CURRICULUM VITAE

LADY DEBORAH ANNE TOHILL CHAMBERS QC

Born:	North Shore, 22 March 1961
Nationality:	New Zealand
Professional Education:	Bachelor of Laws and Bachelor of Arts (University of Auckland 1982)
Date of Admission:	October 1983 at Auckland
Date of Commencement of practice as a Barrister:	14 August 1989
Date of Appointment as Queen's Counsel	14 May 2007
Special Fields of Practice:	Relationship property Family Trust disputes
Professional Memberships:	New Zealand Bar Association (member of Council 1998-2002)
	Auckland Women Lawyers Association (President 2002)
	Member New Zealand Law Society Family Law New Zealand Biannual Conference Committee 2007 and Chairperson of that Committee for the 2009 Conference.
	Member of the New Zealand Law Society Practice Approval Committee (from 2012 - 30 June 2017).
	Chairperson of the Property Law Intensive Conference due to be held in September 2016
Websites:	<u>http://www.bankside.co.nz/barrister/lady-</u> <u>deborah-chambers-qc/</u>
	<u>https://en.wikipedia.org/wiki/Deborah_Cham</u> <u>bers</u>

Member of Bankside Chambers from 2007 to Chambers: present **EMPLOYMENT RECORD:** From: May 2007 Position: Queen's Counsel at Bankside Chambers From: 1989 Position: **Barrister** Sole From: December 1987 Employer: Russell McVeagh McKenzie Bartleet & Co Position: Senior Staff Solicitor November 1986 From: Employer: Procurator Fiscal's Office, Glasgow, Scotland Position: Procurator Fiscal Depute From: April 1985

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Profil.April 1965Employer:Meredith ConnellPositionSolicitorFrom:January 1983Employer:Butler White & HannaPosition:Law Clerk and Solicitor

FURTHER INFORMATION:

Publications:

Co-author of New Zealand Master Trusts Guide, published by CCH

The quantum of economic disparity article in the NZLJ [November 2010 366].

For Richer For Poorer a best-selling handbook on domestic property law and estate law, published by CCH in 2001.

Contributor to New Zealand Bar Association Newsletter, Auckland Women Lawyers Newsletter and Law Talk.

Of Gold Diggers and Possums – Section 15 of the Property (Relationships) Act 1976.

2000 Runner up for *Law Talk* writers award for article on "Family Trusts and Matrimonial Property".

New Zealand Listener columnist.

The Family Advocate – February 2002.

Paper *'Hunger Games – Weapons for a game of Trusts'* for New Zealand Law Society Trusts Conference – June 2013.

Article "Baby, Baby, Baby, Where did our trust go?" for International Family Law Conference, Queenstown – September 2015.

Article "Simple policy changes could help close pay gap" in the New Zealand Herald, 30 March 2016

Article "Better Cross Examination" by Deborah Chambers QC in the Family Law Advocate, summer 2017 volume 19, issue 2, page 24

Article "Unconscious Bias is too kind", State of the Nation in the New Zealand Women's Law Journal Volume I, 2017

Articles where Lady Deborah Chambers QC, who represents the wife, was recently reported extensively in the New Zealand press: <u>https://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=1210</u> <u>5528</u> <u>https://www.stuff.co.nz/national/105777386/multimillionaire-couple-named-in-high-court-divorce-case</u>

Teaching & Seminars:

Co-Judge Stout Shield Preliminary Moots - April 1991.

Part time tutor University of Auckland 1993 & 1994.

Speaker at New Zealand Law Conference 1993 "The Children Young Persons and their Families Act – A Blueprint for Adults".

Judge Evidence Moot Faculty of Law – May 1996.

Faculty member New Zealand Law Society Litigation Skills Programme June 1996.

One lecture per annum on Domestic Property for the Faculty of Law 1996-1999.

Auckland District Law Society Litigation Potpourri seminar on "Z v Z" March 1997.

Speaker on "Superannuation and The Matrimonial Property Act" – Association of Superannuation Funds of New Zealand – March 1997.

Speaker New Zealand Law Society Property Law Conference July 1997 – "Developments in Domestic Property".

Leader of seminar on domestic property for New Zealand Law Society throughout New Zealand in 1997.

