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LexisNexis News

Did you know that our LexisNexis training webinars are complimentary and most are CPD compliant?

Setting up Alerts and Folders on Lexis Advance Webinar

Tuesday, 7th of November at 12 noon

Using Alerts and Folders on Lexis Advance: Become more skilled and efficient in your research. Join this session to learn how alerts on Lexis Advance can be set up to keep up to date with new developments in case law, legislation and subjects of interest to you. We will also explain how to use folders more effectively to assist you to keep your research material up to date and in order so it can be easily accessed and downloaded.

Duration: 60 min

Research Success with Lexis Advance Webinar

Friday, 10th of November at 1pm

Become more skilled and efficient in your research. Join this session to explore effective methods of conducting searches on Advance to find commentary, legislation and case law, understand the algorithm that runs behind the scenes, and apply advanced filters to generate effective results. Learn to set up alerts and folders, share documents, and customise your publications pod and favourites to ensure that your use of the platform is meeting your research needs.

Duration: 60 min

Ask a consultant anything about Lexis Advance - Environment Law Webinar

Thursday, 16th of November at 4 pm

This webinar focuses on LexisNexis' Environmental and Resource Management Law resources, including Practical Guidance, compiled by experts in the field. Attendees will learn how to work with content in Environmental Resource Management Law Online, comprehensively reviewed and updated by a team of expert authors, and will gain an understanding of the relevant chapters of the Laws of New Zealand on resource management and climate change, which include leading cases on the subject.

Duration: 60 min

Commercial

Company and Securities Law Bulletin

Issue 5 is now available.

This issue includes recent headnotes on *Yan v Mainzeal Property and Construction Ltd (in liq)* and *Local Government Mutual Funds Trustee Ltd v Napier City Council*.

Family

Practical Guidance: Family

Latest Legal Update

Man obtains non-paternity order from Family Court for twins who were likely sired during threesome

New Zealand Family Law Reports

Volume 2022 Part 17 is now available online.

van der Hoeven v van der Hoeven — [2022] NZFLR 780

Relationship property — Whether company shares were relationship property — Shares purchased from one party's bank account — Bank account contained both relationship property proceeds and separate property — Intent to use shares to maintain household — District Court Act 2016, ss 126, 127, 128, 129 and 130 — High Court Rules 2016, rr 20.1 and 20.18 — Property (Relationships) Act 1976, ss 8, 9, 9A, 13, 39 and 44 — (NZ) Property (Relationships) Amendment Act 2001, s 14.

Brady v Burns — [2022] NZFLR 800

Family violence — Variation of protection order — Ill-treatment of pet — Abuse of pet as psychological abuse of partner — Interim protection order with special condition that applicant retain dog — Respondent seeking removal of special condition — Ownership of dog — Animal Welfare Act 1999 — Family Violence Act 2018, ss 4(c), 4(h), 9, 11(1)(b), 11(1)(d) and 103 — Property (Relationships) Act 1976.

Baker v Baker — [2022] NZFLR 804

Relationship property — Application to transfer proceedings — Property agreement — Whether High Court more appropriate venue — Jurisdiction of Family Court — Complexity of proceedings — Sale of business after property agreement signed — Whether true value of business recorded in property agreement — Valuation of business — Forensic accountants — Delay — Property (Relationships) Act 1976, ss 1N(d), 4, 21, 21A, 21F, 21G, 21J, 22(1) and 38A — District Courts Act 2016, ss 74 and 75 — Evidence Act 2006, s 57 — Family Courts Act 1980, s 11(1)(e).

Simeon v Simeon-Campbell — [2022] NZFLR 817

Family violence — Protection order — Order that application be brought on notice — Appeal against order that notice be given — Knowledge where respondent resided — No contact with respondent — No urgency for without notice application — Family Violence Act 2018, ss 60 and 75 — High Court Rules 2016, r 20.7.

Volume 2022 Part 18 is now available online.

