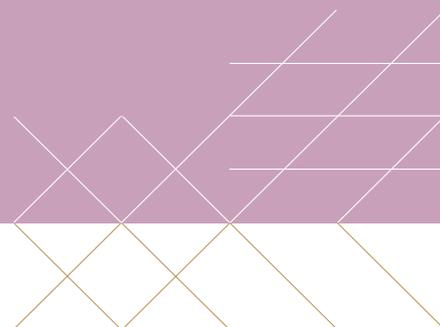


LawNews

adls.org.nz



ARBITRATION, ADLS CPD EVENT

How to make an arbitration work

By Anna Kirk

The core skills required for effective advocacy in arbitration are the same as for any other determinative adversarial process.

But there are some key differences between arbitration, and advocacy in litigation and proceedings. Advocates who appreciate these differences are likely to achieve better outcomes for their clients.

This article touches upon some of the key issues when representing clients in an arbitration. These will impact on the advocacy style adopted.

Party autonomy

Party autonomy is a key tenet of arbitration and affects the role of the advocate.

The arbitration belongs to the parties and the tribunal will be guided by them insofar as they can agree on issues, procedures and the overall mandate of the arbitrator.

The parties are in control and advocates who can make the most of this opportunity will ultimately achieve a more satisfactory experience for their client.

The way lawyers approach each other in the early stages of an arbitration will have a significant impact on the course of the arbitration.

An argumentative stance from the outset may ultimately be detrimental. Lawyers who can converse constructively with their counterparts and find agreement so far as possible allow the parties to retain more control over the arbitration process as a whole.

This is particularly so where a sole arbitrator is to be appointed.

Coming to an agreement on this appointment rather than defaulting to an appointing authority



An argumentative stance from the outset may not be helpful

is in the interests of both parties. While the natural inclination might be to veto any names suggested by the other side, the outcome might be counterproductive.

A face-to-face (or telephone) discussion between counsel is likely to yield up agreement more readily than an email battle. If the parties have selected their arbitrator rather than had their decision-maker thrust upon them, they are more invested in the process and are more likely to be satisfied with the overall result.

Agree procedure

Linked to party autonomy is the ability of the parties to agree on the procedure.

Prior to the first case management conference,

the parties have the opportunity to converse and determine an agreed procedure so far as possible.

Where both parties have agreed on the procedure, it would be highly unusual for a tribunal to vary it, although the tribunal may have some suggestions for the parties to consider.

Of course, if the parties cannot agree, or would prefer guidance from the tribunal about the procedure, they are free to defer to the tribunal on this issue.

Similarly, if a party requires an extension to file a document, unless there is particular urgency the first step should be to contact the other side's counsel and ask if they will agree to the extension.

Continued on page 2

How to make an arbitration work

Continued from page 1

If agreement is forthcoming, the parties can then inform the tribunal that they have agreed the extension and seek its approval, which will seldom be denied.

If the parties cannot agree, they can approach the tribunal for a decision, with both parties' positions clearly stated. The process is efficient and tribunals generally prefer it.

Written advocacy

After the initial procedure is agreed, the first step is for the claimant to file its main submission.

In arbitration, this would usually be a complete rendering of the claimant's case at that point in time, including the facts, evidence and law relied upon in support of that party's submissions.

All documents and witness or expert evidence should be filed at the same time, unless otherwise agreed.

Arbitral written advocacy tends to have a more "narrative" style than court pleadings, where each party takes the opportunity to present its "story" to the tribunal, supported by documents, witness evidence and any other materials a party wishes to adduce.

All aspects of a party's case should be fully canvassed in these written briefs as oral advocacy (as discussed below) will be shorter and more pointed than typically is the case in litigation.

Written submissions are therefore very important and the party presenting the most intelligent, coherent and convincing narrative will have a considerable advantage.

It is important that, when acting for a respondent, counsel take the opportunity to advance the respondent's version of events and the applicable law, not just admit or deny the claimant's version.

Usually each side will have the opportunity to file its main submissions and a second submission in rebuttal or reply. Skeletons before a hearing would be unusual in most domestic matters.

Documents and interlocutories

Extensive document production is costly, time-



Anna Kirk

Written submissions are therefore very important and the party presenting the most intelligent, coherent and convincing narrative will have a considerable advantage

consuming and rarely productive.

Arbitration has traditionally shunned court-style discovery unless the parties insist on it.

The parties can agree that no document production procedure will occur at all and for smaller disputes there might be good reason to do so.

If document production is to occur, the parties can tailor this to suit the requirements of the dispute.

A limited form of document production targeting

specific documents or narrow categories of documents is often adopted.

Parties are required to show why a requested document is relevant and material to the dispute. If this process is adopted, the document production phase should take no more than a few weeks.

A key point setting arbitration apart from litigation during the interlocutory phase is that all interlocutory decisions will be made by a decision-maker who will be familiar with the dispute throughout, and who is available.

There is no ability to challenge or appeal interlocutory decisions in an arbitration. This makes them potentially cheaper, easier and faster than in litigation.

In arbitration, an interlocutory issue would usually take the following course:

- ◇ an initial email to the arbitrator setting out the issue;
- ◇ a telephone conference within a day or so to set the procedure;
- ◇ further submissions addressing the issue in full;
- ◇ a short hearing, if needed; and
- ◇ decision issued by the arbitrator.

All of this is usually completed reasonably promptly and without any filling fees.

The hearing

A typical arbitration hearing will be significantly shorter than a court hearing.

Larger disputes normally require a hearing of around one to two weeks, depending on the number of witnesses.

Smaller disputes would usually require a hearing of a few days at most. This includes time for oral openings and closings submissions, if required. Oral closing submissions can take place on a later date if preferred.

As the case will have been fully briefed in the written documents which the arbitrator should

Continued on page 4

LawNews

LawNews is an official publication of Auckland District Law Society Inc. (ADLS).

Editor:
Jenni McManus

Publisher:
ADLS

Editorial and contributor enquiries to:
Jenni McManus, phone 021 971 598
or email jenni.mcmanus@adls.org.nz

Advertising enquiries to:
Krystal Askin, phone 09 303 5277
or email krystal.askin@adls.org.nz

All mail to:
ADLS, Level 4, Chancery Chambers,
2 Chancery Street, Auckland 1010
PO Box 58, Shortland Street DX CP24001,
Auckland 1140, adls.org.nz

LawNews is published weekly (with the exception of a small period over the Christmas holiday break) and is available free of charge to members of ADLS, and available by subscription to non-members for \$140 (plus GST) per year. To subscribe, please email reception@adls.org.nz.

©COPYRIGHT and DISCLAIMER
Material from this publication must not be reproduced in whole or part without permission. The views and opinions expressed in this publication are those of the authors and, unless stated, may not reflect the opinions or views of ADLS or its members. Responsibility for such views and for the correctness of the information within their articles lies with the authors.

ADLS COMMITTEE CONVENOR PROFILE

Mark Colthart: ADLS Property Disputes committee

This profile is part of a series on ADLS committee convenors

Where do you work, what's your role?

I am a barrister at FortyEight Shortland Barristers and split my time 50:50 between working as a barrister and as an adjudicator and arbitrator.

FortyEight Shortland is a relatively new set of chambers, opening about 12 months ago.

We have nine barristers, all practising in civil litigation across a wide range of areas including construction, property, insolvency, insurance, trusts and general commercial litigation.

Where did you study?

At the University of Canterbury. I graduated in 1994 with a BA/LLB.

At Canterbury I was fortunate to study under some of New Zealand's great legal academics like John Burrows QC, Jeremy Finn and Stephen Todd.

In the late 1990s I went back to university part-time, studying at the University of Auckland where I completed an LLM (Hons), graduating in 2001.

The focus for my masters was the law of commercial obligations, drawing together the common themes in tort, contract and equity. My supervisor was Professor Julie Maxton, who was the Dean of the Faculty of Law by the time I graduated and went on to become the first-ever woman to be appointed as the Registrar of the University of Oxford.

I also studied for the Fellowship in Arbitration. In 2012 I became a fellow of AMINZ (Arbitrators' and Mediators' Institute of New Zealand) and a fellow of the Chartered Institute of Arbitrators in the UK.

What's been your career to date?

I was admitted to the bar in September 1994.

I started work in a small firm in Manukau called Lyon Lucas, and worked across a broad range of civil, family and criminal litigation, gradually focusing on civil litigation.

In the late 1990s, I moved to Duthie Whyte in the city and, in the early 2000s, became a partner in Knight Coldicutt where I developed a speciality in property and construction disputes.

I joined the independent bar in 2006 and have been in three sets of chambers since then, all of them in Auckland.

How long have you been a member of ADLS?

Since I commenced practice in 1994. Being a member of ADLS has been extremely good value for money, for everything that you get out of it: collegiality, CPD and the other professional services that are offered.



Mark Colthart

We have helped resolve many property disputes over the years – cases that would have been uneconomic to hear in other forums

How long have you been involved with ADLS committees and which committees have you worked with?

Many years ago I was on the Civil Litigation and Courts committee. I joined the Property Disputes committee about 13 years ago and became the convenor when Joanna Pidgeon became ADLS President.

Why is committee work important?

For general committees, the most important thing is to be a forum and an outlet for members of the profession to have a say on law reform and through the select committee submission process.

Committees play an important role in the leadership of the profession.

The Property Disputes committee provides a service to ADLS members, where we determine property-related disputes.

All our members (12 currently) are experienced property lawyers. About two-thirds are practising transactional property lawyers and the remaining third are property dispute specialists, litigation

lawyers and barristers.

We convene the committee when we receive a referral of a dispute from two practitioners. Our job is to determine the dispute based on an agreed set of facts. We issue our decision within a month and meet between three and six times a year, based on demand.

The kind of issues we consider can be complex and often involve disputes around the time of settlement of a property transaction. But our work isn't limited to that. We have also determined disputes relating to commercial leases and property disputes of a more general nature such as cross-lease and boundary disputes.

We have a rulings manual, available on the ADLS website, where we summarise and catalogue significant decisions. A first step for any ADLS member considering bringing a dispute to us is to check the rulings manual to see if we have ruled on a similar issue previously.

How do ADLS committees make a difference?

Our committee provides an expert determination for a very economical fee, within a very short timeframe.

What's been the most notable achievement or biggest focus of your committee in the past few years? Why was that important?

There isn't one big notable achievement but many smaller ones.

We have helped resolve many disputes over the years – cases that would have been uneconomic to hear in other forums. We provide a valuable access to justice service for ADLS members.

What would you say to anyone thinking of becoming involved in an ADLS committee?

I'd encourage anyone interested to get involved and do so early in your career.

You don't need 20 years' experience. In fact, committees are more vibrant when they're comprised of people with a wide range of experience. So don't be shy.

What's the biggest issue facing your practice area at the moment? And how does that affect lawyers and their clients?

It's the perennial issue of high cost and lengthy delays in court proceedings.

The Property Disputes committee provides a really helpful service for cases that results in them being heard without delay and for a reasonable cost.

What's the best kept secret about ADLS?

The great support from ADLS staff who are very helpful and friendly. They provide fantastic collegial support and are great to deal with.

To find out more about ADLS committees, contact Melissa Fini: e: melissa.fini@adls.org.nz ☒

ADLS EVENT

Upskilling and updating in the unit titles arena

By **Thomas Gibbons**

The way we live, at least in our bigger cities, is increasingly intensified - and intense.

Hence the strong interest in the annual *ADLS/SCA (NZ) Unit Titles/Bodies Corporate Half-Day Conference* event, which this year focused on the law and practice of unit title ownership and the governance structures overseeing it.

The format deliberately combines legal and manager input, reflecting the symbiotic role each plays, along with the joint input of ADLS and Strata Community Association (NZ).

First up was a team session on dealing with 'rogue' owners, with Clinton Baker covering legal approaches, Paula Beaton the manager's perspective and Denise Evans providing dispute resolution insights into how even the phrase 'rogue owner' may be the wrong place to start.

Lawyer Joanna Pidgeon and manager Wendy Baker then considered the role of the manager. Relationship issues, liability issues, and the overlay between lawyers and managers were all discussed.

The conference then turned trans-Tasman, with Australian College of Strata Lawyers' President Tim Graham and Australian manager Julie McLean giving their take on issues across the ditch, including equal opportunity, defamation and other issues we might not think of as being strictly unit title-based.

My contribution was a case law update, outlining how recent cases such as *Otway* and *Gu* have emphasised the importance of considering a building as a whole when repair and remediation issues arise, and the balance between the interests of the many and the few or the one.

Conveyancing issues are at the heart of much legal practice and Denise Marsden presented a valuable session on disclosure, due diligence and vendor warranties. Even (or perhaps especially) experienced practitioners can



From L - R Paula Beaton, Thomas Gibbons, Denise Evans, Clinton Baker, Julie McLean, Denise Marsden, Tim Graham, Joanna Pidgeon, Wendy Baker, Liza Fry-Irvine, Kayleanne Mercer

get tripped up on changes to the ADLS-REINZ form including, for example, warranties on air conditioning and other building services.

Beyond advisory work and transactions, there are title matters, and lawyer Liza Fry-Irvine and manager Kayleanne Mercer spoke on the life and times of a unit plan, particularly how and when building works can lead to a new plan being required.

The conference continued with a panel discussion on ethical issues for managers and lawyers, including whether a lawyer should act as a proxy, how managers may need to protect themselves and their staff from stress, and to whom managers and lawyers ultimately owe their duties.

Thomas Gibbons was conference chairman and is a director at McCaw Lewis ❖



Thomas Gibbons, conference chair, director McCaw Lewis



Tim Graham, partner HWL Ebsworth Lawyers (Australian presenter)

Continued from page 2, "How to make an arbitration work"

have read before the hearing, oral advocacy is an opportunity to highlight key points and to ensure they hit home rather than to simply re-tell the narrative.

Witness evidence in an arbitration hearing primarily comprises cross-examination, with evidence-in-chief usually far more limited than in litigation (there is no need to read out witness statements during the hearing).

Expert witnesses sometimes provide a short presentation of their position at the start of their

evidence.

They may also be asked to provide evidence together - known as a "hot tub" or "joint conference" where the tribunal and counsel ask questions of both experts at the same time.

Before the hearing, the experts may have been asked to produce a joint report clarifying areas of difference and agreement between them.

ADLS is running an interactive seminar to demonstrate these and other issues arising in

arbitration which may be less familiar to those who routinely practise in the courts.

Dr Anna Kirk is a barrister & arbitrator at Bankside Chambers

For those interested in learning more, register for ADLS' interactive seminar on 17 October 2019 where some of the points above will be played out in a real-life scenario. Presented by Anna Kirk, Royden Hindle, Jeremy Johnson and Polly Pope. Visit adls.org.nz/cpd for details. ❖

ADLS EVENT

ADLS breakfast with RB governor Adrian Orr

In a wide-ranging presentation covering monetary policy, risk, infrastructure investment, banking margins and his view on crypto-currencies and the future of cash, Reserve Bank Governor Adrian Orr told ADLS members at a breakfast at the Northern Club last Friday that New Zealand is in “the best position” compared with other OECD countries.

So why the apparent lack of interest in investment?

“We are sitting here with very healthy government accounts,” Orr said. “The same for corporate balance sheets. And we have a massive infrastructure deficit, and a demand and need and desire for long-term inter-generational investing. And we have the lowest hurdle rate this country has ever seen for investing.

“So, we have this trifecta of opportunity here... We are in a very positive position.” The trouble, Orr said, was “us”.

“People are incredibly good at getting in the way of making investment opportunities happen.” Pockets of countries had been able to successfully harness the use of global capital for long-term infrastructure investment but no single country had managed to do it.

Tackling climate change was potentially an opportunity for New Zealand to shine globally. “It’s all about facilitating and making these things happen,” Orr said.

On the banking sector, Orr says the Reserve Bank is determined to have more capital in the banking sector and will finalise its plans in early December.

The suggestion has created huge controversy since first being mooted, with some Australian parents of New Zealand’s largest banks threatening to withdraw capital from this country if the move goes ahead.

