CHAIR



Gillian Service, MinterEllisonRuddWatts, Auckland

Gillian leads the Auckland practice of MinterEllisonRuddWatts' national employment team. Gillian is passionate about the interface between technology, privacy and employment laws, and how technological advancement is changing the way we work.

Although she now calls New Zealand home, Gillian originally hails from Scotland. Her ties to the legal profession go further back than you might imagine. Her Scottish clan (Service) hailed from Drymen (part of the Stirling Clan) and were (according to some historical sources) lawyers to Robert the Bruce, King of Scots.

INTERNATIONAL AND KEYNOTE SPEAKERS



Alex Hagan, Kienco, Melbourne, Australia

Based in Melbourne, Australia, futurist Alex has worked with governments, corporations, and individuals on six continents to create a vision and plan for the future of their industries, organisations, and workforces. From the break room of a nursing home to the ballroom of the Washington Convention Centre, he has entertained audiences around the world and inspired them to create their future by taking advantage of complexity.

With 20 years in corporate life, including for a venture capital-backed software firm operating out of San Francisco, Alex has worked with some of the world's most respected organisations including the Starbucks Coffee Company, Aetna, Lend Lease, Optus, and New Zealand Police.

Alex has been featured in BRW, the Australian Financial Review, the Dominion Post, and on radio 2UE, and has spoken at numerous conferences including the world's largest HR conference, the SHRM National. He has served as Adjunct Faculty at The Conference Board in New York and Brussels, and hosted The Futures School at the Sydney Opera House (2016) and the Australian Centre for the Moving Image (2017). Alex is the founder and CEO of boutique Corporate Foresight and Workforce Strategy consultancy Kienco.



Her Hon Chief Employment Court Judge Christina Inglis, Wellington

Judge Christina Inglis was sworn in as an Employment Court Judge in 2011 and appointed as the Chief Judge on 10 July 2017.

She holds an LLM (Hons) from Victoria University and an MA (Hons) from Canterbury University. She was a Crown Counsel at Crown Law for many years, with a primary focus on civil litigation, public law and employment law. Most recently she led the Human Rights Team at Crown Law. While in practice she appeared in most Courts and Tribunals. Until recently she was on the Advisory Board of the New Zealand Centre for Human Rights Law, Policy and Practice.



Guido Ballara, McBride Davenport James, Wellington

Guido has specialised in employment law since admission in 2003, and advises corporates, state entities, unions and individuals across the full range of employment law issues – from the formation of employment relationships to their dissolution.



Emma Butcher, LangtonHudsonButcher, Auckland

Emma joined the partnership of LangtonHudsonButcher in 2007, following four years as partner in the employment team of a leading national firm. She acts for employers in contentious matters and regularly appears in the relevant jurisdictions.



Peter Chemis, Buddle Findlay, Wellington

Peter specialises in employment law, industrial relations and related areas, and leads Buddle Findlay's national employment team.



Liz Coats, Bell Gully, Auckland

Liz advises on employment issues. She represents employers in the Authority, Employment Court and Court of Appeal, including personal grievances, breach of contract claims, and leading cases relating to minimum entitlements.



Janet Copeland, Copeland Ashcroft Law, Dunedin

Janet works with employers and has experience across a very broad range of sectors including manufacturing, construction, transport, health, education, agriculture, state/crown entities, tourism, hospitality, professional services and trade areas.



Peter Cranney, Oakley Moran, Wellington

Peter has a trade union background and acts for unions and employees. His particular area of interest is collective bargaining law, including the law of strikes and lockouts and the law relating to good faith bargaining.



Jim Crichton, Employment Relations Authority, Auckland

Jim was appointed Chief of the ERA in 2015. He was admitted as a barrister and solicitor in 1979 and was first appointed to the ERA in 2004.



Cathryn Curran-Tietjens, NZ Police, Wellington

Cathryn is the National Manager of Employment Relations at NZ Police, where she has been for three years (previously, Principal Legal Advisor, Employment Relations). Prior to that she was at Crown Law, her work included employment law, human rights and tax.



