



Peter Watts KC

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Peter Watts KC, FRSNZ is a New Zealand barrister.

He currently practises full-time at Bankside Chambers, Auckland, one of New Zealand's leading commercial sets. He has appeared as counsel at all levels of the New Zealand superior courts. He provides opinions, and is available to act in arbitrations, in England and elsewhere through Fountain Court but is not admitted to the English bar.

He is a world expert, both as barrister and academic, on the law of agency. Since 2008 he has been the General Editor of Bowstead and Reynolds on Agency (23rd ed, 2024). He has given expert evidence and advised on issues of agency law in proceedings in many jurisdictions and in international arbitrations. His practice otherwise is principally in the areas of company law, insolvency law, restitution, commercial trusts and equity.

Peter taught law at the University of Auckland for over 30 years, and currently holds a visiting professorship at the University of Oxford. He is a Senior Research Fellow of Harris Manchester College, Oxford. His other books include Directors' Powers and Duties (3rd ed, 2022), and P Watts, N Campbell and C Hare, Company Law in New Zealand (2nd ed, 2016). He is also one of the contributing editors for Chitty on Contracts (35th ed, 2023). He recently graduated Doctor of Civil Law at the University of Oxford.

Recent Highlights

Re Cryptopia Ltd [2020] NZHC 728 and [2024] NZHC 21

Acted as lead counsel in the Commonwealth's first fully contested case as to whether cryptocurrencies are property. Successfully argued that cryptocurrency exchange held currency on trust for investors. In 2023-2024 acted as amicus curiae on complex applications for distribution of crypto-assets to some 800,000+ eligible accountholders.

Singularis Holdings Ltd v Daiwa Capital Markets Europe Ltd [2019] UKSC 50

Advising on issues of attribution of acts and knowledge in company law.

Eze v Conway [2019] EWCA Civ 88

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Advising on whether introducing agent owed fiduciary duties.

UBS AG (London Branch) v Kommunale Wasserwerke Leipzig GmbH [2017] EWCA Civ 1567

Advising on a range of agency law issues.

Dunhill v Burgin [2014] UKSC 18

Advising on apparent authority of barrister acting for incapax client to enter into settlement of litigation.

Expertise

Notable cases

- Acted as lead counsel for the appellant in appeal to the New Zealand Supreme Court seeking to establish that a family trust contained a general power of appointment in favour of the lead beneficiary
- Advising in international corruption proceedings involving transactions entered into by an African state with offshore parties
- Advising in litigation against directors for insolvent trading in appeal before the New Zealand Supreme Court (the *Mainzeal* litigation).
- Advising on parent company liability in tort for pure economic loss in New Zealand litigation, subsequently settled (the *James Hardie* litigation).
- Advising in New Zealand litigation on issues of contract damages where claimants are said not to have suffered the relevant loss (Lenesta Sludge/Panatown principles in the *Westgate* litigation).
- Advising on agency law issues in New York Bankruptcy litigation against certain banks arising out of a Ponzi scheme (the *Fairfield Sentry* litigation).
- Advising on appeal (settled) to the UK Supreme Court in a case involving the liability of a financial advice company for fraudulent misrepresentations by an investment advisor made outside the agency.
- Advising on appeal from UK arbitration in an international oil-industry case concerned with an agent's involvement in bribery in transactions unrelated to the contract being challenged.
- Advising on appeal to the UK Supreme Court concerned with the principal's capacity and the apparent authority of state officials in an international loan transaction.
- Advising on appeal from EWHC involving vicarious liability of an officer of an unincorporated association for libel written by a committee member.
- Advising on UK arbitration involving a dispute between a football player and his former agent.
- Acting as expert witness in Danish court in litigation between a Danish manufacturer and its New Zealand-based agent on a wide range of points of agency law.

References within judgments

"We have been greatly helped by the analysis provided by Professor Watts in a characteristically lucid article,



‘Illegality and Agency Law: Authorising Illegal Action’ [2011] JBL 213”

Lord Toulson and Lord Hodge in *Bilta (UK) Ltd v Nazir (No 2)* [2015] UKSC 23 at [159]

“The reasoning in the *Akai* case has been the subject of strong criticism, however: *Bowstead & Reynolds on Agency* (21st edn, 2017) paras 8–49 to 8–50; P Watts, ‘Some Wear and Tear on *Armagas v Mundogas*—The Tension between Having and Wanting in the Law of Agency’ (2015) 1 LMCLQ 36, 48–56. In the Board’s respectful view, much of that criticism has considerable force”:

Lord Kitchin in *East Asia Co Ltd v PT Satria* [2019] UKPC 30 at [85]

