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# Contract Law masterclass 2018

8 March 2018 • Pullman Auckland

Presented by

 [nzlawyermagazine.co.nz/contract-law](http://nzlawyermagazine.co.nz/contract-law)

**KEY  
MEDIA**

8:00am	<b>Registration opens</b>	
8:45am	<b>Welcome and opening remarks from the Chairperson</b> <b>Chris Browne</b> , Deputy General Counsel, Transpower New Zealand Limited	
9:00am	<b>Blockchain and the future of smart contracts</b> Over the last 12 months, the legal application of blockchain technology has been growing in sophistication, complexity and acceptance. This session will run through the practical legal challenges of smart contracts. <ul style="list-style-type: none"><li>• How distributed database (ledger) technology works in practice</li><li>• How do self-executing contractual provisions work?</li><li>• Challenges and opportunities presented by open-source blockchain platform Ethereum</li><li>• Jurisdictional issues relating to blockchain contracts</li></ul>	<b>Speaker:</b> <b>Rachel Paris</b> Partner Bell Gully
9:45am	<b>Liability issues with blockchain contracts</b> While smart contracts present considerable opportunities in terms of accuracy and security, there are a number of risks that legal professionals and parties need to consider. <ul style="list-style-type: none"><li>• Allocation and attribution of risk and liability in smart contracts</li><li>• How would liability be allocated if the blockchain service malfunctions?</li><li>• Overcoming privacy issues with smart contracts</li><li>• How to mitigate the risks of bugs in the contract code</li></ul>	<b>Speakers:</b> <b>Geoff Ward Marshall</b> Senior Associate DLA Piper  <b>Mark Williamson</b> Partner DLA Piper
10:30am	<b>Morning refreshments and networking break</b>	
11:00am	<b>Enforcing 'click wrap' agreements</b> Businesses and consumers today often enter into binding contracts through online 'click wrap' agreements. How are courts interpreting the enforceability of such contracts? <ul style="list-style-type: none"><li>• The legal differences between 'clickwrap', 'browsewrap' and 'sign-in wrap' contracts</li><li>• How unfair contract terms provisions apply to online contracts</li><li>• Is the US Uber case: <i>Meyer v Kalanick (Uber)</i> [2016] relevant to New Zealand matters?</li><li>• Practical tips to enhance the enforceability of online contracts</li></ul>	<b>Speaker:</b> <b>Amy Ryburn</b> Partner Buddle Findlay
11:45am	<b>Warranties, indemnities and exclusions: balancing the speed of negotiation with risk</b> The indemnity clause remains the most contested clause in any contract negotiation. This session will review trends and best practice in the use of indemnities, exclusion clauses and limits on liability across various sectors. <ul style="list-style-type: none"><li>• What are the most common indemnities being used today?</li><li>• When does the <i>contra proferentem</i> rule apply?</li><li>• The interaction between insurance policy terms and indemnifications in contractual arrangements</li><li>• How important is the removal of an indemnity for a consequential loss clause?</li></ul>	<b>Speaker:</b> <b>Kim Francis</b> Partner Meredith Connell



- To what extent can indemnities enforced over jointly owned assets and non-contracting parties?
- Will the decision in the Court of Appeal of England and Wales *Persimmon Homes v Ove Arup* [2017] affect New Zealand decisions?
- *Prattley Enterprises Ltd v Vero Insurance New Zealand Ltd* [2016] – when do exclusion clauses in full and final settlement agreements or contracts warrant lower judicial scrutiny?
- Do the Canada Steamship principles still apply in New Zealand?

12:30pm

### Networking lunch

1:30pm

### The Contract and Commercial Law Act 2017 (CCLA)

The CCLA is the first major statute law revision since 1908, folding several existing statutes into one modern piece of legislation. What effect is this having on the practice of law?

- Overview of the underlying statutes that have been folded into the new Act
- How CCLA's transitional provisions are affecting existing statutes
- What to consider in relation to standard terms and conditions and other templates

#### Speakers:

**Polly Pope**  
Partner  
Russell McVeagh

**Emmeline Rushbrook**  
Senior Associate  
Russell McVeagh

2:15pm

### Commercial contract interpretation today

Several years ago the Supreme Court took the opportunity to discuss the principles that apply to the interpretation of commercial contracts. In this session we will look at the relevance of those principles to contract matters today.

- How far have we come since *Vector Gas Limited v Bay of Plenty Energy Limited (BoPE)* [2010]?
- Has the pendulum swung back?
- When is pre-contractual material considered by the courts today?
- How are courts applying the concept of commercial common sense or fairness when interpreting contracts?

#### Speaker:

**Tim Smith**  
Partner  
Chapman Tripp

3:00pm

### Afternoon refreshments & networking break

3:15pm

### Implied terms in contracts – beyond *Belize*

For many years UK and New Zealand courts looked to the approach taken in the *Belize* case for guidance on implied terms. Considering the UK courts' departure from the *Belize* approach to implied terms, what does this mean for the implication of terms into contracts in New Zealand?

- How do implied terms commonly arise in a New Zealand context?
- When will the court impose contractual terms on parties?
- *Marks and Spencer plc v BNP Paribas Securities Services Trust Company (Jersey) Limited* [2015]
- How do the courts decide whether a term should be implied into a contract?

#### Speaker:

**Tim Fitzgerald**  
Partner  
Bell Gully

4:00pm

### Conference concludes

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