

The logo features a stylized, dashed line graphic that resembles a series of connected arches or a wavy path, starting from the top left and moving towards the right, ending just above the company name.

Wigley & Company

BARRISTERS *and* SOLICITORS

**SUPREME COURT REVERSES LORD OF THE RINGS
EMPLOYMENT DECISION**

June 2005

OVERVIEW

The Supreme Court decision revolves around procedural rather than substantive issues and the law described in our earlier paper largely continues to apply (*Lord of the Rings Clarifies the Independent Contractor-Employee Divide at* <http://www.wigleylaw.com/mainsite/LordoftheRings.html>).

On 16 June 2005, the Supreme Court reversed the Court of Appeal's decision. It reinstated the Employment Court conclusion that Mr Bryson was an employee not a contractor (and so he could enforce employee rights).

As we noted in our article on the Court of Appeal decision at <http://www.wigleylaw.com/mainsite/LordoftheRings.html>, the facts of the case are relatively unique. The general principles and conclusions, outside those unique facts, remain untouched by the Supreme Court case. That is because the Supreme Court decided the issue on a procedural rather than a substantive basis. Appeals from the Employment Court are only available where the decision is wrong in law. While the facts are usually relevant to any question of law, in broad terms, the Appeal Court cannot substitute its own views on the facts except in extreme cases. With this restraint relating to questions of law, the Supreme Court said that the Employment Court was able to draw the factual conclusions that it did. It mattered not that an Appeal Court could have drawn different conclusions from the same facts (because the appeal is limited to questions of law).

Therefore, the general principles outlined in our earlier article remain. We think that the particular facts in the LoTR case are unique (particularly the implications of the film industry focus on engaging contractors rather than employees). They are unlikely to be applicable to other industries such as the IT and telco sectors.

Wigley & Company is a specialist technology (including IT and telecommunications), procurement and marketing law firm founded 11 years ago. With broad experience in acting for both vendors and purchasers, Wigley & Company understands the issues on “both sides of the fence”, and so assists its clients in achieving win-win outcomes.

While the firm acts extensively in the commercial sector, it also has a large public sector agency client base, and understands the unique needs of the public sector. While mostly we work for large organisations, we also act for SMEs.

With a strong combination of commercial, legal, technical and strategic smarts, Wigley & Company provides genuinely innovative and pragmatic solutions.

The firm is actively involved in professional organisations (for example, Michael is President of the Technology Law Society and Stuart van Rij its secretary).

We welcome your feedback on this article and any enquiries you might have in respect of its contents. Please note that this article is only intended to provide a summary of the material covered and does not constitute legal advice. You should seek specialist legal advice before taking any action in relation to the matters contained in this article.

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