The legal profession’s response to sexual harassment in the workplace

By Steph Dyhrberg, Vice President Wellington Branch

We have all been reeling as the allegations of serious inappropriate behaviour at major law firms have emerged in recent weeks. While the primary focus has been on the sexual assaults on five summer interns two years ago at Russell McVeagh, it has become very evident that this is not a problem confined to one firm, or the large commercial firms. Women are coming forward, most anonymously, to share similar stories from many law firms and other legal employers (see for example Zoë Lawton’s blog).

Male colleagues have for the most part remained very quiet not speaking out publicly about the issue. Maybe they don’t think they are the right people to comment, or that the problem is serious or widespread. Some may be worried that they have at some stage done something stupid which could come back to haunt them. A tip: if you know you have done something seriously inappropriate, seek the person out, acknowledge it, apologise and undertake to do better.

Privately, a lot of male lawyers are saying they are horrified, and were not aware of such behaviour occurring. Women lawyers know much more about sexual harassment in all its guises, because we experience it with monotonous regularity and so do our friends. But many women are too ashamed and scared even to tell their friends. Male colleagues have for the most part remained very quiet not speaking out publicly about the issue. Maybe they don’t think they are the right people to comment, or that the problem is serious or widespread. Some may be worried that they have at some stage done something stupid which could come back to haunt them. A tip: if you know you have done something seriously inappropriate, seek the person out, acknowledge it, apologise and undertake to do better.

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The Honours Board in the Library has been updated with recent judicial appointments including Justice Grice.

COUNCIL BRIEF, APRIL 2018

Liberal News

Steady progress in the Library; training offered for Lexis Advance

By Robin Anderson, Librarian, Wellington

All the unused shelving and old files of decisions that were in the library have now been cleared away so that things are neat and tidy for library users. In addition, we are now also disposing of duplicate law reports that we no longer need. We are still checking some of our old volumes of unreported decisions to make sure that we have everything scanned and online. A lot of decisions are on NZLII or on LINX but we want to be sure that nothing is missing. This is one of the many jobs we will be quietly doing over the next year.

LexisNexis databases worldwide are changing to a new online research system called Lexis Advance. Along with everyone else in New Zealand, we will need to change over to this in the next six months. To assist library users with this change, we will be offering training sessions in Wellington and in all courthouses with kiosks. Lexis are also offering a lot of training to their own users. Please take advantage of this when it is offered at your workplace or in the library/lawyers room.

For those of you familiar with the library as it was before the earthquake, you will discover that things have moved around. We are now on only one floor and the robing room is now where the old editions and superseded books are kept. There is a new floor plan of the library available now although we are still fine-tuning it so there will be some more small changes.

Wellington Branch Diary April

Wednesday 4 April
Preventing & Dealing with Harassment & Bullying, free webinar, 11am-12.30pm.
Steph Dyhrberg, Susan Hornsby-Geluk, Hamish Kynaston.
www.lawyerseducation.co.nz

Monday 9 April
Young Lawyers Committee

Tuesday 10 April
Schmidt v AG Canada – With Edgar Schmidt, former general counsel, Parliamentary Counsel Office.
www.lsaanz.org

Thursday 12 April
Courts Committee
Anti-Money Laundering Roadshow, free webinar.
www.lawyerseducation.co.nz

Tuesday 17 April
Employment Law Committee

Wednesday 18 April
Wellington Branch Council Meeting

Thursday 19 April
‘Effectively Telling Your Client’s Story’, Seminar on increasing the likelihood of your client’s application for legal aid being approved first time. Tracy Twyman, Law Society Building, 1-2pm.

Thursday 26 April
Immigration & Refugee Committee

Friday 27 April
Women in Law Committee

Wednesday 2 May
Varying Trust Deeds, webinar. www.lawyerseducation.co.nz

Tuesday 8 May
Education Law Conference, Wellington. www.lawyerseducation.co.nz

NB Please confirm the dates of committee meetings with convenors.

Council Brief deadline
May 2018 issue
Monday 23 April

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nz.adman@gmail.com

New books

CPD top-up day: Auckland, February 2018, Wellington: Continuing Legal Education, New Zealand Law Society 2018 KL148.46 NEW

CPD top-up day: Christchurch, February 2018, Wellington: Continuing Legal Education, New Zealand Law Society 2018 KL148.46 NEW


This realm of New Zealand: the sovereign, the Governor-General, the Crown, Auckland, New Zealand: Auckland University Press 2017 KM112.1 Ki QUE

Council Brief, April 2018
Horowhenua and Kapiti practitioner Jim Simpson, who died on 24 February 2018, was a highly competent lawyer, a respected man of the community, and a fine sportsman, who also had a sense of fun. His funeral was held at Rangiatea Church in Otaki and it speaks volumes for his mana in the community that it took place there. His close friend and former partner John West spoke at Jim’s funeral and the following is an edited version of his remarks.

Jim Simpson was born on 10 July 1947, spent his early years in Korokoro and was a ‘true son of Petone’. He went to Hutt Valley High School and then travelled overseas, working for a while as a lumberjack in Canada and playing rugby in Europe. On his return he decided to go to university, but having little money spent a year of long, cold, and hard days as a tunnel miner on the Deep Cove power project in Manapouri. Having saved hard he headed for Dunedin to study law at Otago University from where he graduated in the early 1970s. He was admitted as a barrister and solicitor in Dunedin on 7 December 1973 and went to work for the local firm of Brodrick Parcell Milne & Howley.

Back in Wellington in the mid-1970s, he worked for a time at Stadden Stewart Joseph before leaving the city for the Horowhenua where he joined Parke Cullinan & Turnbull in Levin. After a short period he struck out to establish his own practice in Otaki.

I first came upon Jim as a schoolboy playing basketball in the Hutt Valley. When I returned to New Zealand after an extended trip to Australia in the 1970s, he encouraged me to commence legal practice in Paraparaumu. The pair of us went into partnership in Levin, taking over the former practice of Bertram Groves a couple of times; he called this firm Simpson West & Co while retaining our separate practices in Paraparaumu and Otaki under the same name.

Later we acquired the long-established practice of Bergin & Cleary in Foxton.

Jim later formed his own practice, Simco Lawyers Limited, which he grew to four partners; he called this firm Simpson West & Co while retaining our separate practices in Paraparaumu and Otaki under the same name.

Later we acquired the long-established practice of Bergin & Cleary in Foxton.

Over the years, we maintained a collegial working relationship and a strong friendship.

Jim was a fine sportsman and a rangatira of his time with a competitive edge. He earned sporting success in a number of fields.

Rugby
- Started out as a Hutt Valley primary schools representative.
- Was in the Hutt Valley High School 1st XV.
- Made the Wellington U19 and U20 reps.
- Played for Petone with the likes of Richard Cleland and All Black captain Andy Leslie in the team which won the Jubilee cup a number of times.
- In Dunedin he played for the Southern Club, a team that won the premier championship a couple of times; he was selected to play for Otago, playing prop for a season, a significant achievement given the other men in the front row were Keith Murdock, Lindsay Clarke, and Jeff Matheson, all of whom were All Blacks.
- When he moved to the Kapiti Coast he played loose forward and No 8 for Rahui, a team that he later captained; he was also chairman of the club and served on the committee for a number of years; he was selected to represent Horowhenua and was also made captain of that team.

- He served on the Horowhenua rugby union board and was later president for a couple of years.

Other sporting achievements
- He was a member of a Petone novice eights that won the national rowing championship.
- He was selected as a Hutt Valley rugby player representative; he continued playing basketball in Wellington with his age group, including competing at the world masters games, until shortly before his death.
- He was a competitor for over a decade as a multisport competitor in the Southern Traverse, Coast to Coast and Iron Man Triathlons, including a first place finish on the cycle leg of the Coast to Coast’s ‘Longest Day’.
- He was a top level squash player and a weekly tennis challenger right up until the last weeks of his life.
- He was an enthusiastic and sometimes frustrated social golfer.
- Later in life he became a passionate student of mountaineering adventure, skiing and climbing, including the achievement of his level two ski instructor’s certificate; each year he travelled to different parts of the world, exploring mountains in Japan, Alaska, South America, Canada and Kashmir.

