

DAVID A R WILLIAMS QC
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Scope of Practice – International Commercial Arbitration – International Law

David Williams QC has over 30 years' experience as counsel in commercial litigation before New Zealand and overseas Courts, Tribunals and Arbitral Tribunals. He has acted as counsel in over 100 cases before the New Zealand Court of Appeal and in numerous New Zealand cases heard in the Privy Council, London, England.

Based on this extensive and broad-based commercial litigation background and after serving as a Justice of the High Court of New Zealand David Williams QC has developed a strong emphasis on international commercial arbitration and international law. He has wide experience as counsel and arbitrator in international commercial and investment treaty arbitrations in disputes involving construction contracts, infrastructure or development projects, oil and gas concessions, intellectual property, joint ventures, insurance coverage cases, political risk (expropriation) insurance claims, insurance and reinsurance, and investment treaty claims under bilateral and multilateral investment treaties. He is presently involved in ten investment treaty arbitrations. He has been involved in international arbitrations in Australia, Bermuda, Canada, Cook Islands, Dubai, France, Hong Kong, India, Japan, The Netherlands, New Zealand, Oman, Pakistan, Philippines, Singapore, Switzerland, Tanzania, United Kingdom, USA and Vanuatu. In a book on New Zealand lawyers, *Law Stories* by Sir Ian Barker (2003), he was described as "New Zealand's most experienced international commercial arbitrator" and Who's Who Legal regularly lists him as one of the world's outstanding commercial arbitrators. In 2007 Global Arbitration Review listed him as one of London's "super arbitrators". He is a former member of the ICC Court of International Arbitration 1999-2002, the London Court of International Arbitration from 2000 - 2005 and the Board of Directors of the American Arbitration Association 2004 – 2009. He is a Past President of the Arbitrators' & Mediators' Institute of New Zealand and is presently a Council member of the International Council for Commercial Arbitration (ICCA).

Academic Qualifications

LLB, University of Auckland Law School, 1965
LLM, Harvard Law School, 1966
Visiting Scholar University of Virginia Law School, USA, 1978
Visiting Fellow Cambridge University, UK, 2002
Honorary Professor, Faculty of Law, University of Auckland

Professional Qualifications

Admitted as a barrister to New Zealand Bar (1965) and also to English Bar (Lincoln's Inn) (2003); Australian Bar (1986), N.S.W. (1987), Victoria (1987), A.C.T. (1986); Cook Islands Bar (1998)

Experience at the Bar

Litigation partner, Russell McVeagh McKenzie Bartleet & Co, Auckland 1969 - 1984
Barrister at Law 1985-1991, 1995 -
Queen's Counsel, 1987 -

Judicial Experience

Justice of the High Court of New Zealand, 1991 - 1994

Part-time appointments

Justice of the High Court of the Cook Islands 2000-2005
Chief Justice of the Cook Islands 2005 – 2010
Justice of the Court of Appeal of the Cook Islands 2010
Justice of the Court of the Dubai International Financial Centre 2007

Current Memberships

- Arbitrators and Mediators Institute of New Zealand (Past President/Fellow)
- British Institute of International and Comparative Law (Member of the Investment Treaty Forum)
- Chartered Institute of Arbitrators (Fellow and Chartered Arbitrator)
- Court of Arbitration for Sport (Panel of Arbitrators)
- International Council on Commercial Arbitration (ICCA) (Council Member)
- International Bar Association (Former Chair of the Sub-Committee on Investment Treaty Arbitration)
- International Law Association (Member of Committee on International Commercial Arbitration and International Law of Foreign Investment)
- International arbitration panels (Member of many international arbitration panels including ICSID (nominee of NZ Government))
- London Court of International Arbitration
- New Zealand Bar Association
- Swiss Arbitration Association

SUMMARY OF INTERNATIONAL ARBITRATION EXPERIENCE

(Identity of parties suppressed unless proceedings made public by the parties through Court proceedings, public statements, or otherwise)

EXPERIENCE AS COUNSEL

1. **ICC** *CBI NZ Ltd v Badger Chiyoda*

Role: Senior Counsel for Badger Chiyoda
Subject: International construction contract
Applicable law: New Zealand
Site: Auckland, New Zealand
Outcome: Award 19 May 1988; unsuccessful Claimant appealed to Court of Appeal of New Zealand; appeal dismissed December 1989: see *CBI NZ Ltd v Badger Chiyoda* [1989] 2 NZLR 669 (CA) upholding ICC Rules, Art. 24 providing that parties deemed "to have waived their right to any form of appeal".
2. **ICSID** *Attorney-General of New Zealand v Mobil Oil NZ Ltd*

Role: Senior Counsel for Mobil Oil
Subject: International investment dispute relating to off-take provisions in contract relating to synthetic fuel plant
Applicable law: New Zealand
Site: Washington, D.C., USA and Auckland, New Zealand
Outcome: Written and oral proceedings (in USA and NZ) prior to issue of Award on liability May 1989; prior attempt by Attorney-General to enjoin ICSID arbitral proceedings failed in New Zealand High Court: see *Attorney-General v Mobil Oil NZ Ltd* [1989] 2 NZLR 649; Mobil Oil succeeded in its claim that the pricing provisions of the investment contract did not violate New Zealand competition laws and that the Government abdication of contract was unlawful; damages were therefore payable to Mobil: see *Mobil Oil v New Zealand* 4 ICSID Reports 140.
3. **Ad Hoc** *Attorney-General of the Cook Islands v Cable & Wireless Ltd*

Role: Senior Counsel for Attorney-General
Subject: Compensation payable on termination of international telecommunications services agreement
Applicable law: Cook Islands
Site: Auckland, New Zealand and Rarotonga, Cook Islands
Outcome: Court ordered Arbitration Award issued in March 1992 settling amount of compensation payable on termination.
4. **Ad Hoc** *Marnell Corrao Associates v Sensation Yachts Inc*

Role: Senior Counsel for Plaintiff boat-builder
Subject: Superyacht construction contract
Applicable law: New Zealand
Site: London
Outcome: Contested High Court proceedings on interim measures reported in 2000: see *Marnell Corrao Associates v Sensation Yachts Inc* (2000) 15 PRNZ 608; preliminary hearings in Auckland, New Zealand 2001; case settled February 2002.

5. **Ad Hoc** *Sensation Yachts Ltd v Darby Maritime Ltd & Anor*
- Role Senior Counsel for Plaintiff boat builder
 Subject Superyacht construction contract
 Applicable law: England
 Site: London
 Outcome: Successful application to High Court by Plaintiff for interim measures: see *Sensation Yachts Ltd v Darby Maritime Ltd & Anor* (Wild J, HC, Auckland, M 1146-SW02, October 25, 2002); hearings before sole arbitrator, Mr Nicholas Fletcher, London December 2002; Award issued February 2003.
6. **Ad Hoc** *Genesis Power Limited v Rolls Royce Engineering Plc*
- Tribunal Members: Sir David Tompkins (Chair), Rt. Hon J S Henry QC, H Rennie QC
 Role Senior Counsel for the Claimant
 Subject Power plant construction dispute
 Applicable law: New Zealand
 Site: Auckland, New Zealand
 Outcome: Preliminary Conference and Order for Directions May 2006; Ruling on Jurisdiction August 2006; arbitration proceedings removed by agreement into High Court of New Zealand.
7. **Ad Hoc** *Genesis Power Limited v Rolls Royce Engineering Plc*
- Tribunal Members: Sir David Tompkins (Chair), Rt. Hon J S Henry QC, H Rennie QC
 Role Senior Counsel for the Claimant
 Subject Power plant construction dispute
 Applicable law: New Zealand
 Site: Auckland, New Zealand
 Outcome: Preliminary Conference and Order for Directions May 2006; Ruling on Jurisdiction August 2006; arbitration proceedings removed by agreement into High Court of New Zealand.
8. **Investment Treaty Claim**
- Tribunal Members: TBC
 Role Senior Counsel for intending Claimant
 Subject Confidential
 Applicable law: Confidential
 Site: Confidential
 Outcome: Advice provided September 2010; proceedings in preparation.

EXPERIENCE AS ARBITRATOR**STATE v STATE INTERNATIONAL ARBITRATION**

1. **LCIA** *United States v Canada*
- Role: Party-appointed arbitrator (appointed by USA)
 Co-arbitrators: Professor Albert Jan van den Berg (party-appointed arbitrator) (appointed by Canada), Professor Gabrielle Kaufmann-Kohler (Chair)
 Subject: Alleged breaches of the Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (2006)
 Site: Ottawa, Canada
 Outcome: Hearing held July 2009. Further submissions and Award pending.

INTERNATIONAL INVESTMENT ARBITRATION

2. **ICSID** *CDC Group plc v Republic of the Seychelles*
- Role: Member of three-person ad hoc Committee
 Other Committee members: Judge C N Brower (U.S.) (Chairman), M Hwang (Singapore)
 Subject: Annulment proceeding in relation to ICSID Award; underlying dispute involved guarantees given in relation to borrowings to finance development of power stations
 Applicable law: English
 Site: Washington DC, London, Singapore
 Outcome: Decision on Application for Stay of Enforcement issued July 2004; Hearing of Application for annulment January 2005; Decision issued June 2005.
3. **ICSID** *Siag & Vecchi v Republic of Egypt*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Professor Francisco Orrego Vicuña (Chile), Professor Michael Pryles (Aust)
 Subject: Alleged expropriation of business
 Applicable law: Italy – Egypt BIT and International Law
 Site: Paris
 Outcome: Award on Jurisdiction issued April 2007; Substantive hearing March 2008; Award issued June 2009.
4. **ICSID** *Hrvatska v Republic of Slovenia*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Judge Charles N Brower (US), Jan Paulsson (France)
 Subject: Dispute involving nuclear power plant
 Applicable law: Energy Charter Treaty and International Law
 Site: Paris
 Outcome: Hearing on certain aspects of liability and damages May 2008; Hearing on treaty interpretation November 2008; Decision on Treaty Interpretation issued June 2009; Hearing on damages July 2009.
5. **ICSID** *Occidental Petroleum Inc USA v Republic of Ecuador*
- Role: Party appointed member of three-person tribunal
 Co-arbitrators: Yves Fortier (Canada) (Chair), Prof. Brigitte Stern (France)
 Subject: Alleged expropriation in breach of BIT
 Applicable law: US – Ecuador BIT and International Law

- Site: Washington DC/Paris
 Outcome: Interim measures hearing May 2007; Award on jurisdiction issued August 2008; Substantive hearing on liability held December 2008; Hearing on quantum November 2009; Award pending.
6. **UNCITRAL Rules** *Polish companies v Republic of Turkey*
 (Administered by Permanent Court of Arbitration)
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Charles Brower (US), Prof. Pierre Mayer (France)
 Subject: Alleged expropriation in breach of BIT
 Applicable law: Poland - Turkey BIT and International Law
 Site: The Hague
 Outcome: Case terminated July 2009 as a result of Claimants' failure to prosecute.
7. **ICSID** *Fondel Metal Participations BV v Republic of Azerbaijan*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Judge Stephen M. Schwebel (US), J. William Rowley QC (Canada)
 Subject: Alleged expropriation in breach of BIT
 Applicable law: Netherlands - Azerbaijan BIT and International Law
 Site: The Hague
 Outcome: Case settled December 2008 after completion of interlocutory procedures.
8. **UNCITRAL Rules** *Frontier Petroleum Services Ltd v The Czech Republic*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Henri Alvarez QC (Canada), Prof. Christoph Schreuer (Austria)
 Subject: Denial of justice; Alleged breaches of BIT
 Applicable law: Canada - Czech Republic BIT and International Law
 Site: The Hague
 Outcome: Hearing held October 2009; Deliberations held March 2010; Final Award pending.
9. **UNCITRAL Rules** *Greek shipping company v. Government of Ukraine*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: L Yves Fortier CC QC (Canada) (Chair), Robert Dossou (Benin)
 Subject: Alleged expropriation in breach of BIT
 Applicable law: Greece – Ukraine BIT and International Law
 Site: Paris
 Outcome: Award on jurisdiction issued May 2009; Procedure for second phase underway; Hearing scheduled for October 2011.
10. **UNCITRAL Rules** *Russian investor v. Republic of Georgia*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Prof. Bernard Hanotiau (Belgium), Prof. William W. Park (USA) Chair
 Subject: Alleged expropriation in breach of Georgian Constitution and Investment Law
 Applicable law: Georgian law
 Site: Paris
 Outcome: Preliminary procedures underway; Hearing scheduled for April 2011.

11. **ICSID** *Deutsche Bank v Republic of Sri Lanka*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Makhdoom Ali Khan (Pakistan), Prof. Bernard Hanotiau (Belgium) (Chairman)
 Subject: Alleged breach of BIT and oil hedging contracts
 Applicable law: Germany - Pakistan BIT and International Law
 Site: Singapore
 Outcome: Preliminary procedures underway; Hearing scheduled for September 2011.
12. **ICSID** *Maersk Olie, Algeriet A/S v The People's Democratic Republic of Algeria*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Dr Kamal Hossain (Bangladesh), Prof. Gabrielle Kaufmann-Kohler (Switzerland) (Chair)
 Subject: Alleged breach of BIT by introduction of windfall profits tax
 Applicable law: Denmark – Algeria BIT and International Law
 Site: Paris
 Outcome: Preliminary procedures underway; Hearings scheduled for July 2011 and November 2011.
13. **ICSID** *Gold Reserve Inc. v Bolivarian Republic of Venezuela*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Prof. Pierre-Marie Dupuy (France), Prof. Piero Bernardini (Italy) (Chair)
 Subject: Alleged breach of BIT and mining rights
 Applicable law: Canada – Venezuela BIT and International Law
 Site: Paris
 Outcome: Preliminary procedures underway; Hearing scheduled for December 2011.
14. **ICSID** *Bernhard von Pezold & Ors v Republic of Zimbabwe*
- Role: Party-appointed member of three-person Tribunal
 Co-arbitrators: TBA
 Subject: Alleged expropriation of land
 Applicable law: Germany – Zimbabwe and Switzerland – Zimbabwe BITs and International Law
 Site: TBA
 Outcome: Awaiting constitution of Tribunal.

