

CHAIR



Greg Kelly, Greg Kelly Law, Wellington

Greg has 30 years' experience in the wills, trusts and estate area. He is a member of the Wills and Trusts Committee of the NZLS Property Law Section, and a member of STEP. Greg is a contributor to Butterworth's *Law of Trusts*, probate and administration author for *McGechan on Procedure*, co-author of *Garrow and Kelly's Law of Trusts and Trustees* (6th edition) and of *Dobbies' Probate and Administration Practice* (5th edition). He has presented papers at numerous seminars and conferences for both the NZLS and other organisations throughout New Zealand and was the chair of the 2009 NZLS Trust Conference.

SPEAKERS



Kerry Ayers, Partner, Helmore Ayers, Christchurch

Kerry is a New Zealand Charities Commission board member and chairs its Charities Registration and Monitoring Committee. He also advises private clients on the structure and governance of charities. Kerry has written numerous textbooks and articles on various aspects of trust and property law published in New Zealand and internationally. Kerry and co-author, James Kessler QC, were recently nominated for the Legal Research Foundation: JF Northey Memorial Book Award for legal writing for their book *Drafting Trusts and Will Trusts in New Zealand*.



Vanessa Bruton, Partner, Taylor Grant Tesiram

Vanessa leads the newly established trust litigation team at Taylor Grant Tesiram. Prior to that she was a partner at Brookfields Lawyers, specialising in family property and trust disputes.



Richard Burcher, Validatum™ Limited, Katikati

Having practised as a barrister and solicitor for 30 years, Richard now specialises in law firm pricing consultancy work. He has 27 years' Law Society and private cost assessment experience and is widely regarded as New Zealand's leading authority on pricing of legal services. He also consults in Australia, undertakes opinion work and his legal services pricing research and commentary has been widely published. Richard is an accredited member of the Professional Pricing Society (USA).



Bruce Corkill QC, Wellington

Bruce has specialised in family law since 1975. One of his specialty areas is relationship property law as it interfaces with trust law. He appears regularly on these issues at first instance and on appeal; he also sits as a mediator. Bruce presents regularly at conferences and workshops on a wide variety of topics.

SPEAKERS



Justice Grant Hammond, Court of Appeal

Grant Hammond is President of the Law Commission, and a Judge of the Court of Appeal. He is a former Dean and Professor of Law at Auckland University Law School and Robert S Campbell Fellow at Magdalen College, Oxford. He practised as a partner in Tompkins Wake, Hamilton.



Chris Kelly, Greg Kelly Law, Wellington

Chris has some 30 years' experience as a lawyer specialising in trust and estate work. He is a co-author of the leading New Zealand legal text book on trusts: *Garrow and Kelly Law of Trusts and Trustees* (6th edition). Chris has also co-authored a number of other legal texts and publications and has presented a number of papers at NZLS conferences over the years. He is one of the authors of the recent 5th edition of *Dobbie's Probate and Administration Practice*. Chris is a barrister and solicitor of the High Court of New Zealand and a member of the Society of Trust and Estate Practitioners.



Jeff Kenny, Partner, Wynn Williams & Co, Christchurch

Jeff is a Christchurch lawyer with 26 years' experience in trust law. He is a member of the Wills and Trusts Committee and a member of the Trusts Law Review Working Group of the NZLS Property Law Section. He is also a co-convenor of the Canterbury/Westland Branch of the NZICA Trusts Special Interests Group and a member of STEP. Jeff is a contributing author of *New Zealand Conveyancing Law and Practice* published by CCH New Zealand and a contributing author of *Equity and Trusts in New Zealand* published by Brookers. Jeff is a previous presenter at the NZLS CLE Trusts Conference.



Dr Bede McIvor, Bexley Clinic, Auckland

Dr McIvor is a Fellow of the Royal Australasian College of Psychiatry and a member of the Faculty of Psychiatry of Old Age. He has expertise in general psychiatry, psychiatry of the elderly, forensic psychiatry and neuropsychiatry. Medico-legal issues related to the Protection of Personal and Property Rights Act (ie competency and testamentary capacity) and criminal procedures also make up a significant portion of Dr McIvor's practice.



Ian Millard QC, Wellington

Ian is a Queen's Counsel practising in Wellington. He has appeared in a significant number of equity and trust litigation cases and provides extensive advice on charitable, private and superannuation trusts as well as appearing in, or advising on, a wide range of commercial litigation and matters. He was formerly a senior partner at Kensington Swan, went to the independent bar in 1990 and was made Queen's Counsel in 1998.

SPEAKERS



Tony Molloy QC, Auckland

Tony took silk in 1984. He was recently described by former senior Chancery Division Judge, Sir Gavin Lightman, as an “acknowledged expert on trusts.” He is the co-editor of *Trusts and Trustees*, (Oxford University Press). Recent papers include (2009) keynote address on trustee investment risk to the UK bar and solicitors’ Contentious Trusts Litigation Conference, Provence; on *Hastings-Bass* to the International Trusts Congress, London; and (2010) on tax drafting to Her Majesty’s Revenue and Customs’ Conference on Lord Howe’s 2010 UK tax law rewrite, London. Tony lectured on trusts and partnership at the last seven annual Offshore Symposia at Jesus College, Oxford; and was sole lecturer at 2005 Cambridge University post-graduate tax workshop.



Juliet Moses, Partner, Taylor Grant Tesiram, Auckland

Juliet specialises in trusts, personal asset planning and superannuation. She is a regular presenter of seminars on issues arising in these areas.



