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Announcements

The Law of Trusts: Papers by Mark Bennett, Senior Lecturer of Law, Victoria University of Wellington

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"Competing Views on Illusory Trusts: The Clayton v Clayton Litigation in Its Wider Context"



(2017) 11 *Journal of Equity* pp 48-79

Victoria University of Wellington Legal Research Paper No. 91/2018

MARK J. BENNETT, Victoria University of Wellington - Faculty of Law

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This article considers the concept of a trust that is 'illusory' - not in fact a trust - due to the settlor or trustee being provided with excessive powers of control or benefit by the trust deed. The New Zealand case Clayton v Clayton [2016] NZSC 29 and the earlier decisions are examined, in the context of the literature on settlor control and the irreducible core of the trust.

"Harvey V Beveridge: Common Intention Constructive Trusts in New Zealand"



(2015) 46 *Victoria University of Wellington Law Review* pp 959-988

Victoria University of Wellington Legal Research Paper No. 92/2018

MARK J. BENNETT, Victoria University of Wellington - Faculty of Law

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This article discusses the reasoning of the High Court and Court of Appeal in Harvey v Beveridge in respect of the existence of "common intention constructive trusts" in New Zealand law. It analyses the development of constructive trusts doctrine in New Zealand, and argues that a different approach was taken to the application of this doctrine in relationship property disputes compared with the equivalent English doctrine. This difference was not recognised in Harvey v Beveridge, and it is argued that an

adequate understanding of this difference requires us to grapple with the underlying foundations of the New Zealand law, which were left open during the Court of Appeal's development of the doctrine.

"Implications of the Panama Papers for the New Zealand Foreign Trusts Regime"

(2015) 21 NZ Association of Comparative Law Yearbook, pp. 27-58

Victoria University of Wellington Legal Research Paper No. 93/2018

MARK J. BENNETT, Victoria University of Wellington - Faculty of Law

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This article discusses the implications of the Panama Papers for the legal requirements concerning the disclosure of information and documents relating to offshore financial planning under the New Zealand foreign trust regime. It first identifies the nature of New Zealand foreign trusts (NZFTs) through an outline of our laws of trusts and foreign taxation. It then focusses on the current requirements for disclosure of information relating to NZFTs to authorities in New Zealand and in foreign jurisdictions, the reasoning of the Inquiry into NZFTs, and the Government's response to the Inquiry's recommendations. Finally, it briefly places the Report's conclusions in the context of the submissions it received and the wider international shift to greater transparency of financial information.

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Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords, one of very few Commonwealth judges ever appointed to do so.

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