Speaker at the Medical Law Symposium, 1997.

Speaker at "The Comprehensive Storm Water and Aquatic Ecosystem Management Conference" on "Sherlock Holmes and the Resource Management Act" February 1999.

Speaker on Property Sharing Agreements at the New Zealand Institute of Legal Executives Incorporated Seminar – November 1999.

Speaker at Auckland District Law Society seminar "Survival Seminar for Litigators – from Office to Courtroom" – November 2000

Speaker at New Zealand Law Society Triennial Conference, Christchurch 2001 on The Scope and Consequences of the Reform of the Matrimonial Property Act 1976.

Speaker at Chartered Institute of Corporate Management on the Property (Relationships) Act – September 2001.

Presenter of seminar on business valuations and expert witnesses with Tony Frankham for New Zealand Law Society throughout New Zealand, July-August 2001.

Speaker on Trust Law at New Zealand Strategic Asset Management Conference, September 2001.

Invited to and attended the Company Director Governance Seminar conducted by the Institute of Directors and The Crown Company Monitoring Advisory Unit – June 2002.

Speaker at the valedictory sitting for Master Anne Gambrill, delivered at the Auckland High Court, 12 September 2002.

Speaker Auckland Women Lawyers Careers Evening at Auckland University Faculty of Law – September 2002.

Speaker and Chair at Women and Partnership Seminar for Auckland Women Lawyers Association – November 2002.

Speaker New Zealand Law Society Trusts Conference on 11,12, 18 and 19 August 2003 at Christchurch and Auckland on Relationship Property and Family Trusts.

Speaker Auckland Medico-Legal Society Dinner, September 2003 on Auckland District Health Board Body Parts, Tissues and Substances Review Panel Report.

Speaker at the valedictory sitting for His Honour Justice Fisher QC, April 2004, Auckland High Court, representing the Family Bar.

Keynote speaker at New Zealand Family Law Conference 2003 on "Maintenance – Changes to the Family Proceedings Act and How to Make That Work For You."

Keynote speaker at the Institute of Chartered Accountants 2004 Conference on 23 and 24 April 2004 on the Property (Relationships) Act and the critical relationships with trust structures.

Speaker at Auckland Trust Special Interest Group on Trusts and Relationship Property 2004.

Presentation of paper on Trusts and Relationship Property for Institute of Chartered Accountants of New Zealand "Business Women in the Profession", March 2005.

Speaker New Zealand Law Society "Rural Transactions – Getting it Right", twoday intensive and Relationship Property and Death and Divorce, September 2005.

Speaker New Zealand Law Society Family Law Conference 2005 on Trusts and the Property (Relationships) Act 1976.

Speaker New Zealand Law Society Legal Executives Conference 2006 on Trusts, Estates and the Property (Relationships) Act 1976 - Asset Protection.

Speaker New Zealand Institute of Chartered Accountants Conference 2006 on Trusts in Rural Transactions.

Speaker New Zealand Institute of Legal Executives Seminar 2007 on Relationship Property.

Speaker LexisNexis Property Relationships Masterclass Conference 2007 – as counsel in mock trial with a focus on the issue of economic disparity.

Speaker New Zealand Law Society Conference 2007 on Specific Issues Relating to Relationships in the Context of a Succession Plan.

Speaker Auckland District Law Society "Cradle to Grave" Conference 2008.

Speaker Institute of Chartered Accountants of New Zealand Trusts Special Interest Group Seminar 2008.

Speaker New Zealand Bar Association Junior/Intermediate Litigators Seminar July and October 2008.

Speaker Institute of Chartered Accountants of New Zealand Public Practice Conference 2009.

Chairperson New Zealand Law Society Triannual Family Law Conference Organising Committee September 2009.

Speaker Auckland District Law Society "Cradle to Grave" Conference 2009.

Speaker Institute of Chartered Accountants of New Zealand Trusts Special Interest Group Seminar 2010 on the implications of the *Ward v Ward* decision in the Supreme Court.

Speaker New Zealand Law Society Relationship Property Intensive Conference 2010 – Your Big (Legal) Day Out!

Speak Arbitrators' and Mediators' Institute of New Zealand Inc – Family Mediation Conference February 2011.