Kathryn Dalziel, Walker Street Chambers, Christchurch

Kathryn has been specialising in employment law, privacy law, and civil litigation for many years and has been recently called to the bar. She also lectures part-time at the University of Canterbury in Employment Law and Legal Ethics.



Maria Dew, Bankside Chambers, Auckland

Maria has a specialist practice in employment law, professional misconduct and related civil litigion. She acts for employers and senior employees, providing a full range of advocacy including urgent restraint of trade and breach of confidentiality actions.



Kylie Dunn, Russell McVeagh, Auckland

Kylie specialises in employment law. She advises clients on all aspects of employment relationships, with a special interest in bargaining and industrial issues, and senior executive employment issues.



David France, Kiely Thompson Caisley, Auckland

David has over 20 years' experience advising on employment law and industrial relations. He regularly represents clients in employment related disputes and has appeared at all jurisdictional levels up to the Supreme Court.



Julia Hurren, Duncan Cotterill, Christchurch

Julia is a specialist employment lawyer and advises clients on the full range of employment issues. She regularly advises on disciplinary investigations and processes, restructuring and redundancy issues, the Holidays Act and performance management processes.



Mere King, Buddle Findlay, Auckland

Mere is a member of Buddle Findlay's national employment law team – a team known for their commercial approach. In the last 10 years she has focused her practice on employment law and has gained recognition for her skills in this field.



Hamish Kynaston, Buddle Findlay, Wellington

Hamish is a partner in Buddle Findlay's employment and health law team, and has over twenty years' experience. He works alongside Peter Chemis, Sherridan Cook and Susan Rowe – a team known for their commercial approach.



Jessie Lapthorne, Duncan Cotterill, Auckland

Jessie has extensive experience as an employment law specialist, in both New Zealand and the United Kingdom. She is a Partner in Duncan Cotterill's growing Employment and Health and Safety team and is based in Auckland.



Simon Laurent, Laurent Law, Auckland

Under Simon Laurent's direction, Laurent Law is the go-to firm for solving difficult immigration situations. He has presented numerous legal and industry seminars, and he is frequently called upon for comment by the media.



Tim Mackenzie, Canterbury Chambers, Christchurch

Tim practises employment law amongst other areas, and has a health and safety practice involving both traditional employment law, and health and safety prosecutions.



Kirsty McDonald, Duncan Cotterill, Auckland

Kirsty is a partner in the Auckland employment and health and safety team. She advises a broad client base on all employment matters. Kirsty also provides clients with health and safety advice and acts for employers in health and safety investigations and prosecutions.



Matthew McGoldrick, SBM Legal, Auckland

Matt is a Senior Associate at SBM Legal, a boutique employment practice in Auckland. He is a specialist employment lawyer and advises a wide range of clients on all employment relations issues.



Fiona McMillan, Anderson Lloyd, Dunedin

Fiona specialises in employment and education law. She advises governmental and private sector employers, and members of the NZ Principals' Federation. Fiona is a Board member of Knox and Salmond Colleges, and has a PG Dip in Child Advocacy.



Simon Mitchell, Hobson Chambers, Auckland

Simon is a barrister based in Auckland. He specialises in acting for unions and employees with a special interest in bargaining issues.



Samuel Moore, Waterloo Chambers, Auckland

Samuel practises in regulatory crime and a range of civil claims. He has a specialist interest in health and safety law, and his work includes the full range of health and safety briefs as well as lecturing a masters elective on health and safety law at AUT.



Emily Morrow, Executive Consultant for Legal Professionals, Auckland

After 25 years as a senior partner in Vermont, Emily now works as a consultant with an in-depth knowledge of the business of law and human dynamics. She is a frequent contributor to many legal publications.



Peter Moses, Barrister, Auckland

Peter specialises in immigration law. He started in this field as a Refugee Status Officer with the New Zealand Immigration Service. Since leaving the public sector in 2002 Peter has worked as a lawyer in private practice.



Rochelle Price, Fonterra, Auckland

Rochelle is the General Manager of Employment Relations at Fonterra, leading a team of nine specialist Employment Relations managers across the case management & advisory and union relations portfolios. She is responsible for Fonterra's global employment relations strategy.