Legal practice
Jim was a general practitioner covering all aspects of law required in the community in which he lived. In his practice he competently ran a nominee company for many years, providing funding for those needing money and assisting many individuals and businesses through difficult times.

He was a founding member of the Regional Solicitor Group formed in the 1980s to promote collegiality among practitioiners in provincial centres. This group continues today and will pay tribute to Jim at its next meeting.

He recognised the potential of information technology in its infancy and was an early adopter of software programs written for legal practices. The ‘Convey’ program developed by Jim for property transactions was a remarkable achievement and continues to be used by practices throughout New Zealand.

Jim encouraged and nurtured many lawyers in their early years of practice as evidenced by the presence of many at his funeral who had already enjoyed a number of fellow practitioners encountering difficulties.

When the Levin Court was unable to find legal aid counsel and duty solicitors in the 1980s, Jim arranged for a panel of Wellington and Palmerston North practitioners to spend one day a week in Levin doing the work. Messrs: Davidson, Lithgow, Cleary, and Surridge, and Mesdames Harvey, and Gould among others provided a high standard of service during this period. With the travelling involved, they would not have been able to continue their work. That they did so solely as a public service deserves noteworthy recognition.

Jim made a substantial contribution to the wider community of Levin and Hutt. His special interests, young people and sport, particularly benefited. The Kapiti Skills Trust, which he chaired, ran for 26 years and organised courses that benefited many troubled young people referred by social agencies, police and the courts.

Sense of humour
Fun is not often a term used to describe lawyers, but over the years Jim had made a habit of shaking the norm. He had a quotient of sense of humour which was often the opposite of politically correct.

The case of Karl Sim, ‘The Foxton Forger’, so capably defended by Ken Bailey on our instructions, provided two years of amusement for us all in the mid-1980s. After Sim was convicted on a few minor charges of forging works of C. F. Goldie and painted the mural on the Foxton public toilets to serve his sentence of community service. Jim’s tongue-in-cheek, late-night decision to promote in New Zealand the sport of dwarf throwing met howls of protest.

Some pointed to the directive of the European Union that member states ban the activity. Jim took great delight in making known the subsequent decision of the European Court of Justice that consenting dwarfs could be thrown.

When an earthquake caused masonry to fall on the desk of a staff member in the firm’s old Foxton building, she reported ‘seeing the sky’ through the roof, so JimTiered a hard hat to hand with fulls instructions.

Another staff member there, Miss Brewer, aged 93, handed in her resignation because her twin sister was fading and her bicycle unreliable. The upside for Jim was that he no longer had to covertly tip the coffee she made out of the window. I confess that I did the same. The coffee industry was illustrated by the lack of vegetation on the ground beneath the window.

Jim had all the qualities any lawyer should have and then some. He was very good at the law and was a good person. The matters undertaken by Jim or under his supervision numbered in the thousands. Each and every one was important to a client, and each and every one involved effort and judgment by Jim and his able team, and I make a special mention of Kim Cook his personal assistant for 35 years.

When his illness was diagnosed, one of his major concerns was to secure the future employment of his staff and the welfare of his clients.

Through his efforts, Wakefields Lawyers will take over Simco Lawyers Limited effective from 1 April 2018.

Of course, Jim’s true legacy is his family. To his wife, Carma, and his children Madeline, James Bruce and Skye, we extend our sympathy and share their loss. Thank you for sharing Jim with us.

Jim loved reading, writing and discussing poetry. His original verse graced many a special occasion and he proudly asserted his Scottish and Viking ancestry with the following toast:

‘Old friends are true friends, Blood is thicker than water, Death to the enemy’

Rest in peace Jim.
John West, LLB, professional colleague and friend.

Council Brief deadline
May 2018 issue
Monday 23 April
Borrin Foundation calls for research ideas

THE Borrin Foundation is calling for project ideas in its first Expression of Interest (EOI) round of grant funding. The Michael and Suzanne Borrin Foundation is a new $38 million philanthropic organisation, launched last month. (See Council Brief issue 475, March 2018)

The foundation aims to support legal research, education and scholarship through effective philanthropy. The foundation wants to hear from people who have great ideas and plans for legal research or legal education projects that will contribute to its vision of making a difference to the lives of New Zealanders through the law.

Visit the website www.borrinfoundation.nz for more information. The EOI Round is open from 14 March to 30 April 2018. All EOIs must be received by 12 noon on Monday 30 April.

Animal law association says rodeo is illegal under the Animal Welfare Act

RODEO is illegal under the Animal Welfare Act and the Animal Welfare (Rodeo) Code of Welfare is legally flawed, says a report published last week by the New Zealand Animal Law Association.

Report author, barrister Catriona MacLennan, said the act protected animals from ill-treatment and required their needs to be met. The rodeo breaches those provisions by deliberately placing animals in harm’s way for entertainment. Spurs and electric prodders are intentionally used to inflict pain, contrary to the act’s ban on the ill-treatment of animals.

“The evidence on which the current, 2014 rodeo code was written was extremely flimsy and is now outdated. No New Zealand-based research or studies have ever been commissioned by the authors of the code. An urgent review is required.”

Ms MacLennan said that codes could not legalise actions banned by an act.

Overseas, there is a growing body of scientific research into rodeo. A 2016 University of Queensland study found acute stress responses in calves used in roping. German research, not considered by the code drafters, found horses in 137 rodeo starts studied, displayed abnormal behaviour. In “Rider Down” sequences, 94 per cent of the animals displayed harm-avoiding behaviours.

New Zealand Animal Law Association president, Saar Cohen-Ronen, said the association decided to commission the report as there had never been an in-depth study in New Zealand about the law relating to rodeo.

“We wanted to draw attention to the problematic legal status of rodeo. The report shows that activities that are prohibited under the act are rendered permissible under the code. That is not a sustainable legal scenario.”

“NZALA maintains that many rodeo practices – especially those involving cattle – are at odds with the primary legislation and should already be considered illegal.

“We say there is an arguable case for the High Court to declare the code incompatible with the act.”

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Bill of Rights Act amendment?

CABINET has approved, in principle, a move to amend the New Zealand Bill of Rights Act 1990 to provide a statutory power for senior Courts to make declarations of inconsistency under the Bill of Rights Act, and to require Parliament to respond.

Where Parliament occasionally passes laws inconsistent with the Bill of Rights Act, there is currently no established route for Parliament to revisit the issue.

Under the proposal, the Courts would not be able to strike down statutory law and Parliament would retain its sovereignty.

After reconsideration Parliament could amend, repeal or stick with the law as originally passed.

ADLS president on women in the law

AN interesting interview with ADLS president Joanna Pidgeon on women in the law is available as a podcast. The interview was conducted by Christchurch lawyer Steven Moo. The podcast is available from www.seedslbcsyn.com or on iTunes.

Wellington Medico-Legal Society

The Wellington Medico-Legal Society is an amalgam of practising lawyers and doctors, and students with an interest in medical law. Regular meetings are held featuring speakers with particular expertise in areas that affect medical law. If you are interested in joining the Society please contact either of the below email addresses:

Jenny Gibson: jgibson@legalchambers.co.nz
Caroline Cheetham: caroline@legalchambers.co.nz

Law graduate CV scheme

WELLINGTON Branch runs a scheme to assist law graduates into work. Graduates seeking employment leave their CVs with the Branch. These are then made available to potential employers looking for staff.

Employment offered need not be permanent – any work in a law office will give graduates valuable experience.

And the scheme does work! A graduate recently emailed us: “I’ve been meaning to email to say a big ‘Thank you’ to the CV scheme folks. Last year my CV got passed on to a firm in Palmerston North, and I’ve been working there since late January. So, many thanks for having me in the CV scheme, it made all the difference! I am now in employment.”

Contact the Branch: email wellington@lawsocty.org.nz or phone 04 463 2925.

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Council Brief May 2018 Deadline

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"If we are to prevent elder abuse and neglect, we need to challenge attitudes that fuel its occurrence and hide its existence."

