#### **PRESENTERS**



### Tim Cleary, Barrister, Wellington

Tim is a barrister based at Terrace Chambers in Wellington. He has over 25 years employment law experience having been employed by ACC, as in-house counsel for the Meat Industry Association, and then Business New Zealand before commencing practice as a barrister in 2005. His current practice is focussed on all areas of employment law including an ACC and health and safety specialty. Tim has appeared at all court levels and has represented employers at the International Labour Organisation.



### Samantha Turner, Partner, Simpson Grierson, Wellington

Samantha is a partner and she heads the employment group in Wellington. She has extensive experience in employment law and health and safety. Samantha provides advice on a wide range of employment issues, including bargaining, contract drafting, personal grievances, disputes, restraint-of trade-issues, disciplinary matters, human rights, privacy, accident compensation, health and safety, and the Holidays Act. She also provides strategic advice on restructurings and acquisitions. Samantha has advised on a number of cases involving stress, bullying, and incompatibility. Her health and safety work includes all aspects of strategy and policy development and incident management.

# Acknowledgement

This webinar is sourced from a session delivered at the NZLS CLE Employment Law Conference 2014, and papers written by Tim Cleary and Phillipa Muir. Phillipa Muir's paper has since been updated by Samantha Turner.

#### Phillipa Muir, Simpson Grierson, Auckland

Phillipa heads her firm's national employment law group. She is a co-author of Brooker's Employment Law and The Guide to Recruitment and Termination

The statements and conclusions contained in this booklet are those of the author(s) only and not those of the New Zealand Law Society. This booklet has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.



## **CONTENTS**

1.	BLURRED LINES	1
	Introduction	1
	MODERN WORKPLACES	1
	Statutory considerations	2
	CASE LAW	3
	EVIDENTIAL ASPECTS	6
2.	BLURRED LINES: THE BLURRED LINES BETWEEN AN EMPLOYEE'S WOR	
	Introduction	
	Pre-employment conduct	
	Prior criminal convictions	10
	Tai v Robinson (t/a Coronation Lodge Rest Home) [2004] 1 ERNZ 270	
	A v B Ltd [2014] NZERA Christchurch 44	
	Pou v Alliance Group Limited CA 96/08, 11 July 2008	13
	Key points from the case law	14
	OUT OF WORK CONDUCT	
	Hallwright v Forsyth Barr Ltd	15
	Dumble v Airways Corporation of New Zealand Ltd [2013] NZERA Auckland 85	16
	Rooney Earthmoving Ltd v McTague & Ors [2010] NZEmpC 55	17
	Other relevant cases	
	Key points from the case law	18
	CONDUCT DISCOVERED AFTER EMPLOYMENT ENDS	19
	Salt v Fell [2008] NZCA 128	19
	Gwilt v Briggs & Stratton New Zealand Ltd [2011] NZEmpC 140	20
	Key points from the case law	20