

PRESENTER

Andrew Beck, Barrister, Greytown

Andrew Beck is a member of the Wellington bar, practising chiefly in civil and commercial litigation. His particular areas of expertise include contract, tax, company law, and health law. Andrew has appeared in cases at all levels up to the Supreme Court, and was formerly Associate Professor at Otago University and Crown Counsel.

Andrew is currently Convenor of the NZLS Civil Litigation and Tribunals Committee, and one of the Law Society representatives on the Rules Committee. He has presented a number of seminars for the Law Society.

Andrew is the author of several books including *McGechan on Procedure* and *Principles of Civil Procedure* and is a regular contributor to legal journals. He is also the editor of the Procedure Reports of New Zealand.

CONTENTS

1. THE EVIDENCE ACT: NEW RULES FOR OLD PROBLEMS.....	1
THE REFORMER'S BROOM	1
2. EVIDENCE ACT AND THE COMMON LAW.....	3
THE END OF THE COMMON LAW?	4
<i>New Zealand Institute of Chartered Accountants v Clarke [2009] 3 NZLR 264</i>	4
<i>Sheppard Industries Ltd v Specialized Bicycle Components Inc [2011] 3 NZLR 620 (CA)</i>	5
EFFECT ON PRE-ACT MATTERS.....	7
<i>Todd Pohokura Ltd v Shell Exploration NZ Ltd (2008) 18 PRNZ 1026</i>	7
<i>Fresh Direct Ltd v J M Batten & Associates (2009) 20 PRNZ 126</i>	12
THE "PROCEEDINGS" LIMITATION	13
3. GENERAL ADMISSIBILITY	15
4. EXPERT WITNESSES.....	17
THE ROLE OF EXPERTS	19
<i>CIR v Rabobank NZ Ltd (2008) 19 PRNZ 137</i>	19
<i>CIR v BNZ Investments Ltd (2009) 19 PRNZ 553 (CA)</i>	20
<i>Penny & Hooper v CIR [2012] 1 NZLR 433 (SC)</i>	20
IMMUNITY OF EXPERTS	21
<i>Jones v Kaney [2011] UKSC 13</i>	21
A JUSTIFIABLE IMMUNITY?	22
THE NEW ZEALAND POSITION.....	23
5. PRIVILEGE ISSUES.....	25
<i>Manifest Capital Management Pty Ltd v Lawrence HC Auckland CIV2010-404-7741, 20 December 2011</i>	26
<i>McCulloch v Quinn [2012] NZHC 2469</i>	26
6. LITIGATION PRIVILEGE	29
LAPSING OF PRIVILEGE	29
<i>Reid v NZ Fire Commission (2010) 19 PRNZ 923 (CA)</i>	29
LIMITS ON THE PRIVILEGE.....	30
<i>Jeffries v Privacy Commissioner [2011] 1 NZLR 45 (SC)</i>	30
7. WITHOUT PREJUDICE COMMUNICATIONS	31
OCEANBULK SHIPPING	31
NEW ZEALAND SITUATION.....	33
<i>New Zealand Institute of Chartered Accountants v Clarke [2009] 3 NZLR 264</i>	34
<i>The Specialized Bicycle litigation</i>	35
<i>Sheppard Industries Ltd v Specialized Bicycle Components Inc [2011] 3 NZLR 620 (CA)</i>	36
8. INFORMERS	39
<i>Fehling v South Westland Area School [2012] NZHRRT 15</i>	39
9. PREVIOUS DECISIONS AS EVIDENCE	43
<i>APN New Zealand Ltd v Simunovich Fisheries Ltd [2010] 1 NZLR 315 (SC)</i>	43
<i>Firth v Allied Press Ltd [2010] DCR 44</i>	44
10. BUNDLES OF DOCUMENTS.....	47
CONSEQUENCES OF INCORPORATION IN BUNDLE	49
<i>Burrell Demolition Ltd v Wellington City Council HC Wellington CIV2006-485-1274, 12 March 2008</i>	50
<i>Harris v Davies [2007] NZCA 358</i>	52
<i>Lee v Composite Cladding & Signage Manufacture and Installations Ltd HC Whangarei CIV2009-488-828</i>	53
USE OF DOCUMENTS IN THE BUNDLE.....	53