But Orr says the Reserve Bank is worried about debt – some households and the dairy industry are highly leveraged – and is keen for the commercial banks to have more skin in the game.

“They’re the most highly-leveraged businesses in the world,” Orr said, and need to take more responsibility for their own balance sheets. This might encourage a soberer approach to lending and a focus on long-term customer outcomes.

Secondly, with more capital banks were less likely to be taken out through business cycles.

“You’re more likely to be able to lend responsibly and properly and consistently through the good times and the bad if you’ve got more capital in the game.”

Lastly, Orr said, banks privatise profits but socialise losses. “It’s the broader society that has to step in and bail the banks out.” It’s also the broader society which is disrupted, and social cohesion collapses through massive economic downturns, often created by financial collapse.

“It’s about saying ‘how can we make sure they are able to absorb more of that cost, and that shareholders bear more of the responsibility for their long-term behaviour?’”

In the past 10 years, the banks have been “flat-out lending” to the rural sector but have been “re-visiting this wisdom” in the past year.

“So, at a time when the dairy industry needs the most support, bank credit is becoming less available and margins are going up... Over the past 12 months we have cut the OCR by 75 basis points, or more than the banks’ estimated costs of the higher capital requirements.”

Orr said the Reserve Bank wasn’t saying “do it yesterday” and there would be a transition over a long period of time.

But this isn’t the scenario that’s been playing out in the public arena where there had been some “quite vicious scaremongering” in some sectors of the economy, he said. ❌



Reserve Bank Governor Adrian Orr



John Hall and Sarah Keene



Tim Jones and Marie Dyrberg QC



William Irving, Joanna Khoo, Hayley Cassidy, Rachel Howard and Brent McAnulty

ADLS EVENT

Tauranga cocktail function

ADLS will return to the Bay of Plenty on Wednesday 6 November for our annual cocktail function at The Tauranga Club.

Meet with fellow lawyers from across the region and enjoy panoramic views of the harbour, accompanied by a tasty selection of canapés and beverages.

Tickets are just \$15 for ADLS members and \$20 for non-members. With that you will receive several hors d'oeuvres and two complimentary beverages.

We look forward to seeing you there.

Date & Time: Wednesday 6 November, 5.30pm - 7.30pm

Venue: The Tauranga Club
Level 5
72 Devonport Rd
Tauranga 3110

Register: Visit adls.org.nz to register online; alternatively, contact events@adls.org.nz or phone (09) 978 3970. ADLS' standard cancellation policy applies for this event.

ADLS EVENT

Meet MPs Chlöe Swarbrick and Nikki Kaye

The ADLS Newly Suited committee invites you to a panel discussion, Ten Questions with Greens MP Chlöe Swarbrick and National's Nikki Kaye MP, on Friday 8 November at Bell Gully.

As with our previous Ten Questions events, this discussion will feature a Newly Suited committee member putting 10 questions to the two politicians.

Once you have registered, you will be sent a link to submit questions that might be asked and for suggestions about other leaders you would like to see interviewed at a future event.

Date & Time: Friday 8 November 2019, 12.30pm - 2.00pm

Venue: Bell Gully
Vero Centre
Level 22/48 Shortland Street
Auckland 1140

Register: Visit adls.org.nz to register online; alternatively, contact events@adls.org.nz or phone (09) 978 3970. ADLS' standard cancellation policy applies for this event.

This event is proudly sponsored by

BELL GULLY

WILL INQUIRIES LawNews

The no-hassle way to source missing wills for \$80.50 (GST Included)

Email to: reception@adls.org.nz. Post to: ADLS, PO Box 58, Shortland Street, DX CP24001, Auckland 1140
Fax to: (09) 309 3726. For enquiries phone: (09) 303 5270

Wills

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

Joyce BAYNE, Late of Apartment C008 Waitakere Gardens, 15 Sel Peacock Drive, Henderson, Auckland, Retired, Aged 74 (Died 21'09'19)

Manulele MINUTE, Late of 4/2a Ewenson Avenue, One Tree Hill, Auckland 1061, Marriage Dissolved, Mother, Aged 60 (Died 26'07'19)

Rewiti Pomare Kingi (Pita) PARAONE, Formerly known as Pita BROWN, Late of 24 Westview Court, Somerville, Auckland, Married, Retired, Aged 73 (Died 26'08'19)

Shuzo SHIBATA, Late of 1-103, Kanayama-cho, Naka-Ku, Nagoya, Japan, Widower, Retired, Aged 92 (Died 14'02'17)

Raymond (Ray) THOMPSON, Late of Napier, Widower, Retired, Formerly a Joiner, Aged 91 (Died 26'04'19)

Yvonne Irene TUCKER, Late of Evelyn Page Retirement Village, 30 Ambassador Glade, Orewa, Auckland 0931, Widow, Retired, Aged 93 (Died 21'09'19)

Adrian David Nicholas WILLIAMS, Late of 19 Noni Street, Turangi, Single, Labourer, Aged 48 (Died between 14'08'19 and 21'08'19)

LAW AND THE COURTS

Acting Chief District Court Judge moves to streamline sentencing

From: Acting Chief District Court Judge John Walker

To: All counsel in Auckland, Manukau and Christchurch

Date: 18 September 2019

Re: Sentencing when defendants are in custody

The number of people in custody on remand continues to be at a very high level, accounting for more than one third of all those in prison. Of that number, some 1200 people are awaiting sentence and many have been waiting for a long time,

The problem I see is that while people are waiting in custody, mostly they receive no interventions and a very large number are sentenced effectively to time served. The number of such sentences has doubled since 2015. This reflects the increasing length of time people are waiting for sentence while in custody.

