pidgeonlaw.co.nz

Tony Bouchier
Ph. 09 623 1772 *E.* bouch@xtra.co.nz

Vikki Brannagan
E. vikki.atack@gmail.com

Marie Dyhrberg QC
Ph. 09 360 4550 ***E.*** maried@mariedyhrberg.co.nz

John Hagen
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Stephanie Nicolson
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Mary Anne Shanahan
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Selected CPD

ADLSI CPD

To view all ADLSI CPD & register: www.adls.org.nz/cpd

Email us: cpd@adls.org.nz | Phone us: 09 303 5278

Featured CPD

Thursday
27 October 2016
4pm – 6.15pm

2 CPD HOURS

Seminar Live stream

Criminal Law Pot Pourri 2016 – FINAL NOTICE

A must-attend event for those practising in criminal law, exploring four important topics (see Learning Outcomes below).

Learning Outcomes:

- Receive an update on case law regarding disclosure (including electronic disclosure) and insights into the pending amendment in respect of evidential video interviews (EVI).
- Gain a better understanding of investigatory powers of regulators such as WorkSafe and the Commerce Commission.
- Become updated on approaches and trends in sentencing repeat drink drivers and drivers causing death or injury.
- Be guided on prosecution and defence practice for dealing with difficult and hostile witnesses and their evidence.

Who should attend?

All lawyers wishing to practise criminal law more effectively.

Presenters: **Paul Borich**, Barrister; **James Cairney**, Associate, Meredith Connell; **Steve Cullen**, Barrister; **Adam Pell**, Principal Prosecutor, New Zealand Police; **John Munro**, Barrister

Chair: **Guyon Foley**, Barrister

Wednesday
2 November 2016
12pm – 1.15pm

1.25 CPD HOURS

Webinar

Outlook For Lawyers

Outlook can be a lawyer's best friend. But, if it's not mastered, it can feel like a burden. Learn how to integrate Outlook into your practice to help you work more confidently and effectively.

Learning Outcomes include:

- Master core Outlook tools: searching; archiving; managing the junk folder, alerts, mailbox and conversation clean-up; organising meetings; and generating out-of-office messages.
- Discover how to use Outlook more effectively as a time management tool.
- Discover when it is possible to recover deleted items and retrieve sent emails, and how to do this.
- Become aware of Outlook dangers and how to avoid them.

Who should attend?

All lawyers with a working knowledge of Outlook who want to get more out of it as well as those wanting a refresher.
Legal executives, practice managers and support staff may also benefit from attending.

Presenter: **Carlene O'Meagher**, Senior Business Analyst, Chapman Tripp

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Wednesday
16 November 2016
1pm – 2pm

1 CPD HOUR

Webinar

Limited Licences: Advice, Applications & Amendments

With insights from counsel and 'gatekeeper' respectively, this webinar will provide timely coverage of this key (and growing) area for criminal lawyers and general practitioners alike.

Learning Outcomes include:

In respect of limited licences:

- Attain a better understanding of the legal criteria for making an Application, the time restrictions and timeframes involved.
- Become better apprised of the process involved.
- Receive practical guidance for drafting an Order that the Court is more likely to grant, and gain insights into what happens after a Court Order is made.
- Receive Precedent Documentation.
- Gain insights into the Police view of such applications, and the basis for any opposition.
- Attain a better understanding of how to seek various amendments, should circumstances require.

Who should attend?

Criminal lawyers and general practitioners who receive instructions on these matters.

Presenters: **Steven Cullen**, Barrister; **Sergeant Ian Horsley**, Senior Prosecutor, Police Prosecution Service, New Zealand Police

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Thursday
17 November 2016
4pm – 6.15pm

2 CPD HOURS

Forum Live stream

Counter-Intuitive Evidence Forum: A Lawyer's Survival Guide

This topical forum will provide context, highlight key case law, look at who should be an expert in this field and consider how to manage counter-intuitive evidence at different stages of a proceeding.

Learning Outcomes:

- Gain a better understanding of what counter-intuitive evidence is, the legal context and the implications of such evidence in the courtroom setting.
- Become better equipped for dealing with counter-intuitive evidence – whether pre-trial or during a trial.
- Gain insights into defence counsel calling witnesses in respect of counter-intuitive evidence.
- Receive information about what's on the landscape in respect of counter-intuitive evidence.