Speaker at Trusts Special Interest Group – February 2014.

Speaker at New Zealand Institute of Chartered Accountants Trust Conference – June 2014.

Speaker at New Zealand Law Society CLE "Mediation - making the process work for your client" Seminar – October 2014.

Speaker at the Auckland Executive Club Inc, Women Networking for Positive Growth Seminar – October 2014.

Speaker at Trusts Special Interest Group – February 2015.

Speaker in regard to Trust Law and the Trans-Tasman Proceedings Act at the 5th International Family Law Conference, Queenstown – August 2015.

Speaker at NZLS Farm Succession Planning Intensive, Christchurch and Hamilton – August 2015.

Speaker at Trusts Special Interest Group (ramifications of the Supreme Court decision in *Clayton v Clayton*) - 13 April 2016

Speaker at Legal Research Foundation Conference (regarding relationship property and trusts, specifically *Clayton*) – 22 June 2016

Guest Lecturer at Auckland University "Top Practitioners Series" - August 2016

Chairperson NZLS PRA Intensive, Wellington and Auckland – 14 and 15 September 2016

Speaker NZBA Annual Conference, cross-examination – 16 September 2016

Presenter Chartered Accountants Fraud and Forensic Conference, "Insights into the Courtroom from a leading relationship property expert" - June 2017

Presenter: In Short seminar "Asset protection – death and divorce" – 14 November 2017

Television:

Presenter from time to time on TV1 Good Morning law programme.

Presenter of "The Trial", two 60 minute documentaries on R v Caulder and R v Barlow.

Speaker on Breakfast "Should everyone sign a prenuptual agreement", Thursday 23 November 2017 (<u>https://www.tvnz.co.nz/one-news/new-zealand/doubt-over-prenups-cast-landmark-aussie-case-contract-would-have-been-overthrown-in-nz</u>)

Appeared on Seven Sharp in regard to an entertaining news segment on prenuptial agreements.(April 2018) <u>https://www.tvnz.co.nz/one-news/new-</u> zealand/should-kiwi-couples-tackle-thormy-pre-nup-issue-before-big-day

Other:

After dinner speaker at numerous Law Society and Bar Association dinners and conferences.

Positions Held:

Board of Trustees and Company Director – Board of Trustees of the National Provident Fund from 2003 to 31 March 2008.

Member of Auckland CHE Review Committee dealing with consumers' complaints and systems failures since 1996 and chairperson since 1998.

President of Auckland Women Lawyers Association (2002).

Member of the Council for New Zealand Bar Association (1998-2002).

Chairperson of Auckland District Health Board Body Parts, Tissue and Substances Review Panel (2002).

Member National Women's Dysplasia Review Advisory Group (review implementation of recommendations of the Cartwright Enquiry at National Women's) (1998-2000).

Convenor of Public Issues Committee for the Auckland District Law Society (1997 – 2000).

Member of New Zealand Heart Foundation Scientific Committee (December 2000 - February 2003).

President and committee member of Auckland District Law Society's Crèche Committee (1991 – 1999).

Member of the Crown Prosecution panel in Auckland.

Legal assessor for Dentists Disciplinary Tribunal.

Panel member in regard to prosecutions under the Medical Practitioners Act.

Member Auckland Law Society Sub-Committee on Family Law 1984.

Member Young Members Sub-Committee of the Auckland District Law Society 1985 and 1986.

Member Children & Young Persons Subcommittee of the Auckland District Law Society 1989 to 1993.

Member Equal Employment Opportunities Committee of the Auckland District Law Society 1993 and 1994.

Member Implementation Committee for working report on women in the legal profession 1982 and 1983.

Member of the Auckland Law School Innovation and Development Fund Campaign Committee from 2009 until 2013.

Chair of the Auckland Law School 1980s Reunion Committee in 2013 and 2014.

Member of the New Zealand Law Society Practice Approval Committee from 2012 until 30 June 2017.

Member of the Auckland Law School Campaign Committee from 2016 to 2017.

MAJOR CASES:

Privy Council

Prebble v TVNZ [1994] 3 NZLR 1 (Defamation constitutional law and Parliamentary privilege case).

Supreme Court

Clayton v Clayton (counsel for the wife) [2016] NZSC 30, [2016] NZFLR 189. I appeared in the Supreme Court representing Mrs Clayton in this landmark case. This case involved a large number of family trusts created during the course of a long marriage. The complexity is reflected in the fact that the hearing took three full days of hearing time before the Supreme Court. Commentators have referred to this case as "*rewriting the legal landscape*" in regard to relationship property and trusts. Mrs Clayton with my advocacy was successful in regard to all of her major claims.

Thompson v Thompson [2014] NZSC 101 (counsel for the husband) [2014] NZCA 117, [2014] 2 NZLR 741, [2014] NZFLR 507, (2014) 29 FRNZ 810, [2015] NZSC 26, [2015] 1 NZLR 593, [2015] NZFLR 150, (2015) 30 FRNZ 123. I appeared for the husband, Mr Thompson, in regard to this litigation which

involved a single asset dispute being the categorisation of a restraint of trade payment paid to the husband four and a half years after separation when the business, commenced during the marriage, was sold to a private equity firm. All other issues in regard to relationship property and trust property had been settled, but the issue of categorisation of the restraint of trade payment was complex and resulted in litigation at all four Court levels. Mr Thompson was successful in the Family Court, High Court and Court of Appeal. However, the Supreme Court ruled that although the restraint of trade payment was Mr Thompson's separate property, it was appropriate to use a discretion provided under s9(4) of the Property (Relationships) Act 1976 to reclassify it as relationship property.

Down v R (on appeal to the Supreme Court from Wallace Corporation v Waikato Regional Council), [2012] NZSC 21, [2012] 2 NZLR 585.

Court of Appeal

Prebble v TVNZ [1993] 3 NZLR 513.

Auckland Regional Council (McKnight) v NZ Biogas Industries Ltd [1994] 2 NZLR 664 (Prosecution under the Resource Management Act for pollution, appearing for the Auckland Regional Council).

Coxhead v Newmans Tours Limited [1994] TCLR 11 (Claim for breach of contract covering Fair Trading Act, Contractual Remedies Act, collateral contract claim and negligence).

Z v Z [1997] 2 NZLR 258 (Claim for future earnings).

Gallichan v Gallichan (1999) 18 FRNZ 318.

D v C [2002] NZFLR 97.

Radisich v O'Neil 19 Dec 1995.

R v Sililoto 4 Sep 1997.

Eksteen v McKay Hill 30 May 2000 (Claim for negligence against law firm).

M v B [2006] 3 NZLR 660 (CA); [2006] NZFLR 641 (economic disparity)

C v C [2009] NZCA 319

C v G [2009] NZCA 506 (leave to appeal)

Sanders v Sanders [2010] NZCA 176 (publication)

Simpson & Anor v Walker & Ors (2012) 28 FRNZ 815 (CA)

ROJ v TEJ [2013] NZCA 323

Thompson v Thompson [2014] NZCA 247

Thompson v Thompson [2015] NZCA 228

Clayton v Clayton [2015] NZCA 330. I appeared for Mrs Clayton in the Court of Appeal. The issues included company valuation issues in regard to a substantial saw milling business as well as the operation of the Property (Relationships) Act 1976 in regard to trusts formed during a marriage. Subsequently the husband sought leave to appeal to the Supreme Court in regard to all issues decided by the Court of Appeal. He was given limited leave in regard to some issues. Mrs Clayton was also granted leave to proceed with a cross-appeal

Addleman v Lambie Trustee Limited [2018] NZCA 616

Biggs v Biggs [2018] NZCA 546

High Court & Other Courts:

<u>Reported</u>

Craig v East Coast Bays Borough Council [1986] 1 NZLR 99 (claim in tort in respect of loss of view).

Re X [1991] 2 NZLR 365; (1990) 4 NZFLR 160; [1990] NZFLR (HC – preliminary point); [1991] NZFLR 49 (HC). (Acting for applicant parents seeking High Court sanction to obtain a hysterectomy for their severely handicapped daughter, successfully).

Newmans Tours Ltd v Ranier Investments Ltd [1992] 2 NZLR 68.

Leny v Leny [1992] NZFLR 133 (HC).