I hope you will agree that the lengthy time delay to sentencing for those in custody should be avoided.

I have allocated an extra eight weeks of sentencing time in the Auckland, Manukau and Christchurch courts dedicated to those in custody awaiting sentence.

In order to use this valuable time effectively, the cases need to be ready to proceed on the allocated day.

I know that many things can get in the way of that happening, but I also know that with sufficient notice of problems, the barrier to proceeding can often be resolved.

In order to identify such barriers as early as possible, I am issuing a direction in respect of these cases which will require defence counsel, and Crown counsel where they are involved, to file a memorandum no later than 10 working days before the sentencing date certifying that the case is ready to proceed or specifying what barriers there are to the case proceeding.

The Department of Corrections is keen to support earlier resolution of these cases and will provide resources to attempt to deal with any barrier within its control. For example, if counsel advises in the memorandum that a new address needs to be assessed for an electronically-monitored sentence, early advice of this may enable a prompt assessment to be made ahead of the

sentencing date.

If counsel are waiting for a specialist report, the memorandum will draw attention to that fact and steps may be able to be taken to expedite the provision of the report.

If there is good reason for the case not proceeding, then an early decision may be made to vacate the sentencing date, allowing for another case to be brought forward.

[Below] is a copy of the direction which will be sent by the respective registries to counsel engaged in the cases which are being given priority attention.

The aim of the process is to enable those waiting in custody for sentence to have early resolution of their cases.

In usual circumstances I would have preferred to discuss this direction with the profession in advance, but the urgency of the situation has not allowed for that.

Direction of Acting Chief Judge John Walker

- (1) This direction is given in respect of those sentencing matters set down for hearing in Manukau, Auckland and Christchurch where the defendant has been remanded in custody.
- (2) The purpose of this direction is to reduce delay in sentencing by ensuring, as far as possible, that the sentencing is able to proceed on the allocated date.
- (3) The direction is that counsel for each defendant is to file not later than 10 working days prior to the sentencing date a memorandum certifying either that the sentencing is ready to proceed or specifying what is necessary to enable sentencing to proceed.
- (4) In case of a Crown sentencing, Crown counsel is required to file a memorandum in accordance with paragraph 3 to like effect.
- (5) In any case other than where the matter is certified as ready to proceed, the registrar will forthwith send a copy of the memorandum to the probation officer engaged in the preparation of the pre-sentence report and refer the memorandum to the sentencing judge who shall make such further directions as the judge sees fit. ❌

NEW BOOK

Litigation Skills: A Practical Guide to Appellate Advocacy

Author: Ian Murray

Litigation Skills: A Practical Guide to Appellate Advocacy focuses on the practical aspects of preparing for, and appearing at, criminal appeals in the District Court, High Court and to a lesser degree the Court of Appeal.

Features

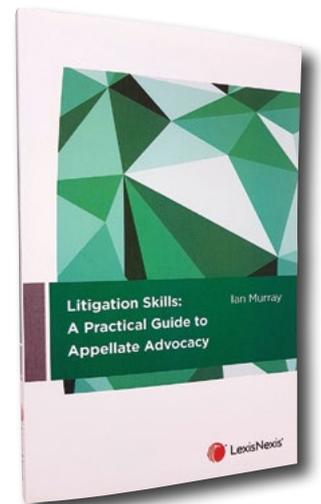
- ♦ The only New Zealand text with a sole focus on appellate advocacy.
- ♦ A valuable addition to the litigation skills series, which practically explains and guides readers through litigation processes.
- ♦ Compact and concise – perfect for your bookshelf and briefcase.

Price: \$73.91 plus GST*

Price for ADLS members: \$66.52 plus GST*

To purchase this book please visit www.adls.org.nz or contact the ADLS bookstore by phone: 09 306 5740, fax: 09 306 5741 or email: thestore@adls.org.nz

ADLS will be holding a seminar on criminal appeals on 18 February. Details coming soon.



Featured CPD

The Roadmap to Success

What does a successful legal career look like to you? How do you know if you're on the right pathway? Is it time to change direction? Is joining a partnership, setting up your own practice, or moving to the independent bar the right fit for you? What are the benefits, pitfalls, and realities of changing direction? How do you determine what is the best "brand" for you? What due diligence should you do and what matters should you consider before making the leap? These are just some of the questions that will be addressed in this session. Our panel will share their invaluable experiences and wisdom to provide guidance in finding the answers to these important questions so that you may devise your roadmap to success. Please note, because of the nature of this event, papers will not necessarily be provided.

Learning outcomes:

- Learn how to effectively transition between different roles in the legal profession.
- Gain insight on how to identify and develop your own unique brand and determine the right structure for you.
- Learn more about setting up your own practice: logistics, regulatory and compliance issues.
- Gain insight into relevant trust account matters that you need to be aware of.

Arbitration in Action: Principles, Process and Practicalities

Arbitration is defined as the private determination of a dispute, by an independent third party. Yet the process is not so well understood. This practical work-through, using a common fact scenario, will shed light on the arbitration process, from start to finish, so that attendees can feel more comfortable about choosing and conducting this ADR option which is being used more often and across a diverse range of disputes.