Who should attend?

All lawyers practising in Criminal law who deal with complainants.

Presenters: **Warren Pyke**, Barrister; **Rob Harrison**, Barrister, Inangahua Chambers (Blenheim); **Professor Maryanne Garry**, School of Psychology, Victoria University of Wellington

Chair: **Guyon Foley**, Barrister

CPD In Brief

Rural Law Series: Avoiding Sour Grapes – 1.25 CPD hrs – FINAL NOTICE

Wednesday 26 October 2016, 12pm – 1.15pm

This webinar will consider a number of legal issues associated with the wine industry including advice on buying vineyards, difficulties with supply and management agreements, the increasing interest in vineyard leasing and issues arising out of winemaking and selling.

Presenters: **Peter Radich**, Partner, Radich Law; **Miriam Radich**, Partner, Radich Law

Webinar

Representing Refugees in the Immigration and Protection Tribunal – 2 CPD hrs

Thursday 10 November 2016, 4pm – 6.15pm

Representing refugees at the Immigration and Protection Tribunal is complex and demanding and these appeals require a different skill-set from other matters before the Tribunal. This seminar will provide practical guidance on how to best represent a client from initial meetings through to appearing at a hearing.

Presenters: **John McBride**, Barrister; **Deborah Manning**, Barrister

Chair: **Martin Treadwell**, Deputy Chair, Immigration and Protection Tribunal

Seminar Live stream

Working with the Harmful Digital Communications Act – 1.25 CPD hrs

Tuesday 15 November 2016, 12pm – 1.15pm

With the civil enforcement component of the Act likely to be out in late November and a number of criminal prosecutions completed or in progress, this webinar provides a very timely review of the workings of the Harmful Digital Communications Act. Considering the Act's civil and criminal application, it will also provide insight into the safe harbour provisions for online hosts.

Presenter: **Dr David Harvey**, Faculty of Law, Auckland University

Webinar

CPD On Demand

When an IP Disaster Strikes: Managing Intellectual Property Disputes – 1 CPD hr

Infringement of a client's intellectual property rights often requires immediate action. The lawyer is often faced with a number of possible causes of action and procedural options. This On Demand webinar provides guidance on making the best choices at the outset to strongly enhance the prospects of a favourable outcome for the client, whether through a negotiated resolution or litigation.

Presenter: **Kevin Glover**, Barrister, Shortland Chambers

On Demand

Accounting Principles You Need to Know to Become an Effective Commercial Lawyer – 2 CPD hrs

Understanding accounting principles and financial statements is vital in effectively advising on M&A mandates. This On Demand seminar provides both legal and accounting insights that will assist you in identifying key risk areas for due diligence and better understanding the different purchase price mechanisms, completion adjustments and deferred purchase price considerations.

Presenters: **Tom Logan**, Senior Associate, Minter Ellison Rudd Watts; **Simon Peacocke**, Partner, BDO Auckland

Chair: **Andrew Lewis**, Principal, Andrew Lewis Law

On Demand

Health and Safety at Work: Getting Reform-Ready – 2 CPD hrs

A new health and safety regime came into effect on 4 April 2016. Advising clients on the reforms will be essential for many lawyers. This On Demand seminar sheds light on the new legislation, provides insights into how WorkSafe will enforce the regime, and offers advice on how best to comply with the provisions of the Act as well as how to deal with prosecutions if they occur.

Presenters: **Fletcher Pilditch**, Barrister, Richmond Chambers; **Mike Hargreaves**, Chief Legal Adviser, WorkSafe; **Sam Moore**, Associate, Meredith Connell

Chair: **Rob Coltman**, Partner, Fortune Manning

On Demand

CPD Pricing

Delivery Method	Member Pricing	Non-Member Pricing
Webinar (1 hr)	$75.00 + GST (= $86.25 incl. GST)	$95.00 + GST (= $109.25 incl. GST)
Seminar (in person)	$125.00 + GST (= $143.75 incl. GST)	$180.00 + GST (= $207.00 incl. GST)
Seminar (live stream)	$125.00 + GST (= $143.75 incl. GST)	$180.00 + GST (= $207.00 incl. GST)
On Demand (1-hour recording)	$85.00 + GST (= $97.75 incl. GST)	$110.00 + GST (= $126.50 incl. GST)
On Demand (2-hour recording)	$95.00 + GST (= $109.25 incl. GST)	$130.00 + GST (= $149.50 incl. GST)

For group bookings for webinars & CPD On Demand, see the ADLSI website at: www.adls.org.nz/cpd/help-and-faqs/group-bookings/.