INTERNATIONAL COMMERCIAL ARBITRATION

15. **Ad Hoc** *NZ Company v Australian Company*
- Role: Sole arbitrator
 Subject: International commercial contract
 Applicable law: New Zealand
 Site: Wellington, New Zealand
 Outcome: Award issued in 1994 after written and oral proceedings.

16. **AAA** *Californian Company v Canadian Company*
- Role: Member of three-person tribunal
 Subject: Breach of written guarantee
 Applicable law: California
 Site: San Diego, California
 Outcome: Preliminary conference October 1995; claim settled.
17. **AAA** *US Company v Canadian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: J Elder QC (Canada), W Kocher (USA)
 Subject: International licensing agreement
 Applicable law: Ontario
 Site: Toronto, Canada
 Outcome: Interim Award on liability issued in October 1996 after five-month hearing; settlement in May 1997 prior to commencement of damages phase by payment of USD100 million to Claimant.
18. **ICC** *Australian Company v South Pacific Government and English Company*
- Role: Sole arbitrator
 Subject: Joint venture financing
 Applicable law: Vanuatu
 Site: Vanuatu
 Outcome: Written and oral proceedings in 1997; Interim Awards issued in November 1997 and August 1998; Final Award delivered June 1999; Queensland High Court decision granting leave to enforce interim award upheld in Court of Appeal of Queensland in June 2000: see *Commonwealth Development Corp v A J Montague* [2000] QCA 252, noted in Mealey's Int Arb Rep Vol 15, Iss 7 at 7.
19. **LCIA** *French Company v Jordanian Company and Jordanian Nationals*
- Role: Member of three-person tribunal
 Subject: International licensing agreement
 Applicable law: France
 Site: London
 Outcome: Case settled.
20. **ICC** *South Pacific Government Corporation v Australian Partnership*
- Role: Sole arbitrator
 Subject: International construction contract
 Applicable law: Vanuatu
 Site: Vanuatu
 Outcome: Written and oral proceedings 1998 – 1999; Consent Award on liability issued August 1999; Award on interest and costs issued December 2000.

21. **AAA** *US Partnership v Japanese Partnership*
- Role: Chairman of three-person tribunal
 Co-arbitrators: J N Creer (Australia), C R Thomson QC (Canada)
 Subject: International contract and fiduciary obligations of partners
 Applicable law: New York
 Site: New York
 Outcome: Preliminary hearings April-May 1998; case settled.
22. **ICC** *Canadian Company v Irish and UK Companies*
- Role: Sole arbitrator
 Subject: Patent infringement
 Applicable law: Ontario
 Site: Toronto, Canada
 Outcome: Case settled.
23. **Ad Hoc** *NZ Company v US and Korean Companies*
- Role: Sole arbitrator
 Subject: Worldwide licence agreement
 Applicable law: New Zealand
 Site: Auckland, New Zealand
 Outcome: Written and oral proceedings in February 2000; Award issued September 2000.
24. **LCIA** *Swiss and British Virgin Island Companies v English and French Companies*
- Role: Chairman of three-person tribunal
 Co-arbitrators: P Gross QC (England), Prof. P Bernardini (Italy)
 Subject: International sales contracts and insurance
 Applicable law: England
 Site: London
 Outcome: Case settled.
25. **Ad Hoc** *International Joint Venture Companies v Airport Authority*
- Role: Sole arbitrator sitting with Engineering Assessor
 Subject: International construction contract
 Applicable law: England
 Site: London
 Outcome: Preliminary hearings in Hong Kong November 2000; Case settled.
26. **SIAC** *International Consortium of Banks v Indonesian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Dr Z M Yatim (Malaysia), W T Chu (Singapore)
 Subject: Banking contracts, guarantees, agency
 Applicable law: England
 Site: Singapore
 Outcome: Preliminary hearing November 2000; Substantive hearing May 2001; Award issued July 2001.

27. **SIAC** *German Bank v Indonesian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Dr Z M Yatim (Malaysia), W T Chu (Singapore)
 Subject: Banking contracts, guarantees, agency
 Applicable law: England
 Site: Singapore
 Outcome: Preliminary hearing May 2001; Substantive hearing June 2001; Award issued October 2001.
28. **LCIA** *Finnish Contractor v German Subcontractor*
- Role: Sole arbitrator
 Subject: Australian construction project
 Applicable law: England
 Site: London
 Outcome: Case settled.
29. **Ad Hoc** *Indian State Owned Enterprise v US company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: D F Donovan (USA), Hon. Justice P C Mishra (India)
 Subject: Dispute arising from shareholders' agreement involving electric power distribution company
 Applicable law: India
 Site: Bhubaneswar, India
 Outcome: Preliminary conference July 2004; Substantive hearing on liability August 2005. Partial Final Award issued June 2007. Award on costs issued May 2010.
30. **UNCITRAL Rules** *US company v Australian company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: T Landau QC (England), P Chidambaram SA (India)
 Subject: Dispute arising from Joint Operating Agreement relating to off-shore gas exploration and development
 Applicable law: Indian
 Site: London
 Outcome: Substantive hearing September 2002; Partial Award issued March 2003; Final Award issued December 2003.
31. **LCIA** *US company v English Insurers*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. W W Park (USA), Rt Hon. Sir Christopher Staughton (England)
 Subject: Political risks insurance and alleged governmental expropriation
 Applicable law: England
 Site: London
 Outcome: Preliminary hearings May 2003; Case settled.
32. **LCIA** *Guernsey (Channel Islands) company v Panamanian company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. Julian Lew QC (England), Peter Leaver QC (England)
 Subject: Shareholders dispute
 Applicable law: England
 Site: London
 Outcome: Preliminary hearings May 2003; Case settled.

33. **UNCITRAL Rules** *State Entity v Italian Joint Venture*
- Role: Chairman of three-person tribunal
 Co-arbitrators: John Marrin QC (England), Hon Justice Zahid (Pakistan)
 Subject: Major construction project in Pakistan involving FIDIC contract
 Applicable law: Pakistan
 Site: Lahore, Pakistan
 Outcome: Preliminary hearing November 2003; Substantive proceedings January 2006; Case settled.
34. **ICC** *US Insurance Company v United Arab Emirates Joint Stock Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Prof. K H Boeckstiegel (Chairman) (Germany), Prof. H van Houtte (Belgium)
 Subject: Insurance claim concerning telecommunications satellite
 Applicable law: England
 Site: Paris
 Outcome: Preliminary hearing October 2003; Substantive hearing August 2007; Case settled.
35. **LCIA** *UK company v Spanish company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Rt Hon. Sir Anthony Evans (England), Lord Dervaird (Scotland)
 Subject: Contractual disputes concerning coal trade
 Applicable law: England
 Site: London
 Outcome: Preliminary hearings October 2003 and May 2004. Case settled.
36. **LCIA** *US/German Banks v English and Bermuda Insurers*
- Role: Chairman of three-person tribunal
 Co-arbitrators: L Yves Fortier CC QC (Canada), Judge C N Brower (USA)
 Subject: Political risks insurance, alleged governmental expropriation
 Applicable law: England
 Site: London
 Outcome: Case settled.
37. **LCIA** *Israeli Corporation v US Corporation*
- Role: Sole arbitrator
 Subject: Alleged breach of joint venture agreement
 Applicable law: New York
 Site: London
 Outcome: Preliminary conference October 2003; Partial Award (Summary Judgment) issued December 2004; Substantive hearing April 2005; Final Award October 2005.
38. **Ad Hoc** *New Zealand Company v Australian Company*
- Role: Sole arbitrator
 Subject: Intellectual Property dispute in respect of trade name
 Applicable law: New Zealand and Australia
 Site: Auckland, New Zealand
 Outcome: Preliminary Conference October 2003; Hearing in April 2003; Partial Award delivered May 2004; Further hearings December 2004; Award on Liability issued January 2005;

Award on Damages issued February 2005; Award on costs issued June 2005.

