

1206

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**CP86/01**

**BETWEEN                      PHILIP RUSSELL KING**  
  
**Plaintiff**  
  
**AND                              TV3 NETWORK SERVICES LIMITED**  
  
**First Defendant**  
  
**AND                              TOP SHELF PRODUCTIONS LIMITED**  
  
**Second Defendant**

**Hearing:            11 September 2002**

**Counsel:            R J Cullen for the Plaintiff  
                          T J G Allan for the First Defendant  
                          N J Russell for the Second Defendant**

**Judgment:        1 October 2002**

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**JUDGMENT OF WILD J**

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**Application**

[1] By application dated 20 February, the plaintiff applies for orders extending the time for its application, and for review of the decision of Master Thomson delivered on 20 December last year. The Master struck out three of the plaintiff's four causes of action.

[2] The application was adjourned several times before being removed from the list by Gendall J on 27 May, counsel to apply to the Registrar for a fixture.

[3] I eventually heard the matter on 11 September.

### **Enlargement of time**

[4] The plaintiff satisfactorily explained its delay in applying. In brief, his solicitor incorrectly believed he needed to appeal from the Master's decision, and he filed an appeal in the Court of Appeal. Only subsequently, and well outside the 7 day period allowed for seeking review, did the plaintiff become aware that his proper remedy was to apply to review the Master's decision.

[5] Neither defendant seriously opposes an enlargement of time. Time is accordingly extended to permit the filing of the review application back on 20 February.

### **Factual background**

[6] The plaintiff operated a motor repair business trading as Capital Auto Repair Services or "CARS". His business was one of several which were the subject of the "Target" consumer affairs programme broadcast by the first defendant ("TV3") on 25 April 1999.

[7] TV3 engaged the second defendant ("Top Shelf") to make the Target programme for it. Top Shelf arranged for the plaintiff to tune a car for it. Top Shelf had deliberately altered some of the engine settings. CARS tuned the engine, correcting all but one of the settings in the process and replacing a blocked vacuum hose. The exception was the "dwell" setting, which the plaintiff deliberately set outside the manufacturer's specification in order, he later explained, to maximise running time before a further tune up was required.

[8] Top Shelf covertly filmed the plaintiff carrying out the repair work. Subsequently it revealed to the plaintiff what it had done and criticised CARS' work in several respects. It invited the plaintiff to respond to its criticisms before broadcasting the programme. The plaintiff did so, disputing Top Shelf's findings.

Nevertheless, the Target programme was broadcast, and described CARS' work – as well as that of three other motor mechanics – as “very disappointing”. One of the presenters on the Target programme said that it was “just as well that his car has got to go back for another tune up tomorrow”.

[9] The plaintiff objected strongly to the Target programme, and asked for an opportunity to demonstrate errors made in it. The defendants agreed to convene a “challenge”. On the agreed day, and overseen by an impartial judge, CARS was presented with and tuned another car. The result subsequently broadcast on 29 August 1999 was declared to be a “draw”. No apology or retraction was published.

[10] The plaintiff claims the defendants wrongly criticised CARS' repair work, resulting in a dramatic downturn in CARS' business.

[11] In his proceeding the plaintiff claims against both defendants substantial general damages, and also exemplary damages, based on four causes of action. As set out in a proposed amended statement of claim made available to the Court under cover of a memorandum dated 6 September, these are:

- [a] Interference with plaintiff's business by unlawful means (the unlawful means including conspiracy to injure).
- [b] Negligence.
- [c] Breach of the Fair Trading Act 1986.
- [d] Defamation.

### **The Master's decision**

[12] After backgrounding the facts and setting out the four causes of action, the Master dealt in turn with each. He struck out the first cause of action, which he took to invoke the tort of unlawful interference with trade, on the grounds that the

plaintiff could not show that the defendants had the requisite intention of harming CARS' business.

[13] He struck out the cause of action under the Fair Trading Act, holding that both defendants were "broadcasting bodies" (within the meaning in s 2 of the Broadcasting Act 1976), and were thus protected by s 15 of the Fair Trading Act, and did not come within one of the exceptions in s 15(2)(b).

[14] Next, the Master struck out the plaintiff's cause of action in negligence, on the ground that it cut across the tort of defamation, which was also pleaded, and which was the plaintiff's appropriate, indeed only (pleaded), cause of action. The Master said:

"[28] Clearly the real issue in this case is whether the defendants defamed the plaintiff ..."

[15] The Master then dealt with the plaintiff's fourth cause of action, defamation. He said there was force in several of the defendants' criticisms of the way in which that cause of action was pleaded, but concluded:

"[33] ... It would, in my view, be premature to strike out the cause of action in defamation but the Statement of Claim clearly needs extensive amendment, particularly as to innuendo.

...

[34] ...However the result is that all causes of action against both defendants, apart from that pleaded in defamation, are struck out. The plaintiff is to file and serve an Amended Statement of Claim within 28 days hereof. Costs reserved."

**The first cause of action – interference with the plaintiff's business by unlawful means**

[16] The plaintiff's first cause of action in his proposed amended statement of claim alleges that the defendant:

"... conspired with intent to injure and damage the plaintiff's business (CARS) by making and broadcasting the Target programme ..."

[17] It is then alleged that each defendant used other unlawful means to damage the plaintiff's business. The unlawful means alleged are the other wrongs pleaded in this proceeding, namely negligence, breach of ss 9 and 11 of the Fair Trading Act 1986 and defamation.

[18] The defendants accept that deliberate interference with another's business by unlawful means is a recognised economic tort.

[19] The gist of that tort is the defendants' deliberate intention by its conduct to damage and harm the plaintiff's business. In *Van Camp Chocolates Ltd v Aulsebrooks Ltd* [1984] 1 NZLR 354 at 360 Cooke P, delivering the judgment of the Court of Appeal said:

“... The essence of the tort is deliberate interference with the plaintiff's interests by unlawful means. ...”

[20] That first and essential element is also clearly stated in *The Law of Torts In New Zealand* by Todd & Others 3<sup>rd</sup> Edition 2001 at para 12.5.1 at p 663.

[21] In short, damage to the plaintiff's business must be the aim (or, at least, an aim) of the defendant's conduct, and not merely a consequence.

[22] No particulars of that intention are pleaded here. Mr Cullen submitted that it is likely there was an agreement between the first and second defendants for the making of the Target programme in question, and that the defendants made it with the precise intention of damaging the plaintiff's business, and in doing so considered themselves to be performing a public service.

[23] The Master held that the plaintiff could not show that the defendants had the requisite intention of harming the plaintiff's business. I agree with him. The defendants' obvious intention was to further their own interests by making a TV programme which was at once informative and entertaining, and thus appealing to television viewers, and profitable for the defendants. I doubt that their aim went beyond observing and assessing, publicly but accurately, the quality of the plaintiff's automotive repair work.

[24] Any intention to harm or damage the plaintiff's business is not apparent, and appears inherently unlikely. Why would the defendants want to do that? They were not trade competitors of the plaintiff. The submission by Mr Cullen which I have set out in paragraph [22] above makes no sense to me. I do not understand why the defendants would consider it a public service intentionally to damage the plaintiff's business. In those circumstances, the foundation for any alleged intention to harm the plaintiff's business would need to be properly laid, and particulars sufficient to inform the defendants of the basis for that allegation would need to be given. No such particulars have been given. The irresistible inference is that none can be.

[25] The tort of interference with the plaintiff's business by unlawful means simply does not fit the factual situation. The plaintiff is not entitled to invoke an obviously inappropriate remedy and, when its arguability is challenged, to contend that it should remain because the evidence at trial (the nature of which is not indicated in the pleading) might substantiate it. A pleading is not to be confused with the evidence supporting it, but a defendant is at least entitled to be informed by the pleading of the nature and basis of the claim being made against it, so that it can meet that claim in a properly informed way.

[26] For the plaintiff, Mr Cullen further submitted that:

“... the scope and operation of the tort of interference with business by unlawful means, and its intersection with other torts, are important matters that should not be dealt with in preliminary strike out proceedings, before the evidence has been heard and before findings of fact have been made ...”

[27] That submission does not advance matters much. Whilst in *Van Camp* the Court of Appeal recognised the tort of unlawful interference with business interests, it expressed a marked reluctance to allow it to develop in a way which unnecessarily impinged upon or duplicated existing tortious remedies. Mr Allan's submission that the Court of Appeal viewed unlawful interference as a remedy of “last resort” (his words, not the Court's) I think goes too far, but the Court did say:

“... It is a recognised tort in New Zealand, although its boundaries will receive closer definition as cases emerge, and we see insufficient

reason for discarding a judicial remedy which from time to time may be useful to prevent injustice.” (p 359)

[28] The Court also made it clear that where, as in *Van Camp* itself, the essential allegation is misuse of confidential information:

“... any remedy ... should be by way of a direct extension of the breach-of-confidence principles rather than by the circuitous route of the tort of unlawful interference.”

[29] Significantly, the unlawful means alleged here, apart from the allegation of conspiracy between the defendants, are simply the other wrongs pleaded: negligence, breach of the Fair Trading Act, and defamation. In short, the impingement upon or duplication of existing remedies is patent on the pleading.

### **The third cause of action – breach of the Fair Trading Act**

[30] Mr Cullen’s submission was that the Master incorrectly read down the wording of the s 15(2)(b)(ii) exception, as not covering the defendants, and consequently erred in holding that s 15(2) excluded the defendants from the application of the Fair Trading Act.

[31] I regard the Master’s decision as correct in law. My reasons are these:

[a] Section 15(2)(b), on its plain wording, excludes “a broadcasting body” from the application of ss 9-14 of the Fair Trading Act unless the broadcast was of “any information or matter relating to the supply ... of goods or services ... by ... Any person who is a party to any contract, arrangement or understanding with that broadcasting body relating to the content, nature or tenor of the information or matter”. In practical terms, that encompasses any promotion or similar material for the broadcasting body’s own programme. The Master recognised this in paragraph [19] of his judgment. His interpretation was consistent with that adopted by the Court of Appeal in *Ron West Motors Ltd v Broadcasting Corporation of New Zealand (No. 2)* [1989] 3 NZLR 520, particularly at 541, in which the Court applied

s 15(2)(b)(i) to the “Fair Go” television programme. “Fair Go” is of the same genre as “Target”.

[b] The defendants are “broadcasting bodies” as (now) defined in s 2 of the Broadcasting Act 1989. The Master so held and the plaintiff does not challenge that.

[c] The plaintiff was not a party to any contract with either defendