A s I write this, I reflect on an active week for the Branch Council.

Early in the week, we hosted an event to launch the Gender Equality Charter within the Branch. I would like to acknowledge the Women in Law Committee for their significant contribution to the genesis of this Charter. Thanks also to my colleague, and Branch Vice-President, Steph Dyhreberg for her work with the committee, to our panellists who took part in this launch, and to Maretta Twentyman for so very ably facilitating the session.

In a very real way, the panellists – representing in-house, small firm and large firm roles – reflect the diversity, and, I think, the special character of the Wellington Branch. To Murray, Sally and Peter a very big thank you. Your thoughtful and honest reflections added so much! Nga mihia nui ki a koutou! The week was significant for another reason as well. As I hope many of you will know, the Council of the New Zealand Law Society will, at its meeting on 24 October, elect the incoming President of the NZLS. I have discussed this very significant event in a separate article below.

New Council member

I’m delighted to announce that Julius Maskell, has joined the Branch council, filling the vacancy left by Yemo Guo. Julius is a partner at Tripe Matthews Feist and is a member of the NZLS Property Law section. Some of you may recall that Julius was on the Council for three terms, ending in 2016. We are very glad to welcome him back.

Reflections on the process and importance of the election of the new NZLS President

By David Dunbar

The NZLS President is elected annually for up to three years. Kathryn Beck’s term concludes in April 2019. The NZLS Council will vote for the President Elect at its meeting on 24 October. This provides time for preparation, training and handover before the President Elect takes up their role in April 2019.

To explain this further, the NZLS Council comprises the President and four Vice-Presidents, a representative of each of the Society’s 13 branches, a representative of each of the three sections, and a representative from each of the NZ Bar Association and Large Law Firms Group Ltd. As a constituent branch of the NZLS, and a member of the Council, the Wellington Branch will participate by casting a vote reflecting the proportionality of Wellington Branch lawyers.

If a poll is called, branches with more than 500 members receive more than one vote under a formula based on the number of lawyers practising within that branch. Membership numbers are taken as at the day of the election. (At the October 2018 election this will mean approximate vote numbers are likely to be: Auckland 12 votes, Wellington 5 votes, Canterbury-Westland 3 votes, and Waikato Bay of Plenty 3 votes. The 9 remaining branches will have one vote, along with each section (including ILANZ), the NZBA and Large Law Firms Group Ltd. A majority of the total votes and the support of the representatives of at least four branches is required to be elected. Board members may not vote in the election if a poll is called. If one candidate does not have a clear majority after the first round of voting, the candidate with the lowest number of votes is removed, and votes are cast for the remaining candidates. This process will continue until a candidate has a clear majority.

The NZLS is at a pivotal time; challenged, after the alarming revelations about our profession, to respond in a way that helps infuse a renewed culture while at the same time enabling the profession to meet the challenges posed by the future of the law. The NZLS President plays a key part in that. We are fortunate to have two incumbent vice presidents put themselves forward for election. At the Wellington Branch meeting last week we put those challenges to them.

The questions we posed to the candidates are not simply questions for them, but questions that we as members of the profession need to reflect on. They illustrate, I think, the issues that face both the NZLS and ourselves as a regulated profession. We asked: 1. What concrete steps do you think need to be taken to: – promote and encourage diversity within the legal profession; – prevent sexual harassment and provide equal opportunity (pay, promotion, briefing, and appointments) for women in the profession; – seek increased government support and funding for people to access legal advice/ justice, including civil legal aid.

2. Reflecting on the role and function of the NZLS board and secretariat, how clear do you think the separation is within the Law Society between governance and management? Do you see room to clarify and reinforce the respective roles and accountabilities?

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Continued from front page

Reflections on the process and importance of the election of the new NZLS President

3. What proactive steps could the Law Society take to restore confidence in the profession and wider community?

4. What would you do to encourage greater engagement by practitioners in the Law Society’s activities?

5. What will you do to encourage active culture change within the profession, separate from and in addition to any regulatory process and powers the NZLS puts in place?

These are not just academic or theoretical questions. The answers to these and the changes that flow from that will define the role of the NZLS and the character of our profession for many years to come.

The answers we received were considered and thoughtful and reinforced the vital role that is the President’s and the significant confidence in the profession and wider community?

Whoever takes the helm, the Wellington Branch council anticipates a close working relationship with the President and board and will be active in maintaining a Wellington voice in issues.