Jared Ormsby, Partner, Wynn Williams & Co, Christchurch

Jared is a partner at Wynn Williams & Co. He practises in the areas of trust and commercial litigation. Jared was counsel in the Supreme Court and Court of Appeal in *Kain v Hutton* and *Chirnside v Fay*. He acted for Save Our Arts Centre in the recent dispute surrounding the Christchurch Arts Centre. Jared is a member of STEP and is deputy convener of the Litigation Committee of the Canterbury Branch of the NZLS. He is a contributing author of *Equity and Trusts in New Zealand* published by Brookers.



Jessica Palmer, Faculty of Law, University of Otago, Dunedin

Jessica is a senior lecturer at Otago University and teaches courses in contract, equity and commercial law. She has published articles and essays on issues of equity and restitution and is an author of *Equity and Trusts in New Zealand* (Butler (ed), 2nd ed, Thomson Brookers, 2009). Jessica is a graduate of Auckland and Cambridge Universities and has worked at a large national law firm and as a judges’ clerk.



Bill Patterson, Patterson Hopkins, Auckland

Bill has an extensive trust, commercial and equity litigation practice. He has presented many papers for NZLS, ADLS and the Institute of Chartered Accountants, including all six of the 1999 to 2009 NZLS CLE Trusts Conferences, three of them as chair. He also does regular topics for the ICANZ’s Trusts Special Interest Group.

SPEAKERS



Professor Nicola Peart, Faculty of Law, University of Otago, Dunedin

Nicola was appointed to the law faculty at the University of Otago in 1987, where her research has focused on family property law, including trusts and succession law, and medical law. She is the principal author of *Relationship Property on Death* (2004 Brookers) and the editor and contributing author of *Family Property* (Thomson Brookers, 2008).



Mary Joy Simpson, Senior Associate, Hesketh Henry, Auckland

Mary Joy leads the private client team at Hesketh Henry. Her principal areas of practice are estate planning, trusts, relationship property and estate management. She has a special interest in plain English drafting and has contributed significantly to the precedent bases of Hesketh Henry and the Lawlink network, as well as her two previous firms in New Plymouth and on the Kapiti Coast.



Ingrid Taylor, Principal, Taylor Shaw, Christchurch

Ingrid, who was admitted to the legal profession in 1993, leads the Taylor Shaw team as her father and grandfather did before her. She has significant experience in property and business acquisitions, asset protection structures, and succession planning for private individuals and businesses. Ingrid is a member of the Trusts and Wills sub-committee of the NZLS, a member of the Institute of Directors and currently sits on the Board of Manchester Unity Friendly Society. She also acts as a trustee for a number of charitable societies, organisations and individuals and brings to all of these functions considerable experience in general corporate matters including governance, directors' duties and shareholder disputes.



Stephen Tomlinson, Tomlinson Law, Christchurch

Stephen is the principal of Tomlinson Law. He has lectured in taxation, finance and business law at the University of Canterbury and is a well-known presenter of taxation and trust seminars. He is a past convener of the NZLS Taxation Committee.

CONTENTS

In session order

The medical approach to the assessment of capacity	1
<i>Dr Bede Mclvor</i>	
Superman vs. Kryptonite: impact of incapacity on the exercise of powers.....	21
<i>Juliet Moses</i>	
A way with words – will and trust drafting	45
<i>Chris Kelly and Mary Joy Simpson</i>	
Wills update	73
<i>Greg Kelly and Professor Nicola Peart</i>	
Trustee litigation in the family context.....	103
<i>Vanessa Bruton and Bruce Corkill QC</i>	
Lawyers: conduct and client care rules conflicts of interests	149
<i>Ingrid Taylor</i>	
Solicitor trustee charges.....	161
<i>Richard Burcher</i>	
Powers of appointment and powers of advancement	177
<i>Jeff Kenny and Jared Ormsby</i>	
Running a trust: caution, road works ahead	211
<i>Chris Kelly</i>	
Running a trust – road closed, no entry.....	229
<i>Jessica Plamer</i>	
Trust indemnities, equitable liens, subrogation and caveats.....	245
<i>Bill Patterson</i>	

Tax Issues 263
Stephen Tomlinson

The legal concept of charity 281
Kerry Ayers and Ian Millard QC

CONTENTS

Alphabetical by author/presenter

Author		Title	Page
Ayers	Kerry	The legal concept of charity	281
Bruton	Vanessa	Trust litigation in the family context	103
Burcher	Richard	Solicitor trustee charges	161
Corkill QC	Bruce	Trust litigation in the family context	103
Kelly	Chris	A way with words – will and trust drafting	45
		Running a trust: caution road works ahead	211
Kelly	Greg	Wills update	73
Kenny	Jeff	Powers of appointment and powers of advancement	177
McIvor	Dr Bede	The medical approach to the assessment of capacity	1
Millard QC	Ian	The legal concept of charity	281
Moses	Juliet	Superman vs. Kryptonite: impact of incapacity on the exercise of powers	21

Ormsby	Jared	Powers of appointment and powers of advancement	177
Palmer	Jessica	Running a trust – road closed, no entry	229
Patterson	Bill	Trust indemnities, equitable liens, subrogation and caveats	245
Peart	Prof Nicola	Wills update	73
Simpson	Mary Joy	A way with words – will and trust drafting	45
Taylor	Ingrid	Lawyers: conduct and client care rules conflicts of interests	149
Tomlinson	Stephen	Tax issues	263