39. **UNCITRAL Rules** *Two Indonesian Companies v Malaysian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. H Priyata Abdurrasid (Indonesia), W Khoo (Singapore)
 Subject: Alleged breach of warranty in corporate takeover
 Applicable law: Indonesia
 Site: Singapore
 Outcome: Case settled.
40. **ICC** *Indian Corporation v English Corporation*
- Role: Sole arbitrator
 Subject: Dispute arising from shareholders' agreement in relation to joint venture company
 Applicable law: India
 Site: London
 Outcome: Case settled.
41. **ICC** *Australian Corporation v UK Corporations*
- Role: Chairman of three-person tribunal.
 Co-Arbitrators: Prof. Michael Pryles (Australia), B. Tozer (Australia)
 Subject: Alleged breach of contract to develop a coal mine and deliver coal to power station.
 Applicable Law: England
 Site: Brisbane, Australia
 Outcome: Case settled.
42. **UNCITRAL Rules** *State Agency v Croatian Company and Austrian Company*
- Role: Sole arbitrator
 Subject: Dispute concerning alleged breaches of share purchase agreement
 Applicable law: English
 Site: London
 Outcome: Hearing on jurisdiction October 2004; Award on jurisdiction issued March 2005; Substantive Partial Award issued January 2006; Award as to Costs issued April 2007; Proceedings terminated by agreement January 2009.
43. **LCIA** *Australian Subsidiary Company v Mozambique Subsidiary Company*
- Role: Sole arbitrator
 Subject: Dispute arising out of contract for supply of oil drilling services and equipment, applicability of standby rate in case of delay in mobilising equipment to drilling site
 Applicable law: England
 Site: London
 Outcome: Preliminary conference October 2003; Hearing April 2005; Award issued July 2005.
44. **ICC** *Philippines Subsidiary of UK Plc v Philippines Corporation*
- Role: Chairman of three-person tribunal
 Co-Arbitrators: J William Rowley QC (Canada), Jan Paulsson (France)
 Subject: Alleged breach of contract for supply of Electricity Generation Station
 Applicable law: Philippines

- Site: Manila, Philippines
Outcome: Interim measures of protection ordered July 2005; Case settled.
45. **LCIA** *UK plc v Central American State*
- Role: Chairman of three-person tribunal
Co-Arbitrators: J William Rowley QC (Canada), Ian Glick QC (United Kingdom)
Subject: Alleged breach of share option agreement
Applicable law: England
Site: London
Outcome: Interim measures of protection ordered January 2005; Case settled.
46. **ICC** *UK Manufacturer v Asian State*
- Role: Chairman of three-person tribunal
Co-Arbitrators: Vivian Ramsey QC (UK) (on his appointment to UK High Court replaced by Stewart Boyd QC), Jan Paulsson (France),
Subject: Alleged breach of contract for supply of high-speed coastal defence vessel
Applicable law: England
Site: Zurich/London
Outcome: Hearing June 2006; Award submitted to ICC; Case settled.
47. **LMAA** *UK Owner v New Zealand Yacht Building Company*
- Role: Sole arbitrator
Subject: Superyacht building agreement dispute
Applicable law: England
Site: London
Outcome: Case settled.
48. **Ad hoc** *International Insurers v International Pharmaceutical Manufacturer*
- Role: Chairman of three-person tribunal
Co-Arbitrators: Kenneth Rokison QC (UK), Prof. W W Park (USA)
Subject: Insurance and Reinsurance coverage, Bermuda form catastrophe insurance claim in pharmaceutical industry flowing from withdrawal of pain-killing drug from worldwide markets.
Applicable law: New York
Site: London
Outcome: Hearing on liability November/December 2006 and March 2007; Award on liability issued November 2007. Case settled.
49. **SIAC** *Australian National v Australian National*
- Role: Sole arbitrator
Subject: Partnership agreement
Applicable law: Singapore
Site: Singapore
Outcome: Case settled.
50. **European Development Fund Rules on Conciliation and Arbitration**
- African State v South African Company*
- Role: Member of three-person tribunal

- Co-Arbitrators: David St John Sutton (UK) (Chair), Derek Elliot (UK)
 Subject: Validity of termination of highway construction contract in Uganda
 Applicable law: Uganda
 Site: London
 Outcome: Hearing June 2007 in London; Partial Award issued July 2008; Case settled.
51. **UNCITRAL Rules** *Polish State Oil Company v Russian Oil Company*
- Role: Member of three-person tribunal
 Co-Arbitrators: Prof. J. Martin Hunter (UK), J. William Rowley QC (Canada) (Chair)
 Subject: Oil supply contract
 Applicable law: England
 Site: London
 Outcome: Case settled.
52. **ICC** *Iranian Engineering and Construction Contractor v UK and US Companies*
- Role: Sole arbitrator
 Subject: Breach of licensing contract
 Applicable law: England
 Site: Geneva
 Outcome: Award as to Jurisdiction issued April 2006; Partial Award on Damages issued September 2006; Ruling on Costs issued February 2007.
53. **AIDA Reinsurance and Insurance Arbitration Society (ARIAS Rules)** *US insurance company v Russian company*
- Role: Chairman of three-person tribunal
 Co-Arbitrators: Judge C N Brower (USA), Stewart Boyd QC (UK)
 Subject: Directors and Officers Liability Insurance coverage claim
 Applicable law: England
 Site: London
 Outcome: Proceedings stayed 2006.
54. **AAA** *Vanuatu company v Irish company*
- Role: Party-appointed member of a three-person tribunal
 Co-arbitrators: Alan Redfern (UK) (Chair), Samuel Haubold (USA)
 Subject: Distribution Agreement in relation to internet pop-up ads
 Applicable law: New York
 Site: London
 Outcome: Hearing October 2006; Award on Liability January 2007; Hearing on damages May and July 2008; Award on damages issued December 2008.
55. **ICC** *Indian Company v Indian Company*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: David Brynmor Thomas (UK), Todd Wetmore (USA)
 Subject: Telecommunications Joint Venture, shareholders' dispute
 Applicable law: India
 Site: Paris
 Outcome: Proceedings terminated by ICC Court.
56. **ICC** *French National v Indian National*

- Role: Chairman of a three-person tribunal
 Co-arbitrators: Harish N Salve (India), Andrew Onslow QC (UK)
 Subject: Joint venture dispute
 Applicable law: India
 Site: London
 Outcome: Award on Jurisdiction February 2007; Substantive hearing November 2007 and March/May 2008; Partial Final Award against First Respondent issued January 2010; proceedings continuing against Second Respondent.
57. **ICC** *Isle of Man Corporation v African Government*
 Role: Chairman of three-person tribunal
 Co-arbitrators: Rayner M Hamilton Esq (USA), Cherie Booth QC (UK)
 Subject: Joint venture agreement relating to steel plant in Nigeria.
 Applicable law: Nigeria
 Site: London
 Outcome: Hearing September 2007; Award issued June 2008; Award on costs and interest issued.
58. **LCIA** *British Virgin Isles Corporation v Cypriot Companies*
 Role: Chairman of a three-person tribunal
 Co-arbitrators: Sir Martin Nourse (UK), Per Runeland (UK)
 Subject: Shareholders' Dispute concerning Russian corporation
 Applicable law: Cyprus
 Site: London
 Outcome: Case settled.
59. **LCIA** *London Insurers v US Company and Subsidiaries*
 Role: Party-appointed member of three-person tribunal
 Co-arbitrators: The Right Honourable Lord Steyn (UK) (Chair), Stewart Boyd QC (UK)
 Subject: Political Risk Insurance relating to alleged expropriation
 Applicable law: England
 Site: London
 Outcome: Case settled.
60. **ICC** *US company v Japanese Company*
 Role: Chairman of a three-person tribunal
 Co-arbitrators: Jay Lapin (US), Prof. Masabumi Suzuki (Japan)
 Subject: Licence Agreement dispute
 Applicable law: New York
 Site: Japan
 Outcome: Case settled.
61. **Ad hoc** *Australian Company v New Zealand Company*
 Role: Sole arbitrator
 Subject: Drilling services contract
 Applicable law: New Zealand
 Site: Auckland
 Outcome: Hearing April 2007; Substantive Award issued May 2007.
62. **Ad hoc** *US Company v UK Insurers*
 Role: Chairman of a three-person tribunal
 Co-arbitrators: Judge Abner Mikva (US), Sir Christopher Staughton (UK)
 Subject: Insurance coverage dispute, pharmaceutical industry, Bermuda form

- Applicable law: New York
 Site: London
 Outcome: Case settled.
63. **LCIA** *UK Aircraft Financing Companies v Group of Reinsurers*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: Samuel Haubold (US), Ian Hunter QC (UK)
 Subject: Insurance, reinsurance coverage dispute, commercial aviation industry
- Applicable law: England
 Site: London
 Outcome: Interim Award July 2007 and upheld by English Court; Case settled.
64. **ICC** *Canadian Company v US Company*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: William Horton (Canada), Rayner Hamilton (US)
 Subject: Licensing agreement, alleged breach of contract
 Applicable law: Ontario, Canada
 Site: Toronto
 Outcome: Hearings April 2008; Award issued November 2008.
65. **UNCITRAL Rules** *Dutch Company v Italian Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Gabrielle Kaufmann-Kohler (Swiss) (Chair), Graham Dunning QC (UK)
 Subject: Sale and purchase of company shares
 Applicable law: England and Netherlands
 Site: Geneva
 Outcome: Case settled.
66. **ICC** *Cayman Islands Company v Cayman Islands Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Gerald Aksen (USA) Chair, Lord Michael Mustill (UK)
 Subject: Telecommunications
 Applicable law: England
 Site: London
 Outcome: Case settled.
67. **ICC** *Hong Kong Company v BVI Company*
- Role: Chairman of a three-person tribunal
 Co-arbitrators: James Carter (US), Sally Harpole (Hong Kong)
 Subject: Commercial property, loan agreement relating to Shopping Centre development in Beijing
- Applicable law: New York
 Site: Hong Kong
 Outcome: Hearings in 2007 and 2008; Final Award issued August 2009.
68. **ICC** *Pakistan Company v Pakistan Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Christopher Lau SC (Singapore) (Chair), Prof. Michael Pryles (Australia)
 Subject: Gas Supply Agreement
 Applicable law: England
 Site: Singapore

- Outcome: Hearing June 2008; Award issued December 2008.
69. **ICC** *Netherlands' Corporation v Philippines' Corporation*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Douglas Jones (Australia) (Chair), Prof. William W Park (USA)
 Subject: Gas sale and distribution agreement
 Applicable law: England
 Site: Hong Kong
 Outcome: Hearing May 2009; Partial Award issued August 2009; Consent Award issued September 2010.
70. **Ad Hoc** *Louisiana Corporation v Swiss Insurer*
- Role: Chairman of three-person tribunal
 Co-arbitrators: V V Veeder QC (UK), A Stevens Clay (USA)
 Subject: Insurance claim relating to New Orleans Hotel damaged in Hurricane Katrina
 Applicable law: Undetermined
 Site: London
 Outcome: Case settled.
71. **LCIA** *NZ Telco v NZ Telco*
- Role: Sole arbitrator
 Subject: Alleged breaches of contract
 Site: Auckland, New Zealand
 Outcome: Hearing completed September 2008; Award issued November 2008.
72. **ICC** *German Company v. German Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Alan Redfern (UK) (Chair), Richard Fernyhough QC (UK)
 Subject: Alleged breaches of gas supply agreement
 Applicable law: England
 Site: Paris
 Outcome: Case settled.
73. **LCIA** *Spanish Company v. Indian Company*
- Role: Sole arbitrator
 Subject: Alleged breaches of co-operation agreement
 Applicable law: England
 Site: London
 Outcome: Case settled.
74. **ICC** *Texas Limited Liability Company v. Tanzanian State Corporation*
- Role: Chairman of three-person tribunal
 Co-arbitrators: John Marrin QC (UK), Sir Philip Otton (UK)
 Subject: Alleged breach of power take-off agreement
 Applicable law: Tanzania
 Site: Dar es Salaam, Tanzania
 Outcome: Substantive hearing held in Dubai during April 2010; Award submitted to ICC Court for scrutiny October 2010.

75. **ICC** *Portuguese Company v. Australian Corporation*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. John Uff QC (UK), Hon. Ian Callinan AC, QC (Australia)
 Subject: Alleged breach of vessel services agreement
 Applicable law: Australia
 Site: Singapore
 Outcome: Case settled.
76. **ICC** *French & Dutch Corporations v. Australian Companies*
- Role: Sole arbitrator
 Subject: Alleged breaches of shareholder agreement
 Applicable law: Australian law (New South Wales)
 Site: Sydney, Australia
 Outcome: Hearings held December 2009 and April 2010; Award pending.
77. **ICC** *Japanese Corporation v. United States Corporation*
- Role: Chairman of three-member tribunal
 Co-arbitrators: Alan Redfern (UK), Judge Charles N. Brower (USA)
 Subject: Alleged breaches of development and distribution agreement
 Applicable law: Pennsylvania
 Site: Philadelphia, United States of America
 Outcome: Hearing held April 2010; Award submitted to ICC Court for scrutiny September 2010.
78. **ICC** *British Company v. Channel Islands, Swiss, Italian, Korean, Uruguayan and Mexican Companies*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Judge Charles N. Brower (USA), Sir Simon Tuckey (UK)
 Subject: Alleged breaches of agreements to purchase steel products
 Applicable law: English Law
 Site: London, United Kingdom
 Outcome: Preliminary procedures underway; hearing on preliminary issues held July 2010; Award pending.
79. **UNCITRAL Rules** *British Company v. Singapore Company*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Michael Hwang SC (Singapore), Vinayak Pradhan (Malaysia) (Chairman)
 Subject: Alleged breaches of contract for provision of accommodation vessel
 Applicable law: Undecided
 Site: Singapore
 Outcome: Case settled.
80. **Ad Hoc** *Bermuda Company v. Bermuda Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Kenneth Rokison QC (UK), Charles B. Renfrew (USA)
 Subject: Reinsurance dispute
 Applicable law: New York
 Site: Bermuda
 Outcome: Preliminary procedures underway; hearing scheduled for December 2010.
81. **ICC** *Pakistan Company v. Pakistan Statutory Corporation*

- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. Michael Pryles (Australia), Timothy Young QC (UK)
 Subject: Alleged breaches of power purchase agreement
 Applicable law: Pakistan
 Site: Singapore
 Outcome: Partial Award issued June 2010; Final hearing scheduled for October 2010.
82. **LCIA** *Jersey Company v Russian Company*
 Role: Chairman of three-person tribunal
 Co-arbitrators: Dr Julian Lew QC (UK), Hilary Heilbron QC (UK)
 Subject: Alleged breach of contract in respect of the sale of crude oil
 Applicable law: England
 Site: London
 Outcome: Partial Final Award issued January 2010; Final Award issued June 2010.
83. **LCIA** *Australian Companies v Argentinian Company*
 Role: Chairman of three-person tribunal
 Co-arbitrators: Guido Santiago Tawil (Argentina), Michael Polkinghorne (Australia/based in France)
 Subject: Alleged breach of contract by failing to take delivery of coking coal
 Applicable law: England
 Site: London
 Outcome: Case settled.
84. **UNCITRAL Rules** *British Virgin Islands Company v Malaysian Company*
 Role: Chairman of three-person tribunal
 Co-arbitrators: Kenneth Tan, S.C (Singapore), Dato V.C. George (Kuala Lumpur)
 Subject: Alleged breach of Share Sale Agreement and Supplemental Share Sale Agreement.
 Applicable law: Malaysia
 Site: Singapore
 Outcome: Preliminary procedures underway; Hearing scheduled for November 2010.
85. **ICC** *Dutch and Isle of Man Companies v USA Company*
 Role: Chairman of three-person tribunal
 Co-arbitrators: James C. Freund (USA), Prof. William W. Park (USA).
 Subject: Alleged breach of contract.
 Applicable law: New York
 Site: London, United Kingdom
 Outcome: Case settled.
86. **LCIA** *German Finance Professional v Luxembourg Companies*
 Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Prof. Bernard Hanotiau (Belgium), John Beechey (UK)
 Subject: Alleged breaches of consultancy agreement and call option agreement
 Applicable law: England
 Site: London
 Outcome: Preliminary procedures underway; Hearing scheduled for January 2010.

87. **SIAC** *United States Company v Indonesian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Prof. Michael Pryles (Australia), Toby Landau QC (UK)
 Subject: Alleged breach of coal sale and purchase agreement
 Applicable law: England
 Site: Singapore
 Outcome: Preliminary procedures underway; Proceedings suspended pending outcome of settlement negotiations.
88. **UNCITRAL Rules** *Indonesian Company v Indonesian Companies*
- Role: Party-appointed member of three-person tribunal
 Co-arbitrators: Prof. Michael Pryles (Australia), David R. Haigh QC (Canada) (President)
 Subject: Alleged breach of coal mining supply agreement
 Applicable law: Queensland, Australia
 Site: Singapore
 Outcome: Preliminary procedures underway; Hearing scheduled for March 2011.
89. **ICC** *Turkish Company v Russian Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Richard Fernyhough, QC (UK), John Blackburn, QC (UK)
 Subject: Dispute regarding construction of a large commercial complex
 Applicable law: English, Russian
 Site: London, United Kingdom
 Outcome: Preliminary procedures underway; Hearing scheduled for May 2011.
90. **Ad hoc** *Barbados Company and Canadian Company v Bermuda Company*
- Role: Chairman of three-person tribunal
 Co-arbitrators: Robert J Cunningham (USA) and Steven Klugman (USA)
 Subject: Reinsurance
 Applicable law: New York
 Site: London, United Kingdom
 Outcome: Preliminary procedures underway; Hearing scheduled for February 2011.
91. **UNCITRAL Rules** *Chinese Company v Tanzanian State Corporation*
- Role: Chairman of three-person tribunal
 Co-arbitrators: John Marrin QC (UK) and Stephen Furst QC (UK)
 Subject: Contractual dispute arising out of roading contract
 Applicable law: Tanzania
 Site: Dar es Salaam, Tanzania
 Outcome: Preliminary procedures underway; Hearing scheduled for July 2011.

DOMESTIC ARBITRATION

Chairman or sole arbitrator in numerous domestic commercial arbitrations in New Zealand and Australia including the following major arbitrations:

Sole arbitrator in the first major share valuation case under the minority buyout provisions of s 112 of the Companies Act 1993 - extensive hearings in Wellington, New Zealand July 2000 - award delivered in June 2001 determining that the minority shareholder was entitled to a further payment of NZ\$11 million for its shares.

Sole arbitrator in heavy construction dispute over large multi-storey city building - two week hearing in 1999 - four separate awards issued 1999 - 2000, Auckland, New Zealand.

Sole arbitrator in dispute over sale of substantial business - three week hearing in Auckland during 2000 - award delivered February 2001 - Auckland, New Zealand.

Member of three person Arbitral Tribunal in dispute over Electricity Market Participant Fees - award delivered January 2003, Sydney, Australia.

Sole arbitrator in domestic arbitration which was nevertheless conducted in accordance with LCIA Rules - see case 66 above.

Counsel in numerous domestic arbitrations in disputes involving contract, shareholder issues, construction, rental valuations and intellectual property.

EXPERIENCE IN INTERNATIONAL EXPERT DETERMINATION

1. **Ad Hoc** *Middle Eastern State v Foreign Concessionaire*
- Role: Party-appointed expert
 Subject: Interpretation of Concession Agreement relating to Power Station
 Applicable law: Oman
 Site: Muscat, Oman
 Outcome: Decision issued August 2005.
2. **Ad Hoc** *UK company v UK companies*
- Role: Party-appointed expert
 Subject: Interpretation of clause of gas sales agreement
 Applicable law: England
 Site: London
 Outcome: Hearing in November 2007; Determination issued February 2008.

EXPERIENCE IN SPORTS ARBITRATION AND DISPUTE RESOLUTION

Thoroughbred Horse Racing

Numerous cases involving thoroughbred horse racing including many hearings as member of the Judicial Committee of Auckland Racing Club and also as a member of Appeals Tribunals appointed by the Judicial Control Authority under the New Zealand Racing Act.

New Zealand Bowls Association

S v Bowls NZ Inc

Role:	Sole Arbitrator
Subject:	Appeal against penalty imposed for misconduct during bowls tournament
Applicable Law:	New Zealand
Site:	Auckland, New Zealand
Outcome:	Appeal dismissed in Award dated 21 May 2003.