Wellington Branch Diary October

Monday 1 October
Venue: Lawyers Law Committee

Monday 8 October
Criminal Law Committee

Tuesday 9 October
Changes That Affect Every Convenor – Overseas Investment Regime, Webinar. www.lawyerseducation.co.nz

Wednesday 10 October
Health Law Committee

Thursday 11 October
Courts, Tribunals and ADR Committee

Fri-Sun 12-14 October

Saturday 13 October
Sexual Violence Cases – Best Practice Advocacy, Workshop, Auckland. www.lawyerseducation.co.nz

Monday 15 October
Trusts and Estates Committee

Logic for Lawyers, Workshop. www.lawyerseducation.co.nz


Mon-Tue 16-17 October
Introduction to Civil Litigation Skills. Wellington. www.lawyerseducation.co.nz

Tuesday 16 October
Family Law Committee

Advanced Logic for Lawyers, Workshop. www.lawyerseducation.co.nz

Wednesday 17 October
Wellington Branch Council meeting

Thursday 18 October
Venue: Wellington Law Society

Land Transfer Act – Nuts and Bolts, Seminar/Webinar. www.lawyerseducation.co.nz

Thurs-Fri 18-19 October
Employment Law Conference 2018 - Employment Law in a Time of Change. www.lawyerseducation.co.nz

Thursday 25 October
Employment Law Conference 2018 - Employment Law in a Time of Change. www.lawyerseducation.co.nz

Friday 26 October
Women in Law Committee

Criminal Law Symposium, Wellington. www.lawyerseducation.co.nz

Wednesday 31 October
Legal Assistance Committee

LIBRARY NEWS

More Lexis Advance training in NZLS High Court Library

By Robin Anderson, Librarian, Wellington

The Library will be offering one-on-one training in Lexis Advance with the LN trainer Peter Adamson on Monday 15 October. Email the library on wellington@nzlslibrary.org.nz to request a time. The slots start on the hour from 9 am.

Use your own laptop in the library

The Library’s wifi system means that you can bring your own laptop to the library, log on to the Library’s wifi and use all of our databases from your own machine. This includes the following databases: a large number of other cases and case law series. Go to: http://www.nzlii.org.nz/cases/NZMPC/

Crossword Solutions

From page 7

Cryptic Solutions

Across:


Down:


Quick Solutions

Across:


To the end.

Justin Toebes had another obsession and that was basketball, which included at times financial support of plans for many years. He was a life member of Basketball New Zealand and of Wellington Saints basketball. He was a life member of the New Zealand Order of Merit in 2016, for services to basketball. He was a tireless supporter of basketball to the end.

Justin Toebes was diagnosed with Motor Neurone disease in 2014 and given two and a half to three years to live. He added two years to that.

Gerard Justin Toebes 11 December 1954-15 August 2018

“A very formidable lawyer, [with] a unique way of approaching legal problems. He had the ability to look at every angle and completely reinvent it and come up with the best solution. He was an enigma with a special way of cutting through the palaver…” – Derek Williams, friend and business associate of 30 years.

Justin Toebes, who died recently, was born on 11 December 1954 in Wahangari. His family moved to Wellington in 1961. Justin went to Wellington College where he first encountered the game of basketball which was to become a constant and consuming passion in the rest of his life.

He studied law at Victoria University, was admitted in Wellington in 1978 and went to work with the Stratford firm of Thomson O’Neill & Clifford. In 1982 he moved back to Wellington, and joined Rainey Collins where he became a litigation partner. He joined Buddle Findlay in March 1988 and became a litigation partner in January 1990. He established his own boutique law firm of JTLaw in 2010.

He represented a wide range of clients including many individuals and families, however he was particularly interested in insolvency law, credit recoveries, restructuring and refinancing, and banking law. He was a trusted advisor to nearly all the trading banks, as well as to New Zealand’s leading insolvency practitioners.

Derek Williams, regional manager for strategic business services at the Bank of New Zealand, describes Justin as “a colossus amongst those involved in the banking, insolvency and litigation arena”.

Possessing a unique set of staff management skills, he achieved unquestioning loyalty from those who could withstand his intellect, unwavering honesty and ferocious pace of work … Never one to sit on the fence or pontificate with his advice, he was distinctly unique, earning a reputation and respect for his direct, no-nonsense, cost-effective legal advice that achieved expeditious and numerous successful outcomes …”

“His advice and counsel was sought by many of his peers in the legal fraternity, both in New Zealand and overseas, particularly in relation to his speciality areas, property, insolvency and litigation.”

In 2015 Justin was made a Fellow of RITANZ (Restructuring Insolvency & Turnaround Association NZ Inc) and in 2016 a life member. In a tribute to Justin, the association said he “… had a unique personal style, founded upon a tremendous capacity for hard work and a ferocious intellect. At the same time, he was always willing to share his knowledge and expertise in the world of insolvency with others around him … he leaves behind a lasting professional legacy.”

Work was one thing, but Justin Toebes had another obsession and that was basketball, first as a player and then as an administrator. He was first elected onto the Wellington Basketball Association executive in 1994, and in 1995 was elected president, a position he held for 10 years.

He was a zealous promoter and supporter of New Zealand basketball, which included at times financial support of plans for many years. He was a life member of Basketball New Zealand 2003-2006 he reviewed and rewrote the association’s constitution, undertook a review of the National Basketball League, and drew up licence agreements and coach and player contracts, all pro bono.

He was the driving force behind the development of the ASB sports centre in Wellington and fervent supporter of Wellington Saints basketball. He had another obsession and that was basketball, which included at times financial support of plans for many years. He was a life member of Basketball New Zealand and of Wellington Saints Basketball, and was made a member of the New Zealand Order of Merit in 2016, for services to basketball. He was a tireless supporter of basketball to the end.

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NB Please confirm the dates of committee meetings with convenors.

Council Brief November 2018 Deadline

Friday 19 October 2018
Thomas William (Tim) Blennerhassett – 28 April 1924–21 August 2018
By Chris Ryan

Tim Blennerhassett, who died recently aged 94, is revered as a fine lawyer and a good man. He was seen as a “standard bearer of ethical behaviour within the profession” and a “fine exemplar of such behaviour, the “quintessential lawyer of integrity”.

Thomas William Blennerhassett, called Tim, was born in his parents’ home in Whanganui on 28 April 1924. His father, also Thomas Blennerhassett but called Tom, was a solicitor in Whanganui, then the fifth largest urban centre in New Zealand. His mother Lily Holmes, whose father had been mayor of New Plymouth, was well-educated and fun-loving.

His father took him to rugby matches and on excursions on the Whanganui River leaving Tim with “a fascination [with the River] which has never left me”, he wrote in Echo Echo.

After primary schooling, he went to Waunagani Collegiate where he was a boarder for three years. He was a good scholar and bypassed third form, arriving in the fourth in 1936 and matriculating in December of that year at a school in Palmerston North, where he was taught Greek and Latin and did well in academic subjects including Latin, was a prefect and edited the school magazine.

He enrolled in law at Victoria University College for the 1941 academic year as soon as he was able – the minimum age of entry was sixteen, and booked himself into Weir House. His father’s early death in January 1941 was a shock, and he turned to law as a profession helped him get a job as a clerk with a young and well-regarded advocate William McGrath.

He was soon introduced to staff at the Bank of New Zealand’s Wellington office and he spent two years at the firm of JJ and Denis McGrath at 10 Waring Taylor Street on 1 June 1943. Tim went to sea to practise the craft and art of asdic aboard his first vessel HMNZS Aroha, Castle class, coal-burning sweeper built at Port Chalmers.

Further training at Tamaki followed where Tim, showing ambition and business acumen, wrote a “mildly scurrilous per- version of HMS Pinafore” performed to general acclaim. Before long he was on board ML 408, one of a dozen Fairmile Boats operating out of Melbourne, and heading to the Russell Islands in the Solomons where a tiny New Zealand shore base had been established. He and the rest of the crew of 16 spent eight months crisscrossing the region, including identifying a sub and attempting to depth charge it. It was October 1944 and Tim was 20 years of age.

Service on HMNZS Gamba

In December 1944, Tim was drafted to HMNZS Gamba, a Fiji class cruiser loaned to the New Zealand Navy and part of the Pacific Fleet. Tim and other asdic operators were based in the bowels of the forecastle where, in battle, they were entirely enclosed in steel as watertight doors and hatches were closed. Gamba took part in the first and last bombardment of the Japanese mainland in daylight a few days before the end of hostilities, and shortly thereafter in the formal surrender of Japan at the battleship Missouri when the formal surrender took place. Later, down the coast to Wakayama, Tim and his crew helped evacuate several thousand emaciated prisoners of war. On 15 January 1945, Tim arrived in Sydney and headed for home – the first and last bombardment of the Japanese mainland in daylight, a few days before the end of hostilities, and shortly thereafter in the formal surrender of Japan at the battleship Missouri when the formal surrender took place. Later, down the coast to Wakayama, Tim and his crew helped evacuate several thousand emaciated prisoners of war.