Earlier in March I had the pleasure of presenting alongside the Hon. Hanny Nauns, Professional Educator (Elder Abuse and Neglect) of Age Concern New Zealand, at the Elder Law Ethics and Health Care conference. Experienced clinicians and legal practitioners presented on an array of topics from issues in end-of-life care, to ACC issues for older claimants, to the presentation of a Northland DHB prepared guide which helps staff apply for orders under the Protection of Personal and Property Rights Act.

Our presentation, "Social and legal perspectives in recognising and acting on cases of elder abuse and neglect", adopted a widely held view that "the statutory duty to provide care as a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.

We took as a starting point the United Nations Principles for Older Persons, specifically focusing on principle 17: “Older persons should be able to live in dignity and security free from exploitation, physical and mental abuse.” The extent to which this right is borne out within our current legal and social frameworks was a recurring theme throughout discussion.

Prosecution of Elder Abuse - R v Taylor (2016) NZHC 2846

The application of the relevant criminal provisions to the abuse and neglect of vulnerable adults was recently illustrated in the High Court case of R v Taylor. In this case, a woman of 76 years was found dead in her home due to the gross neglect of her daughter (Ms Taylor) and her friends (Mr and Mrs Taylor) who also lived in the household. Ms Taylor was charged with the manslaughter of her mother by failing to provide her with the necessities of life, thereby causing her death. Ms Taylor, in her early 40s at the time of the trial, moved in with Mr and Mrs Taylor in 2013 when she agreed to care for her mother who was already living with them. Ms Taylor often worked long hours and at some time before her mother’s death appears to have simply stopped providing care for her. The legal duty requiring Ms Taylor to provide this care is created by s 150A and s 151 of the Crimes Act. These provisions create criminal responsibility when someone with the actual care of a vulnerable adult does not provide that person with the necessities of life, in a way that is a major departure from the standard of care expected from a reasonable person.

Ms Taylor’s mother was found in a condition which demonstrated such a major departure. She had not been fed or washed or enabled to use the toilet for some time before her death. Justice Wylie described the photographs of Ms Taylor’s mother’s body, which were produced in evidence at the trial, as “harrowing”. Ms Taylor was found guilty and sentenced to 12 years imprisonment on the charge of manslaughter. The judge considered the victim’s vulnerability, the extent of harm, the offender's cruelty and the lack of any incapability which prevented the offender from caring for her mother as aggravating factors in the offending. The judge also held that the breach of the relationship of trust was significant.

Mr and Mrs Taylor were charged and found guilty of failing to protect a vulnerable adult under s 195A of the Crimes Act. Prior to its enactment there was no provision which protected vulnerable adults or created any liability for those who resided in the household with knowledge of the risk of abuse and failed to take reasonable steps to prevent it. There was a finding of gross negligence over a lengthy period during which both Mr and Mrs Taylor were living in the house and aware of the conditions the elderly woman was kept in yet did nothing. Mrs Taylor was sentenced to imprisonment for six years three months and Mr Taylor for six years.

Barriers to prosecutions

In cases such as Taylor, where the consequences of abuse and neglect are extreme, evidence is likely to be strong and difficult to rebut. However, in less extreme cases, robust independent evidence may not be available. Another important consideration is that not all vulnerable adults will want to give evidence against family members and some may not have mental capacity to be able to provide reliable evidence. Fortunately, sometimes the offender can trip themselves up as seen in the report of a Masteron carer whose tirade of dreadful abuse at an 80-year-old man was accidentally live-streamed over Facebook via the carer’s cellphone. The elderly man’s family complained to the police and the police and evidence resulted in a guilty plea.

According to Age Concern New Zealand, fifty percent of cases referred to and investigated by them include financial abuse as a factor. Financial abuse is not always clear-cut and may often be resolved without police prosecution. There can be "agreed" transactions amongst family members such as loans or property purchases that “go wrong”. In such cases legal practitioners may be called on to assess financial abuse through civil remedies rather than the criminal law. These remedies exist “where a party enters into a transaction lacking capacity, under duress or undue influence, or under a disadvantage or disability. In certain circumstances otherwise lawful transactions may be declared void.”

NZ Law Society – Wellington Branch

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The eternal burden of costs

By John Burn

A REPORT in the Christchurch Press last November describes a pending High Court action in which the plaintiff, as a company liquidator, was suing the directors and auditors of a failed company. The details are irrelevant but the report records comments by the Chief Justice in which she criticises the liquidator’s case as being supported by a litigation funder, and describes the claim thus to be seen as an investment to be maintained to the extent to which it provides a commercial return to the funder. (I note that the funder has objected to these remarks, because Her Honour is the wife of Hugh Fletcher, chairman of what is described as the largest professional indemnity insurer in the country. However, I am not directing my mind to that aspect and have no doubt that the interim judgment was made with proper detachment.) Nonetheless, the Chief Justice’s criticism cannot be accepted without it being noted that the courts in general have brought this situation upon themselves. The costs of litigation in this country operate at such a stratospheric level of money that 90 percent of our citizens could never contemplate embarking on litigation in the High Court. And those who can scrape together the money are facing a lottery upon which their future economic lives are at risk. It, of course, also follows that only larger companies can face the costs involved with equanimity. The huge fees demanded by litigation firms and barristers arise in my opinion from three factors.

First, the requirement some years ago by the judges that submissions be lodged and served in writing well before the hearing. This was ordered originally so that the judge could catch up on the parameters of the case and refresh his or her memory of the relevant law. (Now some of them tell me that they are often appalled at the length of what is supplied.) For both barristers and solicitors involved tend to mark up immense hours in preparation, with the fee clock ticking away happily every day. Some of the submissions I have seen could be printed without amendment in a legal journal – packed with footnotes and at the end a glossary of cases. I have been at the Bar for over 50 years, in two countries, and am quite certain that much of this material is simply lightweight and a waste of everyone’s time. Of course, the judge may sensibly ignore most of it, but the financial demand to the client is already done.

Secondly, the requirement that briefs of evidence be lodged and served before the hearing. This at once took the general recollection of each witness into a carefully worded and edited narrative (I wonder if any enquiry has ever been launched into the preparation of one of these opuses after the court has rejected the truth of it?). I am not alluding deliberate falsehood on any broad scale, but the fact that the memory of the witness then has to be laid out in the legal context of the pleading of one party is at once suspect as a method. Then with hyperlinks and hot tubs, and other growths on the pre-trial process, time passes and costs grow, completely out of proportion to what is really required.

I should add that most of these preliminary filings, legal argument and evidence, are not required in the Australian court system, except in specialist divisions, and I believe the truth is much more successfully shaken out in their more open court process.

Thirdly, all this work in chambers simply means that the barristers in civil matters have no time to go to court. I emphasise that this is no criticism of them, for they did not invent the present system and they all do their best for their clients. But there is no doubt that, as a result, they are obliged to spend the huge bulk of their time out of court – partly, I know, because here they have to interview parties and witnesses as well as drawing pleadings, witness statements and the submissions I have described above.

I have to go on instance the Sydney Bar, where I spent 25 years, and where instructing solicitors lay and the preliminary tasks in preparation of the brief. (I acknowledge that there counsel’s advice may be sometimes sought on specific points of evidence or pleadings, but these require inarticulate briefs and do not guarantee a later brief for the proceedings.) When a barrister is not in court he or she is basically not earning – we, at the Sydney Bar, were not permitted to see clients without the attendant solicitor or go to law firms, but I must admit my belief that the solicitors in the large Sydney firms are (in their speciality) on balance better, purer lawyers than members of the Bar. Thus each practitioner does what he or she does best, and one consequence is definitely that client fees are lower there than at the Bar. Another difference in Australia is that the costs awarded to the successful party are the complete payment of all fees expended, right down to the last photocopy charge – any dispute is settled by a taxing counsel or registrar. In some ways this might increase the lottery nature of the hearing, but at least the successful party leaves the court having been put in the economic position that he deserves.

I add a complaint about the increasing use of AVL appearances in petty criminal cases – proudly spoken of in December by the Secretary for Justice, and which he promises to increase – but which shatters the age-old guarantee that a defendant may face his accuser. One could almost foresee a court system where parties in any court are not allowed to give their own evidence, in some Kafka-like future. I note that in the Bill Cosby trial in the US (now headed for a re-trial) the prosecutorial force put forward 13 witnesses, but the judge only permitted one. I hope that such unjust measures are not contemplated by the Secretary for Justice in his tireless search for economies.