INTERNATIONAL SPORTS ARBITRATION

Court of Arbitration for Sport (CAS)

1. CAS

Role:	Member of three-person CAS Panel
Co-Arbitrators:	Alan Sullivan QC (Australia) (President), Sir Thomas Eichelbaum (New Zealand)
Subject:	Appeal by Yachting New Zealand against decision of New Zealand Sports Disputes Tribunal relating to Yachting Federation Inc nominations for Laser and Mens 470 classes for 2004 Athens Olympics New Zealand
Applicable Law:	Swiss/New Zealand
Site:	Auckland, New Zealand
Outcome:	Hearing in April 2004; Award issued April 2004; Award No. 2 on Costs issued July 2004.

2. CAS

Role:	Member of three-person CAS Panel
Co-Arbitrators:	Kaj Hober (Sweden) (President), Yves Fortier (Canada)
Subject:	Appeal by US 4x400m relay team at Sydney Olympics against decision of IAAF to revise final placings after the doping offence of Mr Jerome Young
Applicable Law:	IAAF Rules
Site:	London, England
Outcome:	Award issued 20 July 2005.

3. CAS

Role:	President of three-person CAS Panel
Co-Arbitrators:	Alan Sullivan (Australia), Kaj Hober (Sweden)
Subject:	Appeal against decision of International Canoe Federation to sanction Mr Nathan Baggaley for a period of two years.
Site:	Sydney, Australia
Outcome:	Partial Final Award dismissing claim due to time limitation issued 29 December 2006.

- 4. CAS**
- Role: President of three-person CAS Panel
 Co-Arbitrators: Christoph Vedder (Germany), Peter Grilc (Slovenia)
 Subject: Appeal by IAAF against a decision of the Athletics Assn of Sri Lanka to exonerate Jani Chathurangani Chandra Silva of a doping offence.
- Site: Lausanne, Switzerland
 Outcome: Award on Jurisdiction 30 October 2007; Award on Merits issued April 2008.
- 5. CAS**
- Role: President of three-person CAS Panel.
 Co-Arbitrators: Jeffrey Benz (US), Michele Bernasconi (Switzerland)
 Subject: Appeal against decision of the International Skating Union to sanction US Speed Skater Mr Anthony Lobello for failure to provide an up-to-date record of his whereabouts.
- Site: Lausanne, Switzerland
 Outcome: Award issued 6 December 2007.
- 6. CAS**
- Role: President of three-person CAS Panel
 Co-Arbitrators: Jan Paulsson (France) and David Rivkin (US)
 Subject: Appeal by Floyd Landis against the decision of the USADA in relation to a doping offence following the 2006 Tour de France
- Site: New York, USA
 Outcome: Award issued June 2008.
- 7. CAS**
- Role: Member of three-person CAS Panel
 Co-Arbitrators: Malcolm Homes QC (Australia), Alan Sullivan (Australia)
 Subject: Appeal by IRB and the WADA against the decision of the Australian Rugby Union (ARU) to exonerate rugby player Luke Troy of a doping offence.
- Site: Sydney, Australia
 Outcome: Award issued August 2009.
- 8. CAS**
- Role: Member of three-person CAS Panel
 Co-Arbitrators: Petros Mavroidis (Greece) (President), David Askinas (US)
 Subject: Appeal by the Samoa Football Federation against a decision of FIFA.
- Site: Lausanne, Switzerland
 Outcome: Award issued May 2009.
- 9. CAS**
- Role: Member of three-person CAS Panel
 Co-Arbitrators: Hon. Roger Gyles AO, QC (Australia) (President), Hon. Andrew Rogers QC (Australia)
 Subject: Alleged breach of a Manager Services Agreement in respect of the Qantas Socceroos
- Site: Lausanne, Switzerland
 Outcome: Award on jurisdiction issued August 2009.

10. CAS

Role: President of three-person CAS Panel
Co-Arbitrators: Prof. Ulrich Haas (Switzerland), Prof. Massimo Coccia (Italy)
Subject: Application by IAAF to lengthen two-year ban for anti-doping
infringements by Russian athletes
Site: Lausanne, Switzerland
Outcome: Award issued July 2009.

11. Ad hoc

Role: Member of three-person Tribunal
Co-Arbitrators: Hon. Michael H. McHugh QC (Australia) (Chairman),
Anthony J. Meagher SC (Australia)
Subject: Alleged breach of a Manager Services Agreement
Site: Sydney, Australia
Outcome: Case settled.

JUDICIAL EXPERIENCE - MAIN JUDGMENTS - HIGH COURT OF NEW ZEALAND

During the period 1991 to 1994 when a Judge of the High Court of New Zealand gave a number of important decisions in the field of commercial law, contract law, utilities regulation and intellectual property. Amongst the decisions in the intellectual property field was the major trade mark case involving a Levi Strauss trade mark which is reported as *Levi Strauss & Co v Kimbyr Investments Limited* [1994] Fleet Street Reports 335; [1994] 1 NZLR 332. A list of the main reported judgments follows:

Maori Trustee v Prentice [1992] 3 NZLR 344 - Property Law

Darvell v Auckland District Legal Services Committee [1993] 1 NZLR 111 - Administrative Law - Legal Aid

Artifakts Design Group Ltd v NP Rigg Ltd [1993] 1 NZLR 196 - Copyright Infringement - Passing Off – Breach of Contract - Fair Trading Act

Re Southern World Airlines Limited [1993] 1 NZLR 597 - Company Law: Scheme of Arrangement

Re Pountney [1992] NZFLR 24 - Matrimonial Property

Maddever v Umawera School Board of Trustees [1993] 2 NZLR 478 - Administrative Law - Judicial Review of Actions of School Trustees

Telecom Directories Limited v Adviser NZ Limited [1992] 26 - Intellectual Property Reports 37 - Comparative Advertising - Misleading and Deceptive Conduct

Cox v Commissioner of Inland Revenue [1992] 17 Tax Reports New Zealand 153 - Deductions - Legal Expenses - Claim by Company Director

Willis v Castelein [1993] 3 NZLR 103 - Contract - Sale of Land - Whether duty of care is owed in tort

B v Dentists Disciplinary Tribunal [1994] 1 NZLR 95 - Administrative Law - Admissibility of Video Conference Evidence

Machinery Movers Limited v Auckland Regional Council [1994] 1 NZLR 492 - Environmental Law

Levi Strauss & Co v Kimbyr Investments Limited [1994] Fleet Street Reports, 335; [1994] 1 NZLR 332 - Trade Mark Infringement - Confusing Similarity - Passing Off - Fair Trading

JUDGMENTS AS JUDGE OF HIGH COURT OF COOK ISLANDS

Formerly a Judge of the High Court of the Cook Islands and Chief Justice of Cook Islands. Present member of Court of Appeal of the Cook Islands. (Part-time positions). Judgments include:

A v B and Others [2002] 4 International Trust and Estate Law Reports 877 - Asset Protection Legislation - Application of Secrecy Provisions.

Market Beach Pty Ltd Hugh Henry & Associates Ltd [12 February 2002] HC, Rarotonga, 55/99 – interpretation of Cook Islands development legislation – legality of loan agreement.

A v E and Others [10 October 2002] HC, Rarotonga, 17/2001 - Asset Protection - Discovery of Documents - Application of fraud exception to claim of legal professional privilege.

Cook Islands National Line Agency Ltd v Cook Islands Shipping Corporation Ltd [16 December 2003] Court of Appeal, CA1/03 & 2/03, Casey, Smellie and Williams JJ – interpretation of prohibitions on anti-competitive conduct contained in international shipping legislation.

Messine v Mitchell & Mitchell [18 December 2003] HC, Rarotonga, 20/03 – Sale of Goods Act 1908 – agency – unjust enrichment.

Malcolm v Tanga [26 April 2004] HC, Rarotonga, OA6/2004 – legality of Cabinet announcement deferring local elections – application of s 1 Bill of Rights Act 1988 and *Fitzgerald v Muldoon* [1975] 2 NZLR 615.

Taakoka Island Villas Limited v Tupangaia and Others [23 December 2004] HC, Rarotonga, OA 5104 – application for change of venue for hearing – analysis of constitutionality of Cook Islands Court sitting in New Zealand.

Police v Chikami & Burgess [4 October 2006], HC, Rarotonga, CR No's: 606-619/2004 – prosecutions under the Marine Resources Act for illegal fishing – relevance of principles of “soft” international law to sentencing – sentencing principles including means of offender and forfeiture.

Tupangaia and Others v Taakoka Islands Villas Limited [27 April 2007], CA, Rarotonga, CA02/2006 CA12/2006 – property law – appeal against High Court's decision to grant relief against forfeiture of lease and award of costs – whether or not exceptional circumstances existed to warrant disentitlement of remedy of relief against forfeiture – relevant principles when interfering with a lower court's discretion.

Teiri Tepa and Others v National Environment Service and Others [21 September 2007] HC, Rarotonga, Plt No. 28/06, Misc No. 63/06 – judicial review – judicial review of various consent orders granted by the defendants concerning the removal of coastal protection units and the installation of groyne and gabion structures along a beach in Rarotonga – whether or not the defendants had applied the correct provision in the Environment Act 2003 – whether or not the defendants had taken into account irrelevant considerations in reaching their decision – issues of materiality and relief also considered.

Admission application by Vakalalabure [20 December 2007] HC, Rarotonga, Misc 67/07 – application for admission – consideration of “fit and proper person” – applicant had served as the Attorney-General following the Speight coup in Fiji in 2000 – applicant found guilty in Fiji of professional misconduct – applicant convicted of certain offences under Public Order Act (Fiji) for involvement in coup and sentenced to term of imprisonment – consideration of applicable principles governing applications for admission - Admission refused.

Complaint against Norman George, Barrister & Solicitor [18 February 2008] HC, Rarotonga – consideration of professional misconduct – whether or not the defendant had acted contrary to the provisions of the Law Practitioners Act – consideration of relevant principles governing professional misconduct – defendant found guilty of professional misconduct and reprimanded – recommendation to amend and update the disciplinary provisions of the Law Practitioners Act.

Application under Section 390A of the Cooks Islands Act 1915 [28 March 2008] HC, Rarotonga; Application No. 1/07 – land law - consideration of Court's jurisdiction under Sect. 390A – interpretation of Sect. 390A(10).

Application Strickland v Ben under Section 390A of the Cook Islands Act 1915 [14 April 2008] HC Rarotonga, Application No. 9/05 – alleged mistake in land allocation on behalf of party not considered in prior judicial decision – consideration of applicable principles governing estoppel – estoppel rejected – finding that no mistake had in fact occurred – confirmation of original Occupation Right.

Marsters v Richards [9 May 2008] HC, Rarotonga, DP 4/2008 – Child abduction, father in New Zealand, Mother and child in Cook Island – consideration of what weight to afford to the Hague Convention since Cook Islands are not party– consideration of objectives of the Convention and the legal principles governing international abduction cases – decision to return abducted child to New Zealand (foreign jurisdiction).

Descendants of Utanga and Arerangi Tumu v Descendants of Iopu Tumu [24 June 2008] HC, Rarotonga, Application No. 08/01 – land law – consideration of validity of Order made in 1912 - finding that no error was made in terms of Section 390A(1) of the Cook Islands Act 1915 – validation of 1912 Order.

Re Complaint against BM [15 December 2008] HC, Rarotonga, Misc. 18/08 – complaint against practitioner – detailed consideration of applicable provisions of Law Practitioners Act – finding of professional misconduct.

EXPERIENCE AS COUNSEL

A list of reported cases in New Zealand and overseas Courts is available on request.

PRINCIPAL PUBLICATIONS

Books:

Contributing author Duncombe & Heap (eds), *Australasian Dispute Resolution* (1995) Sydney, LBC Information Services.

Environmental and Resource Management Law in New Zealand (Second Edition 1997).

The Laws of New Zealand *Arbitration* (2000).

Co-Author of New Zealand Chapter, *Arbitration World, Jurisdictional Comparisons*, 2nd Ed, J W Rowley QC, 2006 and 2010

“Interim Measures” chapter in Michael Pryles and Michael Moser (eds) *Asian Leading Arbitrators’ Guide* (Juris Publishing) 2007.

“Jurisdiction and Admissibility other than Consent” in Peter Muchlinski, Federico Ortino and Christoph Schreuer (eds) *The Oxford Handbook of International Investment Law* (Oxford University Press) 2008.

Main Articles:

“Note: *Arbitrability: AG for New Zealand v Mobil*” (1995) 11 *Arbitration International* 96.

“The New Zealand Arbitration Act - Adoption of the Model Law with Additions” [1998] 1 *International Arbitration Law Review* 214.

“The Confidentiality of Arbitral Proceedings under the New Zealand Arbitration Act 1996” [2000] *International Arbitration Law Review* N-24.

“The Further Development of International Commercial Arbitration through the Unidroit Principles of International Commercial Contracts” (1996) 2 *NZBLQ* 7.

“Recent Developments in Arbitration and Dispute Resolution in New Zealand” [2001] *International Arbitration Law Review* 41.

“Correction and Interpretation of Awards under Article 33 of the Model Law” [2001] *International Arbitration Law Review* 119 (with Amy Buchanan).

“Review and Recourse against Awards Rendered under Investment Treaties” (2003) 4 *Journal of World Investment* 251.

“Recent Developments in Arbitration in New Zealand” [2004] *International Arbitration Law Review* 127.

“Downer-Hill Joint Venture v Government of Fiji” [2004] *International Arbitration Law Review* 177 (with Julia Crockett).

New Zealand Law Review - Contributor - Arbitration and Dispute Resolution*Annual Reviews of Arbitration and Dispute Resolution*

New Zealand Recent Law Review [1989] 331.

New Zealand Recent Law Review [1990] 296.

New Zealand Recent Law Review [1991] 21 (with F J Thorp).

New Zealand Recent Law Review [1992] (with F J Thorp) 353.

New Zealand Recent Law Review [1994] (with F J Thorp) 1.

New Zealand Law Review [1995] (with F J Thorp) 1.

[1996] *New Zealand Law Review* (with F J Thorp) 96.

[1998] *New Zealand Law Review* 1.

[2000] *New Zealand Law Review* 61.

[2002] *New Zealand Law Review* 49.

[2004] *New Zealand Law Review* 87.

[2005] *New Zealand Law Review* 119

A full list of published articles and papers is available on request.

Seminar Materials:

Arbitration Act - New Zealand Law Society Seminar 1997 (with F J Thorp).

Arbitration for the 21st Century - A Practical Guide - New Zealand Law Society Seminar 2001 (with F J Thorp).