Back in Wellington in early 1946 he and other returnees tramped the town looking for jobs, their gratuity from the navy running down as they expected that the Middle East War might be over by January 1950, and the experience of battle. With the formal surrender took place. Later, down the coast to Wakayama, Tim and his crew helped evacuate several thousand emaciated prisoners of war. On 15 January 1945, Tim arrived in Sydney and headed for home – the first and last bombardment of the Japanese mainland in daylight a few days before the end of hostilities, and shortly thereafter in the formal surrender of Japan at the battleship Missouri when the formal surrender took place. Later, down the coast to Wakayama, Tim and his crew helped evacuate several thousand emaciated prisoners of war.

In his own words, by 1971, he was “certainly, at 47, going nowhere in particular, … when Ron Baird, the senior partner of Chapman Tripp & Co invited me to join his firm”. His decision to accept the offer changed his life. After leaving the “knockabout jack-of-all-trades kind of practice to which I had become accustomed for 20 years”, he arrived at a difficult time, not long after the departure of several partners and staff members to form a new firm, leaving remaining staff and clients in some disarray. It was a challenging time for all Chapman Tripp partners and in particular for newly arrived Tim. He found himself on a committee of management with Ron Baird and Tim Eichelman, and was to play a major part in organising the firm’s centenary in 1975.

Chapman Tripp

Tim’s skills, in particular, being a very astute judge of character … he was always courteous and respectful in his dealings with everyone in the firm.”

Barry Brown, who worked with Tim for 20 years says he was the perfect senior partner, “...very wise and respected and liked by everyone in the firm.”

Tim was one of the key partners who secured the first Big Think work for the firm in the late 1970s when he was the lead partner along with Neil Gray for the then state-owned Petroluem Corporation of New Zealand which then became a major Chapman Tripp client along with its subsidiaries such as the New Zealand Electric Line Corporation. The NBES were turbulent and demanding years of long hours and weekends in the office which bore fruit for Chapman Tripp and helped set the firm on a path to becoming a major corporate law firm.

Outside the office Tim and Aileen had a happy family life with five children, three boys and two girls. Sadly, Aileen was stricken with illness and died in August 1982.

Fifteen-year-old Stephen was a bright and happy child who always had a smile and a kind word for everyone. He was a superb legal teacher.

Justice Mark O’Regan: “Tim was a man of many parts. He was the type of person anyone in the firm would go to for advice and support when things went wrong or when he faced an ethical dilemma. He had the ability to get through to the detail of the heart of the problem, and the instinct to identify the way to deal with it. He was also a very accomplished lawyer. Even in formal legal documents, he had a way of expressing himself that was clear and elegant and devoid of jargon and surplusage. He was a quiet man, but people would come to him for his astute judgement and he had a great sense of humour.”

Neil Gray: “A splendid fellow, I called him the ‘complete conveyancer’, he had a beautiful facility for words, and was a gentleman to the core.”

John Greenwood: “Along with Neil Gray, Chapman Tripp had two legal luminaries … they revered at Chapman Tripp and the profession … Tim had a very sharp mind and his elegant drafting skills stood him apart as a master of the craft and art of asdic aboard his first vessel HMNZS Aroha, Castle class, coal-burning sweeper built at Port Chalmers.

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The nature and form of DNA evidence

Dear Editor,

I REFER to the note by Vladimir Samoylov on page 6 of the August Council Brief “DNA Testing: I know it’s accurate – I saw it on CSI Miami”.

Unfortunately, this note perpetuates misunderstandings about the nature and form of DNA evidence, starting with the use of the words “accurate” and “unreliable” without making clear what is meant.

The author refers to “a 99.9998% DNA match”. I am not sure I ever heard such a statement on CSI and it is unclear what it would mean. If the testing process produces a continuous distribution then “match” is an arbitrary concept. Two samples will either match or they will not depending upon whether they fall within some arbitrarily defined limit. It may be that it is intended to mean that there is a probability of 99.9998% that the two samples came from the same person. If so, this is not a conclusion the scientist is entitled to come to and it is not the way evidence is given by ESR scientists in New Zealand.

A probability of common origin requires assessment of a prior probability and consideration of all the evidence. This is the province of the jury. All the scientist can know is the strength of the evidence in support of the hypothesis of common origin. This is found by asking the two questions:

(1) what is the probability of the evidence if the prosecution case is true? And
(2) what is the probability of the evidence if the defence case is true?

These figures are divided to produce a likelihood ratio, often accompanied by a statement such as “the evidence provides very strong/strong/moderate/weak evidence for the hypothesis of common origin”.