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Continued from page 2, "Technology innovations changing the legal landscape"

with and sits alongside the technology and their own role within these frameworks, and to appreciate when it may be appropriate to direct people towards ODR (i.e. for the resolution of simple disputes), and when matters are more complex and require the more considered treatment of ADR or litigation. In that case, they will need to be prepared to act in virtual courtrooms and understand how to best use this technology in assisting parties to resolve their disputes.

It will also be important for practitioners to be comfortable with the technology – to play with it and understand what to do if things go wrong, as they inevitably do on occasion. It is for this reason I am excited by the recent launch of the Centre for ICT Law at Auckland University and I encourage practitioners to engage with the training on offer and to embrace the opportunities offered by the Centre to play with new ideas. LN

Continued from page 3, "Accounting for investment properties under the Public Benefit Entity (PBE) Standards"

be zero. This scenario is likely to be rare in New Zealand given our active market for property.

The intention is that entities will not swap between models. Any subsequent changes from one model to the other are only made if the change will result in a more appropriate presentation. However, it may be difficult for entities applying the fair value model to demonstrate that a change to the cost model will result in a more appropriate presentation. Accordingly, the initial choice is very important i.e. entities need to ensure the fair value model is more appropriate for them in the long term before opting for that model.

The other condition that is apparent from the standard is that transfers to or from investment property are made only when there is a change of use.

PBEs that hold property interests may need to assess whether such interests meet the definition of an investment property as outlined above. A property interest held by a lessee under an operating lease can be classified and accounted for as an investment property provided the lessee uses the fair value model. However, the lessee is expected to account for the lease as if it were a finance lease.

Disclosures

The standard has a number of disclosure requirements depending on whether an entity is applying the cost model or the fair value model. RSM encourages entities to use a disclosure checklist to ensure the applicable disclosure requirements are adequately met.

Mwauluka Mubano CA, FCCA is an Audit Manager at RSM. Mr Mubano has had significant auditing and accounting experience in both Zambia and New Zealand working with large companies in the manufacturing, mining and forestry industries. For further information on the topics covered in this article, please contact him at mwauluka.mubano@rsmnz.co.nz. LN

+ *Appointments*

New appointments at NZ LAW

NZ LAW Limited has announced the appointment of its new chair, Kristine King, and the election of two new directors to its board – Natalie Gaskin and Daniel (Dan) Moore. These appointments took effect on 7 October 2016. NZ LAW's board now comprises three women and four men.

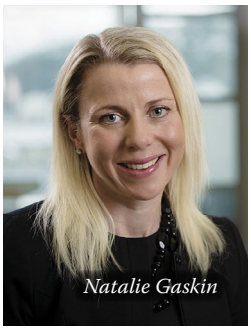
Kristine King succeeds Auckland lawyer, Michael Busch, who has retired from NZ LAW's board. Kristine King was elected to NZ LAW's board in 2012, with special responsibilities for the financial portfolio. She is a director of Duncan King Law, a boutique practice in Newmarket, Auckland, following a merger of several local firms. Ms King's areas of practice are property, trusts and commercial matters with a special interest in subdivisions.


Kristine King

"The board and I would like to acknowledge the contribution Michael Busch has made to the board as a director for seven years, and in the past three years as chairman," says Ms King.

"We are also pleased that NZ LAW acknowledges the strong contribution that women have in its member firms by having nearly 50% female representation on our board. Women have a significant part to play in the governance of any organisation and NZ LAW is well pleased to be leading the way."

New director, **Natalie Gaskin** is a partner of Wellington law firm, Johnston Lawrence Ltd and advises clients on commercial, property and trust matters. Ms Gaskin is one of New Zealand's top amateur long-course triathletes and competes nationally as well as internationally in ironman and half-ironman events. She recently placed second in her division at the 70.3 (half-ironman) World Champs in Mooloolaba and achieved a top-10 finish at the Ironman World Champs in Kona, Hawaii.


Natalie Gaskin

Hamilton lawyer, **Dan Moore**, is a commercial law partner at Norris Ward McKinnon specialising in joint ventures, IT matters, commercial property and construction law. Mr Moore is also a chair of the Waikato Rugby Union's judiciary and appeals panels and a member of the board of trustees for the Waikato Diocesan School for Girls.


Dan Moore

NZ LAW's board of directors now comprises:

- Kristine King, Duncan King Law, Newmarket, Auckland (Chair);
- Michael de Buyzer, Berry & Co, Oamaru;
- Gerard DeCourcy, Downie Stewart, Dunedin;
- Natalie Gaskin, Johnston Lawrence, Wellington;
- Jacquie Gray, Gifford Devine, Hastings;
- Mark Henderson, Corcoran French, Christchurch; and
- Dan Moore, Norris Ward McKinnon, Hamilton.

NZ LAW is an association of independent legal practices with 58 member firms located throughout New Zealand practising in a wide range of legal disciplines. LN

+ *Construction law*

2017 Construction Law Essay Prize Competition

The New Zealand Society of Construction Law is now inviting entries for its 2017 Essay Prize Competition. This is the sixth year the Society of Construction Law has run the competition, with great success.

The competition is designed to encourage an interest in, and the study of, construction law amongst undergraduate or recently graduated students. Entry is available to persons who have an interest in construction law and who, as at 31 October 2016, will be New Zealand residents and:

- will be undergraduate students at a tertiary institution in New Zealand, or
- will have graduated from any tertiary institution with their first degree or diploma within the previous three years.

Essays are to be a maximum of 5000 words with an emphasis placed on contribution to the study or practice of construction law or to the application of construction law in the industry. Essays submitted will be judged by a panel to be selected by the Society of Construction Law Council.

A first prize of $3,000 will be awarded for the best essay, with a second prize of $1,500. All entrants who submit an essay will be granted complimentary membership for one year.

Please note the following important dates:

- 30 November 2016 – proposed topics (and author eligibility) to be submitted for approval;
- 8 December 2016 – the Society of Construction Law Council will approve (or otherwise) topics and eligibility;
- 31 March 2017 – essay closing date;
- June 2017 – prize-winners will be announced at the Society of Construction Law's Annual General Meeting.

Further information can be obtained on the Society of Construction Law's website www.constructionlaw.org.nz or by contacting Melanie Whittaker at webmaster@constructionlaw.org.nz. LN

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+ *Wills*

Please refer to deeds clerk. Please check your records and advise ADLSI if you hold a will or testamentary disposition for any of the following persons. If you do not reply within three weeks it will be assumed that you do not hold or have never held such a document.

Michael John HOWARD, Late of 17 O'Hara Street, Ngawha, Widower, Retired, Aged 84 (Died 05'07'16)

Elaine IRVING, Late of Craigwell House, 143-147 Parkhurst Road, Parakai, Helensville, Auckland, Retired, Aged 80 (Died 30'09'16)

Duncan MORRISON, Late of 17353 Elsinore Road, Bend, Deschutes, Oregon, United States of America, Aged 51 (Died 18'09'16)

Hone ROGERS aka John ROGERS, Late of 47 Longburn Road, Henderson, Auckland, Retired, Aged 71 (Died 17'08'16)

Nelson Eddie SINGH, Late of Anne Maree Gardens Rest Home, 24 Coronet Place, Avondale, Auckland, Retired, Aged 76 (Died 30'07'16)

Cassie Heather STEPHENSON, Late of 287B Otumoetai Road, Otumoetai, Tauranga, Formerly of 13 Margaret Henry Place, Browns Bay, Auckland and 37 Tobruk Crescent, Milford, Auckland, Aged 51 (Died 21'09'16)

Marotaua Maurice TARATU, Late of Papatoetoe, Auckland, Aged 45 (Died 02'10'86)