But even now, our High Courts – I dare not consider those above them – are part of our system but mostly invisible to the taxpayers. Thus their work is mainly criminal, and the parties in civil matters have turned to judicial conferences, where you can get all parties together (or to private mediations) to break the deadlock by settlement, and too often they are frightened into a grudging agreement. Thus what we have is a court system which does not work, because it is too expensive. And that is why we increasingly have litigation funders, because losing an agreed share of the judgment recovered is too often the only way of getting anything. It does indeed seem a little hard for any judge to criticise them.

This article first appeared in Canterbury Tales and is republished with permission.

Australia’s ‘next top lawyer’

AUSTRALIA’s undergraduate law students are being offered the opportunity of being named “Australia’s Next Top Lawyer”.

In a competition run by Australian Accident Helpline, a no-win, no-fee personal injury claims company, law students must submit a 3000 word essay on Australian legal history to be in the running for the $5000 first prize.

The company says it is worried about a lack of young people working in the legal sector. It says that practices everywhere are embracing technology and downsizing their work force. This will reduce opportunities for juniors to enter the sector, leaving only the most experienced lawyers.

Firms will become more profitable in the short term, it says, but the practice is unsustainable in the long run.

The company says it wants to encourage, recognise and reward young talent, and hopes the prize will assist the winner to further their law studies.

The Solicitors’ Benevolent Fund – ways to donate

Donations to the Solicitors Benevolent Fund can be made through:

• “Give a Little” http://www.givealittle.co.nz/en/Solicitors, which will be automatically receipted, or

• by Direct debit: Bank of New Zealand: 02-0506-0101108-097

All donations go directly to the capital reserve. The Solicitors’ Benevolent Fund Trust is registered as a charitable trust (number CC48709) and has tax deductible status.

If a receipt is required when making a direct debit, please email wellington@lawsociety.org.nz with your name, the amount donated and a contact number to ensure a receipt is issued and sent to the correct place.

Deadline Council Brief May

Monday 23 April 2018

Andrew Nuttall is an Authorised Financial Adviser and founder of Cambridge Partners Ltd, an independent fee only Wealth Management firm in Christchurch. Andrew has worked with members of the legal profession for over 26 years. www.cambridgepartners.co.nz

Opinion
**LEANZ essay competition**

The Law and Economics Association of NZ (LEANZ) has established an essay competition, open to current or recent undergraduate or post-graduate New Zealand university students of any discipline. Academic essays that approach a legal or public policy issue using an economic analysis (or specifically addresses the failings of such an analysis) are invited. The essay should recognise the significance of legal instruments and institutions in creating or moulding the incentives.

A first prize of $3,000 will be offered together with the opportunity to present the work at a LEANZ seminar event in 2018. A discretionary prize of $1,500 may be awarded to a high-quality runner up. Entries close on Monday 7 May 2018. Details are available at leanz.org.nz

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**Book availability and copyright**

Paul J Heald, the Paul Richard W. & Marie L. Corman Research Professor at the University of Illinois College of Law, recently spoke at the Victoria University of Wellington about his research on the reversion of copyright back to authors and how this encourages republication of out-of-print books.

His research compares the availability of books whose copyrights are still under copyright under US law with books whose copyrights are still exercised by the original publisher.

He finds that 17 USC § 203, which permits reversion to authors in year 35 after publication, and 17 USC § 304, which permits reversion 56 years after publication, significantly increase the republication of important classes of books, though the § 203 effect seems stronger.

The 2002 decision in Random House v. Rosetta Books, had an even greater effect on in-print status than the statutory schemes. The case related to an attempt by Kurt Vonnegut and representatives of some other writers, to publish their work as e-books despite their being contracted to the original publisher. The case rested on the premise that the contracts specified the publication of the authors’ work in 'book form' and that e-books were not in that form, thus allowing a one-time bonanza for authors with similar contracts.