Summer Pringle, University of Canterbury, Christchurch

Summer is an in-house employment lawyer for the University of Canterbury. Previously she worked as a senior solicitor at Duncan Cotterill.



Rebecca Rendle, Simpson Grierson, Auckland

Rebecca's expertise includes advising on personal grievance claims, restraints of trade, restructuring, holiday pay compliance and remediation, disciplinary, and performance management processes. She advises clients in a range of sectors.



Blair Scotland, Dundas Street, Wellington

Blair has been in practice for 20+ years, specialising in employment law. He acts for employers (focusing on the public sector), employees and unions. Blair regularly presents employment law training for HRINZ.



Andrew Scott-Howman, Port Nicholson Chambers, Wellington

Andrew is a barrister who specialises in employment investigations. He is a member of the Association of Workplace Investigators, and a graduate of that organisation's training course.



Philip Skelton QC, Bankside Chambers, Auckland

Philip is a barrister at Bankside Chambers with over 20 years' experience in employment law and civil litigation. He is a former convenor of the ADLS Employment Law Committee and a regular presenter at ADLS and NZLS CLE conferences.



Anne Toohey, Canterbury Chambers, Christchurch

Anne is a barrister specialising in civil litigation, employment law, regulatory law and health law. Over the past 22 years, she has appeared in all New Zealand courts including the Supreme Court.



Samantha Turner, Simpson Grierson, Wellington

Samantha heads the employment team in Wellington. She has extensive experience and her work includes advising boards and senior managers on strategy and policy development, defending personal grievances, strategic bargaining and incident management under HSWA.



Helen White, Barrister, Auckland

Helen has a background representing unions and their members but she also represents employers. She had has a number of significant cases including successfully defending the Golden Bay Cement workers in a claim by their employer that they had gained an illegal preference in their collective agreement.



Marie Wisker, Chapman Tripp, Auckland

Marie helps clients manage employment and health and safety risks through compliance advice and training, and she has spoken at a number of conferences on both employment and health and safety.

CONTENTS

In session order

Keynote – Complexity, Emergence, and the Future of Employment Law <i>Alex Hagan</i>
Keynote – From the Bench
From There, To Here, To Where? Societal change and legal development
Legislative Changes – where are they taking us?
Legislative Changes – where are they taking us?
Kirsty McDonald & Blair Scotland
Investigations in the #metoo Era
Investigations in the #metoo Era
Emma Butcher & Andrew Scott-Howman
Health and Safety
Health and Safety – issues for employment law practitioners
Tim Mackenzie & Samuel Moore
Drafting Sound Employment Agreements
Drafting Sound Employment Agreements75
Julia Hurren & Marie Wisker
Worker Status – Triangular Agreements
The Boundaries of Employment: triangular employment, the gig economy and the changing nature of work
Simon Mitchell & Philip Skelton QC
In-house Lawyers Panel
There is no paper for this session
Cathryn Curran-Tietjens, Rochelle Price & Summer Pringle

Effective Mediation	100
Effective Mediations in Changing Times	109
Jessie Lapthorne & Matt McGoldrick	
Restraints of Trade 101	
Restraints of Trade	129
Fiona McMillan & Rebecca Rendle	
Minimum Entitlements and Pay Equity	
Minimum Entitlements	167
Kathryn Dalziel	
Equal Pay for Equal Value	177
Helen White	
Unions and Bargaining – back to the future?	
Unions and Bargaining – back to the future?	189
Guido Ballara & Kylie Dunn	
It's Okay to Talk About This	
Mental Health and Wellness	211
Emily Morrow	
It is Not New, So What is Changing? Sexual harassment and bullying in New Zealand	229
Maria Dew	
Workplace Stress and Termination for Incapacity	255
Hamish Kynaston	
Settlement Agreements – current trends and challenges	
Settlement Agreements – current trends and challenges	269
David France & Samantha Turner	
Restructuring – tricky issues	
Restructuring – the business case	299
Mere King	
Change of Duty – in the workplace and in the legal context	323
Janet Copeland	

