



JOSH MCBRIDE

curriculum vitae

PERSONAL DETAILS

Full name: Joshua Dryden McBride

Date of admission: 6 June 1998 – New Zealand.
7 March 2001 – New South Wales.
2 November 2016 – Kingdom of Tonga

Work address: Richmond Chambers, Level 5 General Building,
33 Shortland St, Auckland
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KEY SKILLS

I practise as a barrister sole from Richmond Chambers in Auckland city.

I am regarded as a determined, credible, and articulate advocate. I have a strong track record of success in complex and hard-fought litigation. I have an excellent record in the Court of Appeal, both upholding judgments from the High Court and overturning those where my client has been unsuccessful at first instance. I also have a significant private arbitration and mediation practice.

Recent reported decisions include:

Ward Equipment Ltd v Preston [2018] NZCCLR 15 (CA) – contract/intellectual property dispute concerning patented high-rise construction equipment. New Zealand licensee sought to prevent Australian licensor entering New Zealand market. Whether license agreement subject to implied term of termination by either party on reasonable notice to the other, and whether implication of term was exercise in contractual interpretation.

Andrews Property Services Ltd v Body Corporate 160361 [2017] 2 NZLR 772 (CA) – multi-party construction dispute, acted for builder, Court of Appeal partly allowed our appeal and held no obligation to undertake work outside of contract to ensure the building was code compliant.

Bergman v Bergman [2015] NZCCLR 16 (CA) – forestry joint venture dispute, acted for successful respondent, argued no debt owing because of signed acknowledgment from appellant.

Body Corporate 160361 (Fleetwood Apartments) V BC 2004 Ltd [2014] 3 NZLR 758 (HC) – successfully opposed application to assign claim to a new plaintiff (being one of the existing defendants) on basis that it was champertous, as no genuine underlying commercial interest.

InterCity Group (NZ) Ltd v Nakedbus NZ Ltd (2013) 21 PRNZ 520 (HC) – case concerning Google AdWords and trade mark infringement arising from use of brand name to trigger advertisement on Google results page.

Crampton-Smith v Crampton-Smith [2012] 1 NZLR 5 (CA) – claim concerning a resulting trust arising from use of funds to purchase a property.

Heron's Flight Ltd v NZ Properties International Ltd [2012] 1 NZLR 424 (HC) – issue concerning liquidator's entitlement to set-off a counterclaim.

Otehei Bay Holdings Ltd v Fullers Bay of Islands Ltd [2011] 3 NZLR 449 (CA) – status of a lease on a recreation reserve on Urupukapuka Island which did not have a concession under the Reserves Act 1987.

Fullers Bay of Islands Ltd v Otehei Bay Holdings Ltd [2010] NZRMA 306 (HC) – application for interim orders mandating full public access to recreation reserve on Urupukapuka Island

Haig v Edgewater Developers Ltd (2009) 7 NZELR 14 (CA) – dispute concerning share options in company developing resort in Northland.

Upland Landscape Protection Society Inc v Central Otago District Council (2008) 14 ELRNZ 403 (HC) – judicial review of wind farm resource consent notification process.

WORK EXPERIENCE

MAY 2010 - PRESENT: BARRISTER SOLE, AUCKLAND

Barrister sole. Appear regularly in the High Court and Court of Appeal, as well as in private mediations and arbitrations. Extensive experience in civil disputes, including:

- Witness actions in arbitrations and in the District and High Courts, including examination and cross-examination of witnesses.
- Briefing witnesses.
- Summary matters (summary judgments, strike-outs, statutory demands, applications for security for costs).
- Mediations.
- Appeals.
- Defending criminal prosecutions brought by regulators.

FEBRUARY 2004 - 2010: BELL GULLY, AUCKLAND

Senior Associate since 2005. Broad exposure to commercial and property disputes, with significant experience in following areas:

- contract law;
 - securities law;
 - company law;
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- creditors' remedies;
- equitable remedies, including injunctions and specific performance;
- commercial law, including Fair Trading Act and Consumer Guarantees Act;
- Property Law Act and Land Transfer Act disputes, including claims of land transfer fraud;
- caveats; and
- civil fraud claims.

Regular appearances in the High Court and Court of Appeal as well as in mediations and arbitrations. Conducted trials in both the District Court and High Court, and Council hearings.

JULY 2001 – NOVEMBER 2003: FRESHFIELDS BRUCKHAUS DERINGER, LONDON

Associate in litigation department at Freshfields, London.

Member of team advising the Bank of England on its successful defence of the claim against it by the liquidators of BCCI (see *Three Rivers District Council & Ors v The Governor & Company of the Bank of England* [2006] EWHC 816 (Comm)).

Responsible for drafting briefs of evidence for the head and deputy head of the Bank of England's banking supervision division. Managed a team of paralegals and junior solicitors. Regular discussion with Queen's Counsel team on strategy and case analysis.

Also involved in opposing various discovery applications brought by the liquidators (see *Three Rivers DC v Governor and Company of the Bank of England (No 5)* [2003] QB 1556 (CA) and *Three Rivers District Council and others v Governor and Company of the Bank of England (No 5)* [2005] 4 All ER 948 (HL)).

DECEMBER 1999 – MAY 2001: GILBERT + TOBIN, AUCKLAND AND SYDNEY

Solicitor in Gilbert + Tobin's litigation department. Initially based in Auckland assisting with litigation between Clear Communications (as it then was) and Telecom in relation to interconnection charges and "free internet" access arrangements, largely arising from the decision of the Judicial Committee of the Privy Council in *Telecom Corporation of New Zealand Ltd v Clear Communications Ltd* [1995] 1 NZLR 385 (PC).

Assisted with Clear's draft submission to the Ministerial Inquiry into Telecommunications, dated May 2000.

(See <http://www.med.govt.nz/upload/29927/039.pdf>).

Moved to Sydney following settlement of Clear litigation. Worked in Gilbert + Tobin's litigation department on various contentious matters, including:

- arbitration regarding obligations under a waste management supply contract;
- defamation claims brought against a radio presenter;
- various debt recovery claims; and
- professional negligence claims.

FEBRUARY 1998 – DECEMBER 1999: BELL GULLY, AUCKLAND

Junior solicitor in litigation department (employed following summer clerking in 1996/1997).

EDUCATION

1993-1997: UNIVERSITY OF OTAGO, DUNEDIN

Bachelor of Laws (Hons) and Bachelor of Arts majoring in Political Studies.

1988-1992: TIMARU BOYS HIGH SCHOOL, TIMARU