Re Norma [1992] NZFLR 445 (HC).

Prebble v TVNZ [1993] 3 NZLR 513.

Vaney v Bright [1993] NZFLR 761.

ARC v Biogas [1994] 2 NZLR 664; (1993) 2 NZRMA 681 (prosecution under the Resource Management Act for pollution).

Cavanagh v Cavanagh [1994] NZFLR 365.

Adoption Application by C [1995] NZFLR 795.

Radisich v O'Neil [1995] NZFLR 377 (HC).

B v B [1997] NZFLR 217; *B v B* (No 2) [1997] NZFLR 236.

Re RSR [1997] NZFLR 737.

Z v Z [1997] 2 NZLR 257.

D v D [1998] NZFLR 453.

Nuplex Industries Ltd v Auckland Regional Council [1999] 1 NZLR 181.

Zervudachi v Tattersfield [1999] NZFLR 433.

N v N [1999] NZFLR 481.

D v C [2001] NZFLR 97 (FC) & [2000] NZFLR 514 (HC).

Interclean Industrial Services Ltd v ARC [2002] 3 NZLR 489.

Y v Y [2002] NZFLR 509.

Compain v Parlane [2002] NZFLR 1009.

Sullivan v Sullivan [2002] NZFLR 1037.

McCormick v McCormick High Court February 2002. (Matrimonial property appeal with issues of valuation of surgeon's practice). [2002] BCL 660

Far North District Council v Relling (Judicial review by a ratepayer in regard to bylaw).

Redding v Redding [2003] BCL 10.

B v D-B [2005] NZFLR 241

Q v Q (2005) 24 FRNZ 232. First case of principle in regard to constructive trust interest in a trust and increase in value of a final beneficial interest in a family trust, in the context of a relationship property division.

B v M [2005] NZFLR 730 (HC). First major case dealing with Z v Z, economic disparity and long term spousal maintenance and "relationship property" in a mirror trust.

Anderson v Onward Development Group Ltd [2007] NZFLR 662 (HC)

S v L [2008] NZFLR 237 (HC) - Relocation

P v P [2008] NZFLR 363 (HC) - Domestic Violence

C v C [2009] BCL 138 – Appeal, valuation of properties challenged

C v C [Costs] [2009] NZFLR 322 – successful landmark application for order husband pay wife's forensic valuation costs.

Counties Manukau Pacific Trust v Manukau City Council [2009] 2 NZLR 260 – Equity – Fiduciary relationship. I acted for Manukau City Council, the successful litigant.

URS NZ Ltd v District Court at Auckland and ARC [2009] NZRMA 529 (HC); [2009] DCR 561 – Judicial Review of unsuccessful submission of no case to answer in regard to oil spill RMA prosecution. I was counsel for Auckland Regional Council and the applicant's application was declined.

X v Y [2010] BCL 377 – Judgment sum and costs.

C v G [2010] NZFLR 497 (CA) – Maintenance of former partner: period of liability.

JJD v AFDD [2010] NZFLR 542 – Restraining order to prevent disposition of property – termination pay and capital from employer – separate property to pay off debts.

Taylor v Radisich [2010] NZFLR 712 – Procedural issues – discovery – timetabling.

R v P [2011] NZFLR 1 – Domestic violence: forms conveniens

Heatley v Heatley (Transfer to High Court) [2012] NZFLR [HC] 688 (re jurisdiction of the Family Court to transfer complex relationship property to the High Court)

H v E [2012] NZHC 1372

URS & Ors v Auckland Regional Council [2012] NZHC 723

Millar v Millar [2013] NZHC 1302 (application seeking an order disqualifying opposing Counsel from representing defendant)

Wilson v Shi [2014] NZHC 1978; Wilson v Shi [2014] NZHC 973

Patel v Patel [2014] NZHC 2410; Patel v Patel [2014] NZHC 1381

PB v BJB [2014] NZHC 3165; PB v BJB [2015] NZHC 774

Dixon v Kingsley [2015] NZFLR 1012, [2015] NZFC 9596, [2015] NZHC 2044. I represented the wife. The Family Court decision is a key decision in terms of compensation for post-separation contribution. In this case, Deborah argued successfully that the wife who was looking after the two sons of the marriage full-time without any real assistance from her former husband, and running a successful business, which had increased in value since separation, should receive a large compensation payment for that post-separation effort. The Family Court awarded the wife \$750,000 in regard to her post-separation contribution. This award is well in excess of any awards previously awarded under this section. The husband has appealed. The appeal is due to proceed later in 2016. An interlocutory appeal to the High Court between the same parties concerned the rules in regard to discovery in relationship property proceedings and in particular

the degree of relevance required before disclosure would be directed. The decision by Kos J is now the key decision in regard to discovery in relationship property proceedings.