Learning outcomes:

- Become more familiar with the phases of the arbitration process, including appointment of the arbitrator, the anatomy of the pre-hearing conference, and how costs are dealt with.
- Gain insights into how the arbitration process can be tailored to the needs of the parties and the particular dispute (including the form of arbitration) – and when other forms of alternative dispute resolution might be more suitable.
- Get a better feel for the range of issues that can arise during the arbitration process, including ethical matters.
- View portions of a mock arbitration in action, conducted by those very experienced in this forum, so that you feel better prepared for your next one.

Personal Effectiveness Workshop

Do you want to have more impact at work? This workshop will provide a range of personal effectiveness insights and tools to help increase your productivity and return-on-effort at work. It is facilitated by a leading high-performance consultant.

Places are limited. Register now to avoid missing out. This is the last time this workshop will be held in 2019.

Learning outcomes:

- Learn how to make time.
- Gain an understanding of how to increase the effectiveness of your face-to-face communications.
- Uncover your 'story' – the source of your effectiveness.
- Craft your storyline – how to rewrite your personal effectiveness.
- Develop skills to improve resilience – how to use pressure and control stress.
- Gain insights into accountability and effectiveness.
- Boost your problem-solving skills through using creative thinking.

Feedback from a previous workshop:

"Very interesting, novel and with a touch of humour".

"Best presentation I have attended in a long time".

"Great style and presence. Very useful and enjoyable morning".

Leading Your Career – Exclusively for Women Lawyers with 2+ years' PQE (Hamilton workshop)

Take charge of your career and realise your underlying potential. This practical, interactive one-day workshop, led by one of New Zealand's top female lawyers and one of New Zealand's top leadership experts, will arm you with resources, self-confidence and focus to apply immediately to your role and to enhance your future career. *Places are limited. Register now to avoid missing out.*

**CPD hours: 7 hours onsite (excluding breaks) plus a preparatory 1 hour online assessment*

Learning outcomes:

- Gain a real understanding of your personal values.
- Better understand your behavioural style, how to 'read' others and how to adapt your style to increase your influence.
- Gain insights into how to take responsibility for driving your career and how to challenge undermining self-talk that erodes self-confidence.
- Gain clarity about your career purpose and create a clear career vision.
- Develop your 'brand proposition' – the reputation needed to realise your career vision.

Seminar Livestream

CPD 2 hrs

 **Tue, 15 Oct**

4pm – 6:15pm

Presenters

Clive Elliot QC

Steph Dyhrberg, Partner,

Dyhrberg Drayton Employment Law

Mark Anderson, Consultant

Chair

Kate Ashcroft, Partner,

Copeland Ashcroft

Seminar Livestream

CPD 2 hrs

 **Thu, 17 Oct**

4pm – 6:15pm

Presenters

Royden Hindle, Commercial Arbitrator

Polly Pope, Partner,

Russell McVeagh

Anna Kirk, Barrister,

Bankside Chambers

Jeremy Johnson, Partner,

Wynn Williams

Workshop

CPD 4 hrs

 **Thu, 17 Oct**

9am – 1:15pm

Presenter

Tony Gardner, Managing Partner,

Catapult Auckland

Workshop

CPD 8 hrs*

 **Tue, 5 Nov**

8:45am – 5pm

Presenters

Miriam Dean QC

Liz Riversdale, Leadership

Development Specialist, Catapult

CPD in Brief

Sentencing

The Court of Appeal has expressed interest in revisiting the main principles underlying the Sentencing Act 2002, which requires lawyers to probe whether developed practices such as guideline judgments are proper. This seminar will examine the potential arguments that arise under the Sentencing Act to challenge the high rates of imprisonment in New Zealand. Are the sentencing levels correct? What are some of the innovative sentencing arguments you could make? The presenters will also focus on the Court of Appeal judgment in *Zhang v The Queen* which focuses on sentencing in methamphetamine cases.

Presenters: Julie-Anne Kincade, Barrister; Kris Gledhill, Professor, AUT

Chair: Her Honour Judge Johns

 **Seminar Livestream**

CPD 2 hrs

 **Thu, 7 Nov**

4pm – 6.15pm

Commercial Law Series: Company Constitutions - One Size Does Not Fit All

This webinar will cover the key variables influenced by various factors (eg types and number of shareholders, whether there is a shareholders' agreement, and Code or listed status), including around pre-emptive provisions; 'drag along' and 'tag along'; governance, including appointment of the board of directors; and decisions requiring a special majority.

Presenters: Andrew Lewis, Principal, Andrew Lewis Law; Igor Drinkovic, Senior Associate, MinterEllisonRuddWatts

 **Webinar**

CPD 1 hr

 **Tue, 12 Nov**

12pm – 1pm

Insights into the Life Cycle of a Civil District Court File

Much about what happens behind the scenes once civil proceedings are commenced in the District Court remains something of a mystery, even to seasoned litigators. This seminar offers a rare opportunity to discover more about the workings of the Court, and to gain a better understanding of the various stages and procedures that may be encountered on the way to a final hearing and beyond from the Court's perspective. It will also provide invaluable insights into how to avoid the numerous pitfalls that can occur along the way.

Presenters: His Honour Judge Harrison; Andrew Gilchrist, Barrister, Southern Cross Chambers; Justine Ng Lam, Service Manager, Auckland District Court

Chair: His Honour Judge Harrison

 **Seminar Livestream**

CPD 2 hrs

 **Thu, 14 Nov**

4pm – 6.15pm

Navigating Defamation Law: Strategies and Recent Developments

Defamation is a complex, growing and constantly-developing area of law, currently grappling with the rise of social media. The last five years have seen a significant increase in defamation claims – a trend that seems set to continue. How do you ensure that defamation claims are dealt with quickly and efficiently? What strategies can you use to ensure a good outcome outside of, or in, court? What are the critical issues and what does the future look like? Using the latest local and overseas cases, this seminar will give you a comprehensive understanding of these and other key issues in defamation law.

Presenters: Justin Graham, Partner, Chapman Tripp; Tom Cleary, Senior Associate, Chapman Tripp

 **Seminar Livestream**

CPD 1.5 hrs

 **Thu, 21 Nov**

4pm – 5.30pm

Retirement Villages and Residential Care

Retirement villages, one of the fastest-growing industries in NZ, may also be one of the most challenging to advise on, especially the overlap with residential aged care and the right to receive care services in a village setting. This complex and specialised area of practice means that legal advice should be provided by lawyers who know how retirement villages and residential care operate and who remain current with developments in this area. This seminar will consider some of the areas where lawyers need to be especially vigilant when giving advice to clients and will provide insights into how best to engage with clients in order to protect their interests.

Presenters: Alison Gilbert, Partner, Brookfields; Michelle Burke, Partner – Retirement Villages, Anthony Harper;

Jude Mowbray, Seniorline **Chair:** Troy Churton, National Manager, Retirement Villages & Ageing Workplace

 **Seminar Livestream**

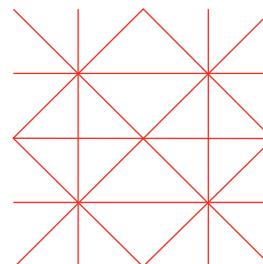
CPD 2 hrs

 **Wed, 4 Dec**

4pm – 6.15pm

CPD Pricing

Delivery Method	Member	Non-Member
 Webinar (1 hour)	\$80 + GST	\$115 + GST
Webinar (1.25 hour)	\$90 + GST	\$130 + GST
 Seminar (2 hour in person)	\$130 + GST	\$185 + GST
 Seminar (2 hour live stream)	\$130 + GST	\$185 + GST
 On Demand (1 hour recording)	\$90 + GST	\$130 + GST
On Demand (2 hour recording)	\$145 + GST	\$205 + GST



CPD On Demand

Earn CPD hours by completing On Demand activities via your computer or smart device

visit: adls.org.nz/cpd

For group bookings for webinars, seminars & On Demand, see the ADLS website at: adls.org.nz/cpd-pricing.



ADLS members and non-member lawyers who have registered their Airpoints™ membership with ADLS can earn Airpoints Dollars™ on eligible ADLS CPD purchases.

Terms and conditions apply.

Arbitration in Action: Principles, Process and Practicalities

Thursday 17 October | Seminar & live stream | 2 CPD hours

Visit adls.org.nz/cpd for more information.



Progressive mid-tier firm is seeking the following

- An employment lawyer with at least four years post qualification employment law experience.
- An experienced commercial lawyer (trusts and estates an advantage).
- A Registered Legal Executive with experience in Estates.

If you are looking for a new challenge in a dynamic working environment this may be a good opportunity for you.

To apply for this position please at first instance email aucklandlawapplication@gmail.com.

NOTICE OF RETIREMENT

After 27 years as a sole practitioner in Parnell, David Nicoll has retired as a solicitor.

David wishes to thank practitioners and counsel for their unfailing courtesy, patience and (in most instances) co-operation.

The good people at Carson Fox Legal have generously agreed to look after David's clients.

David will retain his Dickensian offices in Parnell from where he will continue to practise as a Notary Public and to carry on his other interests.

Insolvency is our specialty ...and litigation support too!

John, Paul, Matt and Simon have decades of experience in insolvency and litigation support. For expert and impartial advice on restructures, liquidations, receiverships, share valuations, fraud analysis and expert witness work, call the team at Gerry Rea Partners.

Tel 0800 343 343 · Fax 09 377 3098 · www.gerryrea.co.nz



Cruickshanks Solicitors Privy Council Agents



- Probate and resealing
- Property (Relationships) Act 1976 agreements
- Agency litigation
- Sole representative of overseas office, inter company transfers and work permits generally
- Property UK and European investment
- China network connections and representation

10 Bentinck Street London W1U 2EW

Tel: (00 44) 020-7487 4468 • Fax: (00 44) 020-7487 5466 • email: john@lawco.co.uk
www.cruickshanks.co.uk • www.lawco.co.uk