Migrant Workers

Migrant Workers – an evolving field	
Simon Laurent & Peter Moses	

Drafting a Statement of Problem

Drafting a Statement of Problem and Reply in the	
Employment Relations Authority	353
Maria Dew & Anne Toohey	

Remedies – the latest hits

Remedies – the latest hits	387
Liz Coats & Peter Cranney	

Being Effective

There is no paper for this session	
Peter Chemis & Jim Crichton	

APPENDICES

Appendix A	
Complexity, Emergence, and the Future of Employment Law 4	23
Alex Hagan	
Appendix B	

Mental Health and Wellness	 445
Emily Morrow	

CONTENTS

Alphabetical by author/presenter

Author		Title	Page
Ballara	Guido	Unions and Bargaining – back to the future? Joint paper with Kylie Dunn	189
Butcher	Emma	Investigations in the #metoo Era Joint paper with Andrew Scott-Howman	37
Chemis	Peter	There is no paper for this session	419
Coats	Liz	Remedies – the latest hits Joint paper with Peter Cranney	387
Copeland	Janet	Change of Duty – in the workplace and in the legal context	323
Cranney	Peter	Remedies – the latest hits Joint paper with Liz Coats	387
Crichton	Jim	There is no paper for this session	419
Curran- Tietjens	Cathryn	There is no paper for this session	107
Dalziel	Kathryn	Minimum Entitlements	167
Dew	Maria	It is Not New, So What is Changing? Sexual harassment and bullying in New Zealand. And	229
		Drafting a Statement of Problem Joint paper with Anne Toohey	353

Dunn	Kylie	Unions and Bargaining – back to the future? Joint paper with Guido Ballara	189
France	David	Settlement Agreements – current trends and challenges Joint paper with Samantha Turner	269
Hagan	Alex	Complexity, Emergence and the Future of Employment Law <i>Appendix A</i>	423
Hurren	Julia	Drafting Sound Employment Agreements Joint paper with Marie Wisker	75
Inglis	Her Hon Chief Judge	From There, To Here, To Where? Societal change and legal development	3
King	Mere	Restructuring – the business case	299
Kynaston	Hamish	Workplace Stress and Termination for Incapacity	255
Lapthorne	Jessie	Effective Mediations in Changing Times Joint paper with Matt McGoldrick	109
Laurent	Simon	Migrant Workers – an evolving field Joint paper with Peter Moses	335
Mackenzie	Tim	Health and Safety – issues for employment law practitioners <i>Joint paper with Samuel Moore</i>	51
McDonald	Kirsty	Legislative Changes – where are they taking us? Joint paper with Blair Scotland	15
McGoldrick	Matthew	Effective Mediations in Changing Times Joint paper with Jessie Lapthorne	109

McMillan	Fiona	Restraints of Trade	129
		Joint paper with Rebecca Rendle	
Mitchell	Simon	The Boundaries of Employment: triangular employment, the gig economy and the changing nature of work	95
		Joint paper with Philip Skelton QC	
Moore	Samuel	Health and Safety – issues for employment law practitioners	51
		Joint paper with Tim Mackenzie	
Morrow	Emily	Mental Health and Wellness And	211
		Appendix B	445
Moses	Peter	Migrant Workers – an evolving field	335
		Joint paper with Simon Laurent	
Price	Rochelle	There is no paper for this session	107
Pringle	Summer	There is no paper for this session	107
Rendle	Rebecca	Restraints of Trade	129
		Joint paper with Fiona McMillan	
Scotland	Blair	Legislative Changes – where are they taking us?	15
		Joint paper with Kirsty McDonald	
Scott-Howman	Andrew	Investigations in the #metoo Era	37
		Joint paper with Emma Butcher	
Skelton QC	Philip	The Boundaries of Employment: triangular employment, the gig economy and the changing nature of work	95
		Joint paper with Simon Mitchell	

Toohey	Anne	Drafting a Statement of Problem in the Employment Relations Authority Joint paper with Maria Dew	353
Turner	Samantha	Settlement Agreements – current trends and challenges Joint paper with David France	269
White	Helen	Equal Pay for Equal Value	177
Wisker	Marie	Drafting Sound Employment Agreements Joint paper with Julia Hurren	75

CONTENTS

KEYNOTE – COMPLEXITY, EMERGENCE, AND THE FUTURE OF EMPLOYMENT LAW	<i>N</i> 1
FROM THERE, TO HERE, TO WHERE? SOCIETAL CHANGE AND LEGAL DEVELOPM	ENT 3
LEGISLATIVE CHANGES – WHERE ARE THEY TAKING US?	15
INTRODUCTION	17
EMPLOYMENT RELATIONS AMENDMENT BILL	
PRIVACY BILL	
GENERAL DATA PROTECTION REGULATION	
HOLIDAYS (BEREAVEMENT LEAVE FOR MISCARRIAGE) AMENDMENT BILL Parental Leave Changes	
DOMESTIC VIOLENCE – VICTIMS PROTECTION ACT 2018	
Other Possible Changes	
Conclusion	
INVESTIGATIONS IN THE #METOO ERA	37
INTRODUCTION	
THE APPROACH TAKEN IN THIS PAPER	39
THE EMPLOYER'S DUTY TO TAKE SOME ACTION	
WHO SHOULD INVESTIGATE, AND WHAT MUST THEY ACHIEVE?	
CONTEMPORARY ISSUES – AND SOME PRACTICAL TIPS	
HEALTH AND SAFETY – ISSUES FOR EMPLOYMENT LAW PRACTITIONERS	
A – THE WAKE OF AN INCIDENT	
B – INSURANCE COMPLICATIONS	
C – WorkSafe Dealings and Interviews D – Voluntary Assistance / Reparation Issues	
D – VOLUNTARY ASSISTANCE / REPARATION ISSUES TYPES OF ENFORCEMENT	
OFFICER DUE DILIGENCE	
ONGOING EMPLOYMENT ISSUES – ER ACT V HSW ACT?	
DRAFTING SOUND EMPLOYMENT AGREEMENTS	75
INTRODUCTION	77
BEFORE YOU START DRAFTING	
MINIMUM STATUTORY REQUIREMENTS	
OTHER LEGAL REQUIREMENTS WHEN ENTERING INTO AN EMPLOYMENT AGREEMENT	
RECOMMENDED CLAUSES	
Difficult Drafting Issues Upcoming Changes	
	93
THE BOUNDARIES OF EMPLOYMENT: TRIANGULAR EMPLOYMENT, THE GIG ECONOMY AND THE CHANGING NATURE OF WORK	95
INTRODUCTION	
THE BIG PICTURE	
Employees Versus Contractors	
TRIANGULAR EMPLOYMENT	
PRASAD V LSG SKY CHEFS	100
THE EMPLOYMENT RELATIONS (TRIANGULAR EMPLOYMENT) AMENDMENT BILL	
The Gig Economy	
OVERARCHING POLICY QUESTIONS	
IN-HOUSE LAWYERS PANEL	
EFFECTIVE MEDIATIONS IN CHANGING TIMES	109
INTRODUCTION	
THE NUTS AND BOLTS OF MEDIATION UNDER THE EMPLOYMENT RELATIONS ACT 2000	
Achieving Good Outcomes Scenarios – Practical Tips for Managing Different Scenarios	
SCENARIOS – PRACTICAL TIPS FOR MANAGING DIFFERENT SCENARIOS HOW THE MEDIATION PROCESS HAS CHANGED AND WHAT CHANGES TO EXPECT IN THE FUTURE	

Conclusion Appendix	
RESTRAINTS OF TRADE	129
Restraints of trade	131
REASONABLENESS	137
BAYLISS V SOLAR BRIGHT LIMITED [2017] NZERA CHRISTCHURCH 90	139
Exercising restraint	141
RESTRAINTS 101 – PUTTING IT INTO PRACTICE	
SECTION A – DRAFTING CHECKLIST	
SECTION B – PRACTICAL CONSIDERATIONS	
SECTION C – ENFORCING RESTRAINTS OF TRADE	
SECTION D – CASE LAW DEVELOPMENTS SINCE 2016 CONFERENCE	155
MINIMUM ENTITLEMENTS	167
WHAT IS FAIR PAYMENT FOR SLEEPOVERS AND BEING ON CALL? AND WHAT TO DO WHEN EMPLOYED	
EXPECT WORKERS TO ATTEND MEETINGS WITHOUT PAY	
MINIMUM CODE	
MINIMUM WAGE ACT	
SUMMARY	175
EQUAL PAY FOR EQUAL VALUE	177
THE SIGNIFICANCE AND BACKGROUND TO THE TERRANOVA CASE	
MARKET MODEL IN AREAS THAT ARE RELIANT ON GOVERNMENT FUNDING	
WHAT IMPACT WILL INDUSTRY STANDARDS HAVE?	
THE SIGNIFICANCE OF TERRANOVA	. 183
UNIONS AND BARGAINING - BACK TO THE FUTURE?	
MENTAL HEALTH AND WELLNESS	211
Are you well?	213
LAW OFFICE RETREATS THAT REALLY ADD VALUE	217
LAW OFFICE CULTURE – WHAT IT IS AND WHY IT MATTERS	221
REDUCING LAW OFFICE STRESS – WHAT REALLY WORKS?	225
IT IS NOT NEW, SO WHAT IS CHANGING? SEXUAL HARASSMENT AND BULLYING IN NEW ZEALAND	
INTRODUCTION	221
INTRODUCTION	
THE PROBLEM EXISTS – THE STATISTICS	
TRENDS IN BULLYING AND SEXUAL HARASSMENT CASES: 2016 - 2018	
DEVELOPMENTS AT MBIE AND WORKSAFE NEW ZEALAND	
THE AUSTRALIAN EXPERIENCE	
WHERE ARE WE NOW? REFLECTIONS AND PREDICTIONS	
APPENDIX 1 - SEXUAL HARASSMENT CASES (2.5 YEARS - JANUARY 2016 – JULY 2018) 6 CLAIMS - 1	. 210
UPHELD / 5 NOT UPHELD	
Appendix 2 - Bullying cases (2 years – July 2016 – July 2018) 38 claims – 12 upheld / 26 not upheld	
Of HEED	. 240
WORKELACE STRESS AND TERMINATION FOR INCARACITY	255
WORKPLACE STRESS AND TERMINATION FOR INCAPACITY	
INTRODUCTION	257
INTRODUCTION Managing stress in the workplace	257 257
INTRODUCTION Managing stress in the workplace Terminating employment for medical incapacity	257 257 262
INTRODUCTION Managing stress in the workplace Terminating employment for medical incapacity SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES	257 257 262 269
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION	257 257 262 269 271
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION SETTLEMENTS UNDER THE EMPLOYMENT RELATIONS ACT 2000	257 257 262 269 271 272
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION SETTLEMENTS UNDER THE EMPLOYMENT RELATIONS ACT 2000 DRAFTING TERMS OF SETTLEMENT	257 257 262 269 271 272 274
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION SETTLEMENTS UNDER THE EMPLOYMENT RELATIONS ACT 2000 DRAFTING TERMS OF SETTLEMENT TO CERTIFY OR NOT TO CERTIFY?	257 257 262 269 271 272 274 282
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION SETTLEMENTS UNDER THE EMPLOYMENT RELATIONS ACT 2000 DRAFTING TERMS OF SETTLEMENT TO CERTIFY OR NOT TO CERTIFY? CONCLUSION	257 257 262 269 271 272 274 282 282
INTRODUCTION MANAGING STRESS IN THE WORKPLACE TERMINATING EMPLOYMENT FOR MEDICAL INCAPACITY SETTLEMENT AGREEMENTS – CURRENT TRENDS AND CHALLENGES INTRODUCTION SETTLEMENTS UNDER THE EMPLOYMENT RELATIONS ACT 2000 DRAFTING TERMS OF SETTLEMENT TO CERTIFY OR NOT TO CERTIFY?	257 257 262 269 271 272 274 282 282 283

Who is Covered by s 149(4)?	
NO MEDIATOR SIGN-OFF UNDER S 149	
CANCELLATION OF SETTLEMENT AGREEMENTS	
ARE SETTLEMENT AGREEMENTS DISCOVERABLE?	
Conclusion	
RESTRUCTURING – THE BUSINESS CASE	299
INTRODUCTION	
BACKGROUND TO THE "CHANGE"	
SUMMARY OF CASES SINCE 2016	
Reflections	312
APPENDIX	314
CHANGE OF DUTY – IN THE WORKPLACE AND IN THE LEGAL CONTEXT	323
INTRODUCTION	
EMPLOYMENT CONTRACTS ACT 1991 VS EMPLOYMENT RELATIONS ACT 2000	
Conclusion	
MIGRANT WORKERS – AN EVOLVING FIELD	335
INTRODUCTION	
Sources and Resources	
SOME OF THE CHANGES	
PRESSURE POINT - CALCULATING WAGE RATES	
EMPLOYER COMPLIANCE AND VISA APPLICATIONS	
OFFENCES AND DUTIES A Strict Liability Offence "with Teeth"	
CASE LAW ON EMPLOYER OFFENCES AND PENALTIES	
THE DUE DILIGENCE OBLIGATION – POSSIBLE PITFALLS	
IMMIGRATION NEW ZEALAND AND "BLACKLISTED EMPLOYERS"	
ILLEGALITY OF EMPLOYMENT AND THE EMPLOYER'S GOOD FAITH OBLIGATION	
APPENDIX	
DRAFTING A STATEMENT OF PROBLEM AND REPLY IN THE EMPLOYMENT RELATION AUTHORITY	
	353
AUTHORITY	353
AUTHORITY	353 355 355
AUTHORITY	353 355 357
AUTHORITY	353 355 355 357 361
AUTHORITY	353 355 357 361 367
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM	353 355 357 361 367 371
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR	353 355 355 357 361 367 371 373 375
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT).	353 355 355 357 361 367 371 373 375
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR	353 355 355 361 367 371 373 375 381
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS . PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM . APPENDIX TWO – STATEMENT IN REPLY APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR APPENDIX FIVE REMEDIES – THE LATEST HITS.	
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS . PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM . APPENDIX TWO – STATEMENT IN REPLY . APPENDIX TWO – STATEMENT IN REPLY . APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR . APPENDIX FIVE . REMEDIES – THE LATEST HITS . INTRODUCTION .	353 355 355 357 361 367 371 373 375 381 387 389
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS. PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY. APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR. APPENDIX FIVE. REMEDIES – THE LATEST HITS.	353 355 355 357 361 367 371 373 375 381 387 389 389
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY. APPENDIX TWO – STATEMENT IN REPLY. APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR. APPENDIX FIVE. REMEDIES – THE LATEST HITS. INTRODUCTION A PERSONAL GRIEVANCE REMEDIES *	353 355 355 361 367 367 371 373 381 381 389 389 389 390
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY. APPENDIX TWO – STATEMENT IN REPLY. APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR. APPENDIX FIVE. REMEDIES – THE LATEST HITS. INTRODUCTION A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY.	353 355 355 357 361 367 371 373 375 381 387 389 389 389 390 392
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR APPENDIX FIVE REMEDIES – THE LATEST HITS INTRODUCTION	353 355 355 357 361 367 371 373 375 381 387 389 389 390 392 393
AUTHORITY	353 355 355 357 361 367 371 373 375 381 387 387 389 390 392 393 394
AUTHORITY	353 355 355 357 361 367 371 373 375 381 387 387 389 390 392 393 394 394 405 407
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR APPENDIX FIVE REMEDIES – THE LATEST HITS INTRODUCTION A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY TABLE A: INTERIM REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE C: CASES WHICH INVOLVED BOTH INTERIM AND PERMANENT REINSTATEMENT DECISIONS LOST WAGES TABLE C: LOST WAGES AWARDS (BEFORE CONTRIBUTION) COMPENSATION UNDER S 123(1)(C)(1) – A BRIEF COMMENT	353 355 355 357 361 367 371 373 375 381 387 389 389 390 393 394 405 407 409
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR APPENDIX FOUR APPENDIX FIVE REMEDIES – THE LATEST HITS INTRODUCTION A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY TABLE A: INTERIM REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE C: CASES WHICH INVOLVED BOTH INTERIM AND PERMANENT REINSTATEMENT DECISIONS LOST WAGES AWARDS (BEFORE CONTRIBUTION) COMPENSATION UNDER S 123(1)(C)(I) – A BRIEF COMMENT	353 355 355 357 361 367 373 373 375 381 387 389 389 390 392 393 394 405 407 409 409
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR	353 355 355 357 361 367 371 373 381 387 389 389 389 389 390 392 393 394 405 407 409 409 409 411
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR APPENDIX FOUR APPENDIX FIVE REMEDIES – THE LATEST HITS INTRODUCTION A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY TABLE A: INTERIM REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE C: CASES WHICH INVOLVED BOTH INTERIM AND PERMANENT REINSTATEMENT DECISIONS LOST WAGES AWARDS (BEFORE CONTRIBUTION) COMPENSATION UNDER S 123(1)(C)(I) – A BRIEF COMMENT	353 355 355 357 361 367 371 373 381 387 389 389 389 389 390 392 393 394 405 407 409 409 409 411
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR	353 355 355 357 361 367 371 373 375 381 387 387 389 390 392 393 394 405 407 415
AUTHORITY THE PURPOSE OF PLEADINGS. COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS. DRAFTING THE PLEADINGS. APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY. APPENDIX THREE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR. APPENDIX FIVE REMEDIES – THE LATEST HITS. INTRODUCTION. A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY. TABLE A: INTERIM REINSTATEMENT TABLE B: PERMANENT REINSTATEMENT TABLE C: CASES WHICH INVOLVED BOTH INTERIM AND PERMANENT REINSTATEMENT DECISIONS LOST WAGES. TABLE C: LOST WAGES AWARDS (BEFORE CONTRIBUTION). COMPENSATION UNDER S 123(1)(C)(1) – A BRIEF COMMENT SUMMARY. B REMEDIES RELATING TO STRIKES, LOCK-OUTS, AND PICKETING C New REMEDIES AVAILABLE TO LABOUR INSPECTORS (AND IN LIMITED CASES < EMPLOYEES	353 355 355 357 361 367 371 373 375 381 387 387 389 390 390 392 393 394 405 407 419
AUTHORITY THE PURPOSE OF PLEADINGS COMMENCING PROCEEDINGS PREPARING TO DRAFT PLEADINGS DRAFTING THE PLEADINGS DRAFTING THE PLEADINGS APPENDIX ONE – STATEMENT OF PROBLEM APPENDIX TWO – STATEMENT IN REPLY APPENDIX TWO – STATEMENT IN REPLY APPENDIX THRE – UNDERTAKING AS TO DAMAGES (APPLICATION FOR INTERIM REINSTATEMENT). APPENDIX FOUR. APPENDIX FIVE REMEDIES – THE LATEST HITS INTRODUCTION A PERSONAL GRIEVANCE REMEDIES * REINSTATEMENT – THE "PRIMARY" REMEDY VERSUS THE "NOT PRIMARY" REMEDY TABLE A: INTERIM REINSTATEMENT TABLE A: INTERIM REINSTATEMENT TABLE C: CASES WHICH INVOLVED BOTH INTERIM AND PERMANENT REINSTATEMENT DECISIONS LOST WAGES TABLE C: LOST WAGES AWARDS (BEFORE CONTRIBUTION). COMPENSATION UNDER S 123(1)(C)(1) – A BRIEF COMMENT SUMMARY. B REMEDIES RELATING TO STRIKES, LOCK-OUTS, AND PICKETING C NEW REMEDIES AVAILABLE TO LABOUR INSPECTORS (AND IN LIMITED CASES BEING EFFECTIVE	353 355 355 357 361 367 373 373 375 381 387 389 389 390 392 393 394 405 407 419 419 419 421

.