Kerr v Bamber ([2017] NZHC 82) the husband, represented by Lady Deborah Chambers QC, successfully appealed a Family Court decision ordering him to provide extensive discovery before a hearing on jurisdiction under the Trans-Tasman Proceedings Act 2010 ("TTPA"). Mander J held that strictly speaking the Family Court had no jurisdiction to make discovery orders without convening a judicial conference. More importantly the Judge held that the extensive discovery orders would defeat the TTPA's objective in providing an expeditious and efficient means to determine jurisdiction with a trans-Tasman element.

Brainich-Eilander v Ward ([2016] NZHC 2481 and [2016] NZHC 3176) reassess from first principles the power under s 38 of the Property (Relationships) Act 1976 to order inquiries. S 38 allows a Judge to appoint an expert to enquire into any issues of fact in relationship property proceedings including whether property exists that has not been declared and value of property. It has been underused. This decision of the High Court finally breathes life into what should become a powerful tool for relationship property lawyers. The Brainich-Eilander decisions are the first significant decisions looking fully at how the section should operate. The decisions of Heath J expand the operation of s 38 and take a wide view as to the powers the Court can grant to the appointee. The wife, represented by Lady Deborah Chambers QC, successfully appealed against the decision of the Family Court not to grant her a s 38 order. Heath J held that the Family Court was wrong to regard s 38 as an order of last resort. Any coercive order for information disclosure should be proportionate in the circumstances, whether that be orders for particular discovery, interrogatories, a s 38 inquiry or an oral examination. Bearing that in mind a court must determine the best means by which any information deficit can be remedied. In the second decision Heath J considered the role of a s 38 appointee and the appropriate powers to be vested in the appointee.

MVAM v ASP [2017] NZFC 7810 [4 October 2017]. Deborah's client, Mr M, applied for interim maintenance which was opposed by Mrs P. The Family Court awarded the husband interim maintenance of \$16,378 per month, taking into account rent, legal and accounting fees and travel.

It is understood that this case is the first case in New Zealand of a male partner

being granted spousal maintenance. Of course, the Family Proceedings Act 1980 is gender neutral, so there should not be anything surprising about a man being granted maintenance. Lady Chambers explains that the reason this is likely to be the first case is because in most relationships, men are able to meet their reasonable needs when a relationship breaks down because they have not undertaken the domestic role. In this case, Mr M contributed as a full-time partner to his de facto wife and thus successfully applied for a maintenance order after a long relationship.

Addleman v Lambie Trustee Limited [2017] NZHC 2054 (HC), Woolford J, 25 August 2017 Burmester v Burmester [2018] NZHC 47 [2 February 2018]. Rule v Simpson [2017] NZHC 2154 [6 September 2017]. Romanes v Romanes [2017] NZFC 9928

Romanes v Romanes [2018] NZHC 3344

<u>Unreported</u>

- Various matrimonial property, trust and other cases.
- Prosecution of numerous jury trials in High Court and District Court and in Scotland, including 6 murders.
- Defence in numerous jury trials in High Court and District Court, including 2 murders.
- Numerous appeals in the High Court on behalf of the Crown.
- Prosecutions before the Medical Council appearing on behalf of the Complaints Assessment Committees.
- Numerous prosecutions for the Auckland Regional Council for pollution under the Resource Management Act including, in 1999, the first conviction by a jury in New Zealand under this Act.
- Junior counsel at court martial.
- Numerous other matrimonial property, family and civil cases.
- Page v Page & Ors, Auckland District Court, CRI 2003-004-31868, 2 October 2006. Successful defence of a private prosecution for perjury resulting in full indemnity costs order.