“The facts of the case are somewhat complex and the reasoning of the opinions of Lord Westbury LC, Lord Cranworth and Lord Chelmsford is not always entirely easy to follow. The decision has been carefully and interestingly analysed by Professor Watts, ‘*Tyrrell v Bank of London* – an Inside Look at an Inside Job’ (2013) 129 LQR 527”:

Lord Neuberger in *FHR European Ventures LLP v Cedar Capital* [2014] UKSC 45 at [23]

“Authority to act as agent includes only authority to act honestly in pursuit of the interests of the principal.” The basis for this proposition is elucidated both in the comment that follows it [in *Bowstead & Reynolds*] and in a valuable article by the current main editor, Peter Watts, “Actual authority: the requirement for an agent honestly to believe that an exercise of power is in the principal’s interests” [2017] JBL 269.

“Professor Watts, who has done much to illuminate this area of the law, disputes that conclusion.”

Lord Leggatt in *Philipp v Barclays Bank UK Plc* [2023] UKSC 25 at [72] and [92]

Education

- DCL, University of Oxford (2024)
- LLM, University of Cambridge (1982)
- LLB (Hons), University of Canterbury (1980)

International Bar / Court Appointments

- New Zealand

Appointments, Memberships and Prizes

- New Zealand Bar Association
- Fellow of the Royal Society of New Zealand
- Associate of the AMINZ (Arbitrators and Mediators Institute of New Zealand)



Publications

- 'Re Citibank (the Revlon case)—Pleading a Third Party's Indebtedness as a Defence to Recovery of a Mistaken Payment, [2023] *Journal of Business Law* 87-98
- 'Agency' in W Day and S Worthington (eds) *Challenging Private Law: Lord Sumption on the Supreme Court* (Hart Publishing, Oxford, 2020) 257-272
- 'Sequana in the Supreme Court: Cautious Confirmation of the Creditor-Extension to the Director's Duty of Loyalty', [2023] *Journal of International Banking and Finance Law* 74-78
- 'Playing the Quincecare Card', (2022) 138 *Law Quarterly Review* 530-535
- 'Trustees with Absolute Discretions—a Case of Dr Jekyll and Mr Hyde in the New Zealand Courts', (2022) 36 *Trust Law International* 3-25
- 'Why as a Matter of English Law Principle Directors Do Not Owe a Duty to Creditors Upon Insolvency' [2021] *Journal of Business Law* 103
- 'The Quincecare Duty: Misconceived and Misdelivered', [2020] *Journal of Business Law* 402-415
- 'Silence and Solidarity?—the Duties of Individual Directors Minded to Speak out about their Board's Decision-making and Governance' in C Mitchell and S Watterson (eds, 2020) *The World of Maritime and Commercial Law*, 345-365
- 'The Release Fee as a Remedy for Breach of Contract—the Judgment of Elias J in *Cash Handling* in the Light of *Morris-Garner*' in S Mount and M Harris (eds, 2019) *The Promise of Law—Essays Marking the Retirement of Dame Sian Elias*, 227-248
- 'The Travails of Vicarious Liability', (2019) 135 *Law Quarterly Review* 7-11
- 'Forfeiture of Agents' Remuneration' in P Devonshire and R Havelock (eds, 2018) *Impact of Equity and Restitution in Commerce*, 203-226
- 'Attribution and Limitation', (2018) 134 *Law Quarterly Review* 350-353
- 'Does Apparent Authority Wane?: a Problematic Question in English Agency Law', [2018] *Journal of Business Law* 663-678
- 'Lucky Escapes' (case note of *Swynson Ltd v Lowick Rose LLP* [2017] UKSC 32), (2017) 133 *Law Quarterly Review* 542-546
- 'Some Aspects of the Intersection of the Law of Agency with the Law of Trusts', in P S Davies and J Penner (eds, 2017) *Equity, Trusts and Commerce*, 29-50
- 'The Acts and States of Knowledge of Agents as Factors in Principals' Restitutionary Liability', [2017] *Lloyd's Maritime and Commercial Law Quarterly* 385-411
- 'Actual Authority: the Requirement for an Agent Honestly to Believe that an Exercise of Power is in the Principal's Interests', [2017] *Journal of Business Law* 269-281
- 'The Insolvency of Agents', (2017) 133 *Law Quarterly Review* 11-14
- 'Unjust enrichment—The potion that induces well-meaning sloppiness of thought', [2016] *Current Legal Problems* 289-325
- 'Agents' Disbursal of Funds in Breach of Instructions', [2016] *Lloyd's Maritime and Commercial Law Quarterly* 118-134
- 'The Onus of Proof in Restitutionary Claims', (2016) 132 *Law Quarterly Review* 11-15

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