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**6 CPD** hours

**NZ** | LAWYER | **Contract Law**  
masterclass 2019

7 March • Hilton Auckland

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

Presented by

**KEY  
MEDIA**

8:45am

**Introductory remarks from chairperson**

Speaker:  
**Helen Rice**  
Managing Partner  
Rice Spei

9:00am

**International contract law update**

This session will discuss the intersection between New Zealand contract law with laws from other jurisdictions, as we become increasingly trade focused.

- GDPR and its flow on effect for NZ multi-nationals
- Case law trends in Australian and UK courts

Speakers:  
**Gretchen Fraser**  
Senior Associate  
Kensington Swan

9:30am

**Enforceability of verbal contracts – lessons from the UK**

Two recent cases in the UK provide guidance on the legal standing of non-oral modification clauses in written agreements in New Zealand.

- When can a written agreement with a non-oral modification (NOM) clause be varied verbally?
- Implications of *Blue v Ashley [2017]* and *Rock Advertising v MWB Business Exchange Centres* for New Zealand contracts
- Dealing with allegations of oral variations or oral collateral contracts
- How to draft an enforceable no oral modification (NOM) clause

Speaker:  
**Rachel Sussock**  
Partner  
Lowndes Jordan

10:15am

**Enforceability of click-wrap and browse wrap agreements**

Online contract have become the norm, forcing the courts to re-consider the application of age-old principles of contract law. How are the courts treating online contracts?

- The risk of clickwrap, sign-in wrap and browsewrap agreements
- Meeting the expectations of customers and regulators
- Implications of the Uber case (*Meyer v Kalanick & Uber Technologies*) for New Zealand
- What counts as reasonably conspicuous notice of terms and conditions?
- Lessons from Australian case: *Surfstone Pty Ltd v Morgan Consulting Engineers Pty Ltd [2016]*
- How to ensure that you're bringing incorporated terms to the contracting party's attention
- What does the future hold for online contracts?

Speaker:  
**Richard Massey**  
Senior Associate  
Bell Gully

11:00am

**Morning refreshments and networking break**

11:30am

**PANEL: Risks and opportunities of blockchain and smart contracts**

Blockchain is still a work in progress from a legal and operational perspective. This thought-provoking panel will discuss the enforceability and risks of smart contracts.

- Know your customer checks and blockchain: complying with anti-money laundering and counter terrorism financing (AML/CTF) laws
- What are the risks of blockchain repeating and compounding errors or fraud?
- Does blockchain have mechanisms to detect infiltrators?
- How powerful is private key cryptography as an ownership tool?
- How easy is it to detect and modify errors in blockchain?
- Problems with legal enforceability with a "permissionless" distributed ledger
- Dispute resolution mechanisms relating to distributed ledger technology

Speaker:  
**Chris Linton**  
Consultant  
Duncan Cotterill  
**Jeremy Muir**  
Partner  
MinterEllisonRuddWatts  
**Michael Taylor**  
Senior Associate  
Russell McVeagh

12:30pm **Contract interpretation by the courts – what evidence will be considered?**  
 What material relating to contractual terms and meaning can be admitted as evidence to help courts to interpret contracts?  
 • Parol and oral evidence of the parties' negotiations  
 • Post-contractual dealings or other evidence relating to the parties' subjective interpretation  
 • Lessons from the courts – trends in admission of evidence

Speaker:  
**Chris Browne**  
 Partner  
 Wilson Harle

1:00pm **Networking lunch**

2:00pm **High Court guidance on the penalty doctrine – the Honey Bees case**  
 The recent Honey Bees case provides clarity on the way that penalties are being interpreted by the New Zealand courts.  
 • Overview of Honey Bees Preschool Limited v 127 Hobson Street Limited  
 • How are the New Zealand courts deciding whether a clause is really a penalty?  
 • How does the court determine the bargaining power of the parties?  
 • Lessons for the drafting of enforceable clauses: deterrence versus punishment  
 • Comparing the likely loss and the stipulated sum of damages clause  
 • What constitutes a legitimate interest which a payment obligation on breach is seeking to protect?  
 • What does a proportionate sum look like?

Speaker:  
**Nick Gillies**  
 Partner  
 Hesketh Henry

2:45pm **Warranties, indemnities and insurance contracts**  
 This session will discuss the interplay between warranties, indemnities, insurance and limitations of liability, along with commentary on the future of insurance contracts.  
 • Effective contractual devices to minimise or avoid liability  
 • The legal difference between an indemnity and a guarantee  
 • Timeline and future of the insurance contract law review in New Zealand  
 • Third party access to liability insurance moneys under the Law Reform Act 1936  
 • Allocating post completion risks between the seller and the buyer  
 • How does warranty insurance impact the negotiation of warranties?  
 • Warranties for the purpose of contractual provisions or disciplinary provisions  
 • Caw law overview– how enforceable are broad indemnity clauses?

Speaker:  
**Kim Burkhart**  
 Partner  
 Kennedys

**Geoff Beresford**  
 Senior Associate  
 Kennedys

3:45pm **Afternoon refreshments & networking break**

4:00pm **Successful contract negotiation strategies**  
 This practical workshop will help you to hone your negotiation skills so that you can adapt your negotiation style and strategies to your circumstances.  
 • Selecting the negotiation style that suits the context and commercial circumstances  
 • Taking control of the timing and pace of a contractual negotiation  
 • Agreeing settlement parameters and walk-away positions  
 • Managing difficult clients with unrealistic expectations

Speaker:  
**Kiri Tahana**  
 Partner  
 Kahui Legal

5:15pm **Conference concludes**

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## NZ|LAWYER Contract Law masterclass

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Postal address \_\_\_\_\_ Suburb \_\_\_\_\_  
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Email \_\_\_\_\_ Business phone number \_\_\_\_\_

### ADDITIONAL DELEGATES

First name _____	First name _____	First name _____
Surname _____	Surname _____	Surname _____
Job title _____	Job title _____	Job title _____
Phone _____	Phone _____	Phone _____
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