

## **PRESENTER**



### **Stephanie Ambler, Tompkins Wake, Hamilton**

Stephanie leads the family law team at Tompkins Wake. She specialises in family, matrimonial and trust law, particularly in the areas of relationship property disputes and claims against estates and trusts. Stephanie has presented a number of seminars.

*The statements and conclusions contained in this paper 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

<b>SCOTT V WILLIAMS: THE FUTURE OF S 15 – CLEAR AS MUD .....</b>	<b>1</b>
INTRODUCTION .....	1
FACTUAL BACKGROUND.....	1
THE EVIDENCE.....	3
THE FAMILY COURT JUDGMENT .....	3
THE HIGH COURT JUDGMENT .....	4
THE COURT OF APPEAL JUDGMENT .....	5
THE SUPREME COURT.....	5
<i>Leave decision</i> .....	5
<i>Ms Scott's arguments on appeal</i> .....	6
<i>Option 1: Expectation Measure of Compensation</i> .....	6
<i>Option 2: Unjust Enrichment Approach – sharing the joint investment in human capital</i> .....	7
<i>Option 3: Reliance Measure</i> .....	8
<i>Mr Williams' cross appeal</i> .....	9
THE SUPREME COURT JUDGMENT.....	9
THE MAJORITY – A NEW FORMULA .....	10
<i>Justice Arnold</i> .....	10
OTHER POSSIBLE FORMULAS .....	11
<i>Justice Glazebrook</i> .....	11
<i>Justice O'Regan</i> .....	11
<i>Chief Justice Sian Elias – no single formula – a subjective enquiry</i> .....	12
<i>Justice Young's formula</i> .....	13
IMPLICATIONS OF THE SUPREME COURT JUDGMENT .....	13
<i>The Majority's Formula</i> .....	13
<i>Enhancement</i> .....	17
<i>Interest</i> .....	18
<i>The Law Commission</i> .....	18
WHICH FORMULA DO WE APPLY? .....	18