ADLS CPD

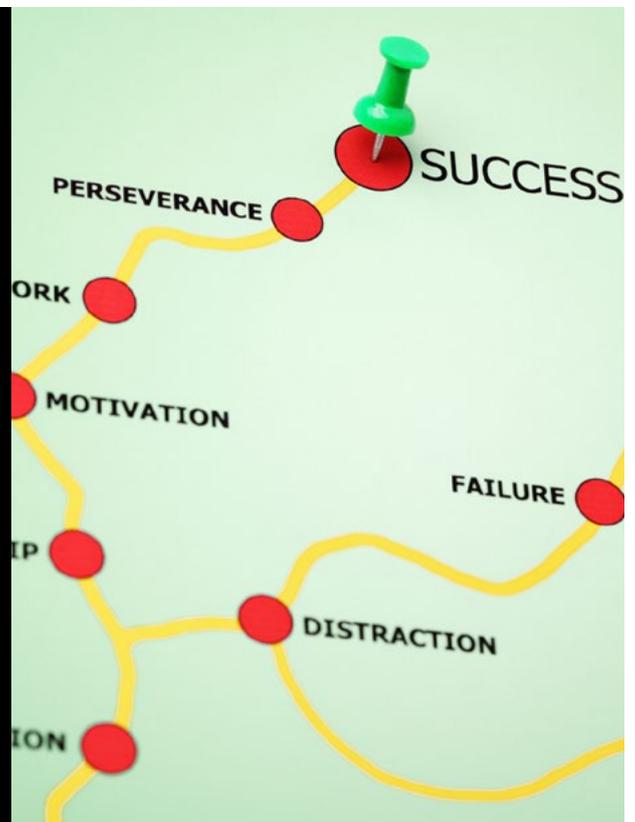
The Roadmap to Success

Tuesday 15 October | 2 CPD hours

Presenters: Clive Elliott QC; Steph Dyhrberg, Partner, Dyhrberg Drayton Employment Law;
Mark Anderson, Consultant | **Chair: Kate Ashcroft,** Partner, Copeland Ashcroft Law

How do you know if you're on the right pathway? Is it time to change direction?

Our panel will share their invaluable experiences and wisdom to provide guidance in finding the answers to these important questions so that you may devise your roadmap to success.



T 09 303 5278

E cpd@adls.org.nz

W adls.org.nz/cpd

Senior Commercial Lawyer – Excellent Prospects

We are seeking an experienced commercial lawyer with a good knowledge of commercial, corporate and company law to join our team.

You will have the opportunity to grow your existing client base within our very supportive environment.

There is genuine prospect of progressing your career to partnership if you can demonstrate leadership qualities, a high level of confidence and the passion and initiative to drive things forward.

Other key attributes are excellent interpersonal skills, and the ability to work well with a diverse range of people and to mentor other team members.

We have a professional, positive and inclusive working culture, and a fun and good-humoured office environment.

Please forward your application letter and CV to jobs@fortunemanning.co.nz, attention Administration Manager. All applications are handled in absolute confidence.

FORTUNE MANNING
lawyers

Litigation Solicitor: 2-4 years' PQE

Are you a star performer looking for that important step in your professional career? Our litigation team is looking for a switched-on litigation solicitor who is keen to further their career as a civil litigator with a focus on transport law and employment law.

Key skills include:

- strong advocacy
- excellent analytical abilities
- exceptional communication, written and oral
- effective time management
- high motivation
- high level of organisation
- impeccable drafting
- excellent attention to detail
- the ability to work under pressure
- a sense of humour

Fortune Manning operates an open-door policy allowing you easy access to work with supportive, down-to-earth partners who are well-known experts in their field.

Please forward your application letter, CV and academic transcript to jobs@fortunemanning.co.nz, attention Administration Manager.

We will endeavour to handle your application within a reasonable timeframe, but only short-listed candidates will be notified.

FORTUNE MANNING
lawyers

Goldstein | Ryder The Employment Lawyers

Goldstein Ryder is a boutique employment law firm based in Christchurch. The firm provides a full range of employment law services to employers and employees.

We are seeking a full-time senior lawyer with at least 5 years' experience who has a sound knowledge of Employment Law.

This is an opportunity to become a key member in a friendly, dynamic team that works in an exciting and stimulating environment.

The ideal candidate will have:

- Sound knowledge of Employment Law
- Experience in general litigation
- A good sense of humour, self-motivation and enthusiasm
- An ability to juggle a varied and busy workload and meet urgent deadlines when required
- The ability to build and maintain good client relationships
- Excellent problem solving, analytical skills and attention to detail
- Excellent organisational skills
- Effective written and oral communication skills
- New Zealand residency and hold a practising certificate in New Zealand

This is an exceptional opportunity to work alongside a team of professionals who excel in their field. Goldstein Ryder has been a finalist in the New Zealand and Australasian Law Awards in 2017 and 2018.

We are committed to ongoing professional development and mentoring from an experienced partnership, in a role with potential career advancement.

We offer a competitive salary, enhanced annual leave entitlements and flexible work arrangements.

Please email your curriculum vitae and cover letter to office@emplyers.co.nz. The closing date for applications is Sunday 20 October 2019.

We see the potential in you

A postgraduate degree from New Zealand's leading law school is a great investment into your future

Courses for 2020 include:

- International Organisations
- Indigenous Persons: Law and Policy
- Advanced Torts
- Tax Base
- International Tax Law
- Economic regulation: principles and practice
- Uncensored History of International Law
- Patients' Rights
- Goods and Services Tax
- Comparative Environmental Law
- The Legal System: Sources, Structures and Method
- Selected Topics in Evidence and Criminal Procedure
- Consumer Law
- Selected Issues in Family Law
- Artificial Intelligence Law and Policy
- Economic Analysis of the Law
- Legal Research Methodology and Advanced Writing
- Taxation of Non-corporate entities
- International Economic Regulation
- Corporate Tax
- International Banking Law
- Corporate Finance
- Human Rights and Technology
- OECD and Tax
- International Arbitration
- Comparative Human Rights Law
- Conflict of Laws
- Data Privacy and the Law
- Competition Law and Policy
- Corruption: Comparative and International Approaches
- Miscarriage of Justice
- Global Environmental Law



**AUCKLAND
LAW SCHOOL**

For more information visit
law.auckland.ac.nz/llm