Phillips v Bolitho — [2022] NZFLR 822

Relationship property — De facto relationship — Division of property — Relationship property agreement — Compromise agreement — Interpretation of agreement — Chattels — Superannuation — Adjustments — Unequal division — Disparity in financial contributions — Whether extraordinary circumstances existing — External capital from family sources — Payments for medical disability — Pre-relationship insurance policy — Enduring power of attorney — Property (Relationships) Act 1976, ss 1M(c), 2, 2G, 11, 11A, 11B, 12, 13, 14, 18, 18A, 21A, 20E, 21F, 21G, 21J, 21O, 23 and 25.

Lucas v R — [2022] NZFLR 837

Criminal law — Breaching protection order — Appeal against conviction and sentence — Miscarriage of justice — Pattern of behaviour amounting to psychological abuse — Whether judge erred in explaining charge to jury — Whether defence counsel made errors at trial — Police conduct — Perjury — Domestic Violence Act 1995, ss 3(2)(c), 3(4) and 19(1)(d) — Family Violence Act 2018 — Sentencing Act 2002, s 45(2).

Swenson v Lawton — [2022] NZFLR 847

Relationship property — Relationship property agreements — Agreement not set aside — Agreement not unfair because ex-partner not beneficiary in will — Claim against estate — Maintenance and support — Ex-partner claiming maintenance and support — Circumstances in which obligation for maintenance and support arises — Providing care during extended ill health — Discharging of moral obligation through relationship property agreement — No requirement for maintenance or support — (NZ) Family Protection Act 1955, s 4 — Interest on Money Claims Act 2016, ss 10, 11 and 25 — Property (Relationships) Act 1976, ss 13, 21A, 21F and 21J.

Volume 2022 Part 19–20 is now available online.

Sisodiya v Sisodiya — [2022] NZFLR 864

Maintenance — Past and future spousal maintenance — Husband living in United Kingdom — “Reasonableness” — Mother having responsibility for children — Ill health of mother — Family Proceedings Act 1980, ss 63, 63(2), 64, 64(1), 64(4), 64A, 64A(2), 64A(3) and 65.

Relationship property — Division of property — Equal sharing — Husband living in United Kingdom — Joint property in United Kingdom — Cars and bank accounts in New Zealand — Jurisdiction — Property (Relationships) Act 1976, ss 7, 7(2), 7(3), 11 and 15.

Fleury v Fleury — [2022] NZFLR 887

Relationship property — Property acquired post-separation — Former husband acquired new home after separation — Property constituted former husband’s separate property — Property (Relationships) Act 1976, ss 8 and 9A.

Relationship property — Relationship debts — Liability to capital gains tax — Former wife liable to capital gains tax by reason of US citizenship — Liability accrued in respect of period before and after separation — Debt incurred and paid by former wife as party to marriage — Liability constituted relationship debt — Property (Relationships) Act 1976, ss 8 and 20.

Relationship property — Division — Compensation for contributions made after separation — Former wife permitted to remain in occupation of family home post-separation — Former husband sought occupation rental with respect to that period — Family Court had no jurisdiction to make such order in respect of property owned by family trust — Property (Relationships) Act 1976, s 18B.

Relationship property — Division — Compensation for contributions made after separation — Former husband agreed to make support payments to former wife and family for two years post-separation — Improper exercise of power to unravel situation — Property (Relationships) Act 1976, s 18B.

Relationship property — Division — Reduction of economic disparities — Orders for lump sum payment or property transfer — Orders for lump sum payment — Proper approach to ascertaining whether “traditional division” displaced — No total or partial displacement — Appropriate to make orders in favour of former wife — Just orders adjusted by deducting amount paid by way of post-separation support payments — Property (Relationships) Act 1976, s 15.

Family proceedings — Orders as to settled property — Post-nuptial family settlement by way of discretionary trust — Proper approach to discretionary power to make orders — Appropriate to re-settle trust property in halves in two new trusts with respect to each party — Family Proceedings Act 1980, s 182.

Fleury v Fleury – [2022] NZFLR 938

Relationship property – Costs – Discretion – No apparent “winner” – No agreement to settle prior to hearing – No untenable positions adopted at trial – No basis for exercise of discretion as to costs – Costs lie where they fall – Property (Relationships) Act 1976, s 40.

Munro v Senior – [2022] NZFLR 945

Relationship property – Valuations – Valuation of relationship property – Whether court has power to vary valuations after substantive judgment given – Costs – Settlement offers – Preliminary indication of costs – District Court Act 2016, s 116 – Family Proceedings Act 1980, s 182 – Property (Relationships) Act 1976, ss 2G, 21, 25 and 33 – District Court Rules 2014, rr 14.2 and 14.6.

Volume 2022 Part 21 is now available online.

H v R – [2022] NZFLR 955

Family violence – Protection order – Declining grant of protection order – Whether reasonable basis for apprehension of future violence – Protection order for benefit of children and father – Use of derogatory language – Verbal abuse – Cannabis use – Whether father seeking protection order as part of strategy to bolster claim for care of children – Whether children having fear of contact or violence from mother – Past violence – Domestic Violence Act 1995, s 14 – Family Violence Act 2018, s 79.

Chief Executive of Oranga Tamariki–Ministry for Children v RB – [2022] NZFLR 968

Oranga Tamariki – Custody orders – Guardianship orders – Parents incompetent to care for children – Declaration by consent that children in need of care and protection – Children in placement with caregivers on North Island with proximity to parents – Maternal grandmother sought alternative placement on South Island – Report writer supported placement with maternal grandmother because of Māori cultural connections – Children placed with caregivers – Placement on North Island promoted relationship with parents – (NZ) Oranga Tamariki Act 1989, ss 4A, 5, 11, 13, 101 and 110. Volume 2023 Part 6–7 is now available online.

Croy v Stafford – [2023] NZFLR 245

Practice and procedure – Appointment of standby counsel – Temporary protection order – Interim parenting order – Restriction on cross-examination by self-represented litigant – Father defending protection order – Unable to cross examine mother while protection order in place – Appointment of standby counsel or counsel to assist – Evidence Act 2006, s 95(1) – Family Court Act 1980, s 9C, 9C(1)(c) and 9C(2)(b) – Family Violence Act 2018.

J v L – [2023] NZFLR 249

Property – Court orders – Orders for interim distribution – Proper approach – Moneys in joint bank account – Applicant had well-founded claim to share of relationship property – Amount claimed less than that applicant could be expected to receive by way of final distribution – Orders made upheld on appeal – Property (Relationships) Act 1976, s 25(3).

Monroe v Monroe – [2023] NZFLR 264

Parenting orders – Supervised contact – Schooling – Family violence – Father seeking unsupervised contact with child – Final protection order in place in favour of mother – New legislative provision – Reasonable opportunity for child to participate in decision – “Participate” – Views of the child – Whether contact should be unsupervised – Continued psychological abuse by father – Ill-treatment of pet by father – Obligation of parents to consult with each other – Child home-schooled – Father withdrawing consent to home-schooling – Whether child should attend school – Care of Children Act 2004, ss 4, 5, 5(g), 5A, 6, 7AA, 16(5), 46R, 60 and 77 – Family Court (Supporting Children in Court) Legislation Act 2021 – Family Violence Act 2018, ss 9, 10 and 11 – United Nations Convention on the Rights of the Child, art 12.

Mowles v Thorburn – [2023] NZFLR 274

Practice and procedure – Extension of time for bringing appeal – Division of relationship property – Significant delay – Seeking to appeal finding that parties contracted out of Property (Relationships) Act – Proceeds of sale of home not shared – Delay inadequately explained – Merits of appeal – Hardship to other party if extension allowed – Property (Relationships) Act 1976, ss 8(1)(ee) and 21F.

NP v JR – [2023] NZFLR 282

Powers of attorney – Enduring powers of attorney – Presumption of competence – Medical evidence that donor of power progressively declined to severe dementia – Attorney’s duty to consult – Attorney’s duty to keep financial records – Review of attorney’s decisions – Undue influence of attorney over donor of power – Proper approach – Protection of Personal and Property Rights Act 1988, ss 5, 93B, 95C, 97A, 99A and 103.

Succession

Practical Guidance: Succession

Latest Legal Update

High Court upholds legally appointed executors

Trusts

Practical Guidance: Trusts

Latest Legal Updates

Family dispute between siblings and stepmother over a trust headed to Supreme Court

Decade-long dispute between siblings over subdivision owned by a trust ends in \$456,000 in legal costs

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