The author goes on to discuss the use of DNA evidence to establish relationships amongst applicants for immigration and describes it as “unreliable”. But such a statement is only meaningful if the evidence purports to say that two people are unrelated when in fact they are related. This is not what the evidence will say. The author quotes a source which explains that it is possible that first cousins might share no DNA on tested chromosomes. This does not make evidence that two people do not share any DNA “unreliable”; it simply defines the strength of the evidence given the two questions above. The source quoted does not give a figure for the probability of two first cousins sharing no DNA on a particular chromosome but one can surmise that it is low. The average figure is 12.5%. If only one chromosome is examined, the likelihood ratio, and hence the strength of the evidence, will be low. A finding of no shared DNA on more than one chromosome will become decreasingly likely. The presence of no shared DNA is therefore evidence in favour of the hypothesis that the two people are unrelated. This then has to be combined with other evidence as to the relationship as the source quoted by the author says.

The author refers to DNA tests producing “inconclusive or faulty results”. But a DNA test for relationship (even for identity) cannot be conclusive, it can only provide evidence – which may be overwhelmingly strong. As for “faulty results” such things are possible but not for any reason related to what the author has discussed.

If readers wish to understand these issues better, then I (naturally) recommend Robertson, Vignaux and Berger Interpreting evidence, second ed, Wiley (UK) (2016), especially chapters 2 and 3.

Yours faithfully

Bernard Robertson
Branch Human Rights Committee hears about Vogel v NZ breach of torture convention case

By Caroline Sawyer

ON 15 August 2018, surrounded by a feast of canapes and wine arranged by Annelies Windmill of the Law Society, the Human Rights Committee welcomed a talk by Dr Ellis from the Human Rights Branch of the New Zealand Law Society. Annelies Windmill arranged the gathering, along with Kate Melville, Michelle Williams, Graeme Reeves, Annelies Windmill and Alexandra Fink. A similar event had been held earlier in the year, and had included a talk by Judge Tony Walsh and Dame Lowell Goddard QC.

Dr Ellis discussed the wider implications of the Committee’s findings for New Zealand. This is not the only current case of breach of the Convention Against Torture by detention in solitary confinement. Dr Ellis advocated a more appropriate focus on human rights in the New Zealand courts.

The meeting also discussed more practical aspects of New Zealand’s commitment – or lack of it – to human rights for those vulnerable within the prison system. Dr Ellis’ client Mr Vogel was serving a life sentence for murder, and had been treated with humanity and respect for his inherent dignity.

However, it refused a declaration of a breach of section 9, saying his treatment did not amount to torture, and did not award compensation. The Supreme Court also refused Mr Vogel leave to appeal the refusal of compensation.

Dr Ellis’ sterling efforts in bringing the matter before the UN Committee resulted in a finding of a breach by New Zealand of the Convention Against Torture, though again there was no finding of torture itself. The meeting discussed the unwillingness of courts and tribunals internationally to make findings of torture. The UN Committee found the New Zealand Government should pay Mr Vogel compensation within 90 days.

The meeting thanked Dr Ellis for his talk, concluding that there was much to be done about New Zealand’s commitment to human rights, and about the commitment of the legal profession to upholding the rights that are already acknowledged as universal.
Appellate advocacy for women litigators – Court of Appeal opportunity

By Steph Dyhrberg

FORTY-FIVE fortunate litigators filled the number 1 courtroom at the Court of Appeal on Wednesday 12 September to hear a fantastic presentation, de-mystifying appellate advocacy. Justice Winkelman and Miller, ably assisted by Solicitor-General Una Jagose QC and Paul Radich QC explained the differences between first instance and appellate case preparation, presentation and argument.

The session was organised by the Women in Law Committee of the Wellington Branch, and was invited to register their interest by completing a form which they send to Wellington@lawsociety.org.nz. By the 30 September you can join a committee.

The presenters started by sharing inspiring tales of humble beginnings (involving much driving of Fords and Holdens) in the wilds of Wainuiomata, Balcutha and West Auckland.

The main theme was prepare, prepare, and prepare again. Know your case inside out and from a helicopter view, considering every angle. Written submissions must be prepared early so you can distil your case down to a “stock”, a “jus” even; simple, concentrated and potent. “Shorter submissions have flair”. Paul Radich QC said this should give you the luxury of a few hours with your feet up on your desk, staring out the window, thinking.

The session focused extensively on written submissions, because they are critical to an appeal. Justice Miller assured us the limitations of submission length (and speaking time) are enforced with ruthless efficiency. New rules will be issued soon which reduce the page length even further. Brevity really is the soul of advocacy as well as wit. Justice Winkelman reminded counsel to clearly set out what is wrong with the judgment under appeal, and what you want from the Court.

Apparently, judges these days like hyperlinks and hate extensive block quotes from cases. Use quotes only very sparingly, when they exactly hit the nail on the head. Justice Miller warned against “fighting footnotes”. We also learned that, astonishingly, filing a few thousand documents to which you will never refer, is unhelpful to the Bench.

We heard about the usefulness of a “roadmap” (more Holdens) and the importance of that roadmap being a page or two at most. Una Jagose QC recommended going for a run round the bays (puffing) while you practise telling the story of your case in 10 minutes, then in two.

Flowery oratory will not help you: it generally tells the court you don’t understand your case.

Paul Radich QC assured us that an inexperienced advocate who really knows their case and is impeccably prepared will triumph over an old hand who has clearly left all the work to an able junior, and hasn’t got to the heart of the issues on appeal.

There is no one right “style” of advocacy and judges don’t care about eloquence – although you must be audible. The key task on the day is to engage in a persuasive conversation about the main issues. Counsel must be prepared to answer searching questions, and not to just read their submission aloud. Advocacy is the art of engaging the Bench. And, be warned, they may test you in a way that can seem hostile. Justice Winkelman told us “advocacy is the sport of the brave”. But judges are just testing your case and their thinking. Clarity, simplicity and flexibility, as well as complete mastery of your case (and the merits of course!), should win the day.

The Court has recently issued a practice note emphasising the Court’s expectation that junior counsel will speak, wherever possible. Advo-cacy and judges don’t care about areas where there is unmet need: civil legal aid is one. Specialist tribunals provide real advocacy experience and better opportunities to lead cases early on.

The session was extremely well received, as were the drinks and nibbles at the nearby Thistle Inn. Due to its popularity, the Women in Law Committee intends to run a similar session again next year, and open it up to all aspiring appellate advocates.

The Wellington Branch, and was so popular it booked out within a day – without advertising!

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Participate – join a committee!

OUR special interest groups or “committees” play an extremely important part in the life of the Wellington Branch. Amongst other activities they provide a place for people who work in the same area of law to meet; share information and common areas of concern; feed into the NZLS national Law Reform Committee submissions; organise relevant and timely CPD events; provide a forum for lawyers in private and in-house practice to meet; allow newly-admitted lawyers to benefit from the experience of those who have been in practice for many years.

How to join a Committee

A “call for committees” goes out in the middle of May, at which point conveners will receive the forms to allow existing members to re-enrol;

BOOKING FOR LAW SOCIETY EVENTS

Most events presented by NZLS Wellington Branch are on a user-pays basis. It is very helpful if bookings are made as soon as possible so that the viability of the event can be assured and catering can be accurately estimated. Members are able to book for most events at:

http://bookwhen.com/wellington-branch

Council Brief Advertising

nz.adman@gmail.com

Deadline Council Brief November

Friday 19 October 2018
COUNCIL BRIEF
The monthly newspaper of the Wellington Branch NZ Law Society
ISSN 2362-2333

Advertising Rates: casual or contract rates on application. Telephone Robin Reynolds, Reynolds Advertising, Kapiti Coast (04) 902 5544, e-mail: nz.adman@gmail.com. Rates quoted exclude GST.

Advertising Deadline: for the November 2018 issue is Friday 19 October, 2018.

Circulation: 3000 copies every month except January. Goes to all barristers and solicitors in the Wellington, Marlborough, and Wairarapa. Also goes to many New Zealand law firms, to law societies, universities, judicial officers, and others involved in the administration of justice.

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E-mail: chrisr@wise.net.nz

Opinions expressed do not necessarily reflect those of the NZ Law Society Wellington Branch or the Editor.

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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.

**Cryptic Clues**

**ACROSS**

1. An edible cat cooked as part of a regimen (8,4)

2. Exclude bread perhaps (5)

3. Train or part of a train (5)

4. Find a girl the day before (3)

5. New system in the form of a plan (9)

6. Terribly odd jewel found on a bumper car (6)

7. A man’s universe (6)

8. Bothering to order some bedwear (5,4)

9. A Hawaiian garland or the French one (3)

10. Taking an age to find a muse (5)

11. Leather overalls for men (5)

12. A Hawaiian garland or the French (6)

13. A number able to hear a bird (6)

14. Precise former law (5)

15. Guild (9)

16. Taking an age to find a muse (5)

17. A Hawaiian garland or the French (5)

18. Train or part of a train (5)

19. Scrape (5)

20. Sound made from a variety of maize (5,4)

21. A pound for a priest’s garment (3)

**DOWN**

1. A pound for a priest’s garment (3)

2. A pound for a priest’s garment (3)

3. A pound for a priest’s garment (3)

4. A pound for a priest’s garment (3)

5. A pound for a priest’s garment (3)

6. A pound for a priest’s garment (3)

7. A pound for a priest’s garment (3)

8. A pound for a priest’s garment (3)

9. A pound for a priest’s garment (3)

10. A pound for a priest’s garment (3)

11. A pound for a priest’s garment (3)

12. A pound for a priest’s garment (3)

13. A pound for a priest’s garment (3)

14. A pound for a priest’s garment (3)

15. A pound for a priest’s garment (3)

16. A pound for a priest’s garment (3)

17. A pound for a priest’s garment (3)

18. A pound for a priest’s garment (3)

19. A pound for a priest’s garment (3)

20. A pound for a priest’s garment (3)

21. A pound for a priest’s garment (3)

Solution:

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<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>
```

1 Which two letters complete the equation: $AX + BL = CH = ?$

2 It is black’s turn to move. What should black do?

**Quick Clues**

**ACROSS**

1. Great stress (12)

2. Visitor (5)

3. Stroll (5)

4. Beverage (3)

5. Guild (9)

6. Team (6)

7. Dwarf (6)

8. List (9)

9. Eggs (3)

10. Thread (5)

11. Scrape (5)

12. Exorbidant (12)

13. Distressing (5-7)

14. Ever louder (9)

15. Repose (5)

16. Neglect (6)

17. Ever louder (9)

18. Neglect (6)

19. Ever louder (9)

20. Neglect (6)

21. Neglect (6)

**DOWN**

1. Great stress (12)

2. Visitor (5)

3. Stroll (5)

4. Beverage (3)

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21. Neglect (6)

**Answers:** See page 2

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Gender in the legal profession workshop

By Steph Dynenberg

A WORKSHOP on ‘Gender in the Legal Profession’ was held on 3 September in Wellington. Jointly organised by the Wellington Women Lawyers’ Association (WWLA) and Te Aho Kawe Kaupapa Ture a ngā Wāhine (The New Zealand Women’s Law Journal), the event was kindly hosted by the NZLS Wellington Branch.

The workshop followed on from several successful workshops convened by the NZLS Women in Law Committee and the WWLA. It was well attended by a diverse range of participants with all levels of experience and from a range of backgrounds. In addition to members of Te Hunga Rēia Māori o Aoteaoro (the Māori Law Society), a number of young male lawyers participated. The workshop aimed to engage all people connected to the legal profession about workplace expectations, sexual harassment, bullying, and gender equality.

The discussion was facilitated by Jan Eggleton, a highly experienced facilitation and training consultant who runs Hardcases consultancy.

Participants discussed what they perceived to be the main challenges within the profession at present. There was conversation about the (now well-documented) cultural problems which implicitly validate the bullying and harassment behaviour found within many legal workplaces. There was also much discussion about challenges with the partnership model employed by the majority of law firms. Traditional structures reinforce the power imbalance between juniors and partners which can create an environment for fostering inequality, harassment, and bullying behaviour. Furthermore, many participants commented that they did not feel partners were held accountable where they behaved inappropriately.

The possibility of making education around harassment and bullying a CPD requirement, and providing unconscious bias training in law firms, were some suggestions mooted by those in attendance.

Another concern raised by participants related to the effectiveness of the Law Society in providing a transparent, robust and orderly disciplinary process. There was discussion about the desirability of the creation of a Junior Lawyers’ Union for lawyers, potentially also extending its membership to law students and support staff, who are currently isolated from the Law Society.

Aidan Lomas and James Fraser gave feedback about the workshop. Aidan, an intermediate lawyer, recognised his responsibility as a male member of the profession with junior staff looking to him for guidance and support. Aidan commented “I want to learn about the things I do that negatively affect other people. Being further up the hierarchy amplifies the effect of my actions and if we do not learn how we impact others we will perpetuate the behaviours that got us to where we are today.”

The importance of holding workshops such as this and engaging legal professionals in ongoing training was a recurring theme in feedback by participants. As Lomas noted, “many ideas were raised that I had not considered before and likely would not have thought of without external input.”

James Fraser said “As a recent graduate, it was disheartening to see the number of issues the group identified about the profession. It was clear change was needed if the profession was to remain an attractive career path for the next generation.” He noted the suggestions included re-focusing managerial and partners’ priorities to ensure a greater focus on staff welfare. It was suggested this could be achieved by those on the path to partnership undergoing management training and assessing the wellbeing of staff under an employee as a selection criterion for promotion.

Similar workshops had already been held in Auckland, and a workshop was scheduled for Christchurch later in the week. The results are being collated by Te Aho Kawe Kaupapa Ture a ngā Wāhine and a report will be written and delivered to key stakeholders in the profession.

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http://bookwhen.com/wellington-branch
Tennis – a ‘good egalitarian sport for lawyers’

By Helen Mackay

A KEEN group of tennis-playing Wellington lawyers and other legal professionals got together at the end of August at the Renouf Tennis Centre for an afternoon of social tennis.

The inaugural Wellington Legal Tennis Tournament, sponsored by Juno Legal, saw a high standard of tennis with the fast format allowing seven rounds of matches played over two hours before a social drink and catch-up. The top scoring male was Mike Smith and top scoring female was Helen Mackay with a good sports award going to Margot Lyons.

Lawyers from AJ Park, Chapman Tripp, Crown Law, MBIE, MFAT, Juno Legal, Sievrights and several sole practitioners played in the tournament and helped make it a fun and collegial afternoon. Sole practitioner Mike Smith, the top scoring male player, says he was happy to take the afternoon out of the office to play in the tournament even though he usually participates in few legal events.

“I think it is very important especially for sole practitioners and small firm lawyers to make time to mingle with others in the profession. Collegiality is important and now that opportunities to meet are reduced due to our reliance on technology, we need to make the time to connect in social settings.”

Mike also notes that men and women can have great competitive games against each other playing tennis and calls it a “good egalitarian sport”.

Winner of the good sports award Margot Lyons, an in-house lawyer with MBIE through Avid Bench, says “I so enjoyed this tournament. Having had the last 10 years away from the law it was great to meet up with some other members of the legal profession on a social basis. There was a great mix of ages, experiences and tennis abilities but what (not surprisingly) we had in common was great competitive spirit. I would be very keen to make this a regular event.”

Senior lawyer Lindsay Mackay notes the diversity benefits of tennis as it gives players the opportunity to play against a wide range of ages with lawyers at the tournament ranging from their mid-twenties to late seventies.

“The nature of tennis leads to great collegiality during play compared with other sports,” Lindsay says. He also notes it is one of the few sports where you are able to play mixed doubles.

Tennis organiser

By Helen Mackay

I am Director of Juno Legal and I organised and sponsored this tennis tournament because I believe that if we are serious about prioritising wellbeing for lawyers, then making the time to take part in collegial sporting and social events is key.

And always holding these events at evenings or weekends discourages working parents from taking part. If we want to see the legal profession disappear from the ranks of the poorest wellbeing of all the professions, then we individually and collectively need to act. As change leaders, we need to lead, “nothing changes if nothing changes”. I was disappointed to hear of a couple of law firms who did not allow their lawyers to take an afternoon off to participate in the tournament and hope we will see them and others next year. Having sound well-being policies is good but it is only by putting these policies into action that we will see any impact.

In recognition of NZLS Wellington Branch support in publicising this tournament, a donation on behalf of each player was made towards the Wellington Solicitors’ Benevolent Fund.

Change of date!!

NZLS Wellington Branch Annual Lawyers’ Dinner now Friday 9 November 2018

Last Resort golf

THE Last Resort golf tournament is planned for Friday 22 February 2019. Don’t miss out – note in your diary now!

WILL ENQUIRIES

FOR URGENT ACTION

Please contact the solicitors concerned if you are holding a will for the following:

FORTUNE, Denis Joseph Spencer
Late of Wellington, Architect. Died on 2 August 2018.
If you hold a will for the deceased, please contact:
Oakey Moran – Anthea Connor
PO Box 241, Wellington 6140
Tel: 04 472 3055
anthea.connor@oakeymoran.co.nz

McCLELLAN, James William
Late of 3 Nathan Avenue, Paraparaumu Beach, Paraparaumu. Died on 23 August 2018.
If you hold a will for the deceased, please contact:
Mahony Burrowes Horner – Tom Mahony, Phone: 04 974 4703
PO Box 24515, Wellington 6142
tom.mahony@mhblaw.co.nz

PATEL, Vallabhbhai Mithabhai
Died on 29 October 2017. If you hold a will for the deceased, please contact:
Collins & May Law – Lloyd Collins
PO Box 30-614, Lower Hutt 5040.
DDL 04 576 1403
lloyd@collinsmay.co.nz

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

Noon Sirisamphan (Secretary):
noon.sirisamphan@dlipiper.com

Counsel in Concert

Singing lawyers and experienced orchestral musicians needed for end-of-year concerts.
merran.cooke@crownlaw.govt.nz