Professor Heald’s research on new editions of books available on Amazon indicates a fall in availability of books published after the 1920s that continues until the 2000s, presumably the effect of publishers’ business models, whereby books disappear after their initial publication buzz of interest, and long before they would fall into public domain. Once publishers cease to promote them they disappear with no domain. Once publishers cease to promote them they disappear with no mechanism for republication while they are still under copyright. Thus, there is more likelihood of a book from 1910 being available than one from 1950.

Professor Heald, who is a visiting professor at the University of Canterbury, is also a writer of mystery novels.

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**COUNCIL BRIEF CROSSWORD**

You can use this diagram for either the Quick or Cryptic Clues, but the answers in each case are different. This month’s solutions are on page 2.

**COUNCIL BRIEF CROSSWORD**

**Quick Clues**

| ACROS | 1.  | 2.  | 3.  | 4.  | 5.  | 6.   | 7.  | 8.  | 9.  | 10. | 11. | 12. | 13. | 14. | 15. | 16.  |
| DOWN | 1.  | 2.  | 3.  | 4.  | 5.  | 6.  | 7.  | 8.  | 9.  | 10. | 11. | 12. | 13. | 14. | 15. | 16.  |

1. Arieph (5)
2. Blackbird (6)
3. Tiller (7)
4. Chief (4)
5. thrice (3)
6. Come (4)
7. alight (4)
8. Plywood (10)
9. Sate (8)
10. Sack (6)
11. Plan (5)
12. Silt (5)
13. Crease (4)
14. Sable (4)
15. Slay (4)
16. Sable (5)
17. Sate (4)
18. Sate (6)
19. Sate (7)
20. Sate (6)
21. Sate (5)
22. Sate (5)
23. Sate (4)

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Annual YLC new graduates cruise

THE Wellington Young Lawyers Committee (YLC) set sail with 60 recent graduates on its 2018 Grad Cruise to welcome the new entrants of the profession.

It was an beautiful evening anchored out near Somes Island with food, drink and new peers.

The Grad Cruise is an annual event which fosters a safe and relaxed environment to meet one another and for many, it is also the first engagement with the YLC. The YLC thanks College of Law and Sweet Georgia Cruises for its ongoing support of the event.

Stress is inevitable – but don’t let it beat you

By Andrew Nuttall

IN December last year I met with three lawyers and they all mentioned that they were feeling tired and stressed. We all know the feeling, but I’m sure we all agree that stress can be a wasted emotion, something that we would rather not experience.

So what are we doing about it? I began thinking a little bit more about this topic when I read a newspaper article by Dr Tom Mulholland. Later, I searched “stress” on the NZ Law Society website and found 473 different entries.

A November 2016 article in LawTalk by Emily Morrow stated that “stress is a chronic and ubiquitous risk for lawyers and non-lawyers in New Zealand law offices. Lawyers have high rates of depression, substance abuse, job dissatisfaction and general unhappiness. In fact, in many surveys lawyers rank among the least happy people professionally and often personally as well”.

A July 2013 article, “A Well Known Stress Buster”, stated that “deadlines, billing pressures, client demands, long hours, changing laws and other demands all combined to make the practice of law one of the most stressful jobs on the planet”.

This sounds like serious stuff and, for those of you who are employers, there are now greater responsibilities under the Health & Safety at Work Act 2015 to identify and minimise workplace risks. Emily Morrow’s article provides some ideas for law firms to consider but there are also things that we can do personally. The July 2013 article references a study that states “… among the many strategies to alleviate stress and to stress-proof yourself the three that stand out are:

1. Exercise (do something every day),
2. A healthy diet, and
3. Sufficient sleep.”

Dr Mulholland in his article states that stress can be a product of our thoughts, expectations and beliefs, but also notes that certain words such as “should” and “must” are demanding and stressful. He suggests we focus on the words we use and our way of thinking to help control stress. “I must get everything done for everyone,” can be replaced with “I would rather get everything done but in fact I need some time for myself and my family”.

Most stress is not worth it unless it changes behaviour. If financial stress motivates you to earn more or spend less, then that can be a healthier motivator. But often worry and stress is like a merry-go-round. It will keep you entertained but it will not get you anywhere.

Continued page 6