CHAIR



The Honourable Justice Simon France, High Court, Wellington

Justice Simon France graduated LLB (Hons) from the University of Auckland and LLM from Queen's University, Canada. In 1984 he began teaching and writing at Victoria University in the areas of criminal, administrative, and evidence law. From 1995 Justice France was an appellate advocate at the Crown Law Office, and then later team leader of the Human Rights team. Justice France was appointed to the High Court in January 2005. He is the Consulting Editor of Adams on Criminal Law.

SPEAKERS



Paul Borich QC, Barrister, Auckland

Paul was a partner at Rice Craig before joining the independent bar in 2014. He specialises in criminal law, including criminal appeals to the Court of Appeal and Supreme Court.



Kerry Cook, Bridgeside Chambers, City

Kerry has a wide-ranging practice which includes criminal law, and has been appointed as amicus curiae in the District Court, High Court, and Court of Appeal in criminal matters and mental health matters with a human rights element.



The Honourable Justice Mathew Downs, High Court, Auckland

Justice Downs was appointed a High Court judge in August 2016 and is based in Auckland. He is the editor of Cross on Evidence and a co-author of its new edition.



Tiana Epati, Rishworth Wall & Mathieson, Gisborne

Tiana is a partner in her firm, specialising in criminal defence and general litigation, and was appointed a Youth Advocate in 2015. She currently sits on the NZLS Board as Vice President for Central North Island.

SPEAKERS



Andrea Ewing, Crown Law, Auckland

Andrea is a senior lawyer at the Public Defence Service (Manukau), on secondment from the Crown Law Office. She is a Crown Counsel in Crown Law's criminal team and lectures advanced criminal law.



The Honourable Justice Dame Ellen France, Supreme Court, Wellington

Justice Ellen France was appointed a judge of the High Court in 2002 and of the Court of Appeal in June 2006. She was made President of that Court from 1 September 2014, and in July 2016 she was appointed to the Supreme Court.



Andru Isac, Stout Street Chambers, Wellington

Andru is a barrister specialising in public and criminal litigation. In addition to lecturing at the University of Canterbury, he has worked as both a senior Crown prosecutor and defence advocate.



Gareth Kayes, Kayes Fletcher Walker, Auckland

Gareth is a director of Kayes Fletcher Walker, the office of the Manukau Crown Solicitor. He specialises in criminal litigation.



Her Honour Judge Soana Moala, District Court, Manukau

Judge Moala was admitted to the bar in 2002 and established the partnership Moala Merrick in 2012. She was appointed to the bench in 2016 and sits in the Manukau District Court.

SPEAKERS



Natalie Walker, Kayes Fletcher Walker, Auckland

Natalie is the Crown Solicitor for Manukau. As a result of her appointment to that role in 2015, the firm Kayes Fletcher Walker now employs 34 lawyers to undertake the prosecution of all serious crime on behalf of the Crown in South Auckland.

CONTENTS

In session order

Evidence Act Update
Evidence Act Update
The Hon Justice Ellen France & The Hon Justice Downs
Cameron and Its Consequences – recklessness in drug offending (and beyond)
Cameron and its Consequences – recklessness in drug offending (and beyond) 27
Paul Borich QC & Gareth Kayes
Common Issues in Large Multi-Defendant Trials
Common Issues in Large Multi-Defendant Trials
Andru Isac
Section 27 Reports
There is no paper for this session
Her Hon Judge Moala
Recent Developments in Sentencing
Recent Developments in Sentencing
Tiana Epati
Amicus Curiae
Fahey v R: Some Information and Practical Considerations
Kerry Cook
Communication Assistance
Communication Assistance: Update
Andrea Ewing
Modes of Evidence in a Digital World
Modes of Evidence in a Digital World
Natalie Walker

CONTENTS

Alphabetical by author/presenter

Author		Title	Page
Borich QC	Paul	Cameron and its Consequences – recklessness in drug offending (and beyond) Joint paper with Gareth Kayes	27
Cook	Kerry	Fahey v R: Some Information and Practical Considerations	89
Downs	The Hon Justice Mathew	Evidence Act Update Joint paper with The Hon Justice Ellen France	1
Epati	Tiana	Recent Developments in Sentencing	73
Ewing	Andrea	Communication Assistance: Update	103
France	The Hon Justice Ellen	Evidence Act Update Joint paper with The Hon Justice Mathew Downs	1
Isac	Andru	Common Issues in Large Multi-Defendant Trials Joint paper with Molly McCarthy	47
Kayes	Gareth	Cameron and its Consequences – recklessness in drug offending (and beyond) Joint paper with Paul Borich QC	27
Moala	Her Hon Judge Soana	There is no paper for this session	71
Walker	Natalie	Modes of Evidence in a Digital World	117

CONTENTS

EVIDENCE ACT UPDATE	1
Introduction	3
PART A	
Part B	
SECTION 44 AND J v R	
CAMERON AND ITS CONSEQUENCES – RECKLESSNESS IN DRUG OFFENDING BEYOND)	
Introduction	20
R V MARTIN – WILFUL BLINDNESS.	
Soles v R	
CAMERON V R	
RECKLESSNESS	
IF IT AIN'T BROKE	
RECKLESSNESS MAY NOW BE SUFFICIENT IN OTHER AREAS	
SENTENCING	
IMPLICATIONS FOR CROWN COUNSEL	
IMPLICATIONS FOR DEFENCE COUNSEL	
COMMON ISSUES IN LARGE MULTI-DEFENDANT TRIALS	47
Introduction	49
WORKING WITH MULTIPLE DEFENDANTS	
MULTIPLE DEFENDANTS AND THE EVIDENCE ACT 2006	
FAIR TRIAL RIGHTS	
SECTION 27 REPORTS	71
RECENT DEVELOPMENTS IN SENTENCING	73
THREE STRIKES REGIME – SECOND STRIKE SENTENCING	
WIPA V R	
CHILD PROTECTION ACT OTHER RECENT CASES OF INTEREST	
FAHEY v R: SOME INFORMATION AND PRACTICAL CONSIDERATIONS	
HISTORY	
ISSUE IN <i>FAHEY</i> THE COMPETING INTERESTS	
THE POWER TO APPOINT	
FAHEY – THE "NEW TERMINOLOGY"	
STANDBY COUNSEL – PRACTICAL CONSIDERATIONS	96
FORMER COUNSEL AS AMICUS CURIAE OR STANDBY COUNSEL?	
WITHDRAWAL	
FUTURE DEVELOPMENTS	
COMMUNICATION ASSISTANCE: UPDATE	
WHAT IS COMMUNICATION ASSISTANCE?	
WHEN IS A WITNESS – OR DEFENDANT – ENTITLED TO COMMUNICATION ASSISTANCE? COMMUNICATION ASSISTANCE BEFORE TRIAL	
COMMUNICATION ASSISTANCE BEFORE TRIAL COMMUNICATION ASSISTANCE IN PRACTICE	
ON APPEAL: WHAT HAPPENS WHEN COMMUNICATION ASSISTANCE GOES WRONG?	
SUMMARY	
MODES OF EVIDENCE IN A DIGITAL WORLD	117
Introduction	119
LEGISLATIVE BACKGROUND	
What is a mobile video record?	120

Pre-trial rulings	122
FUTURE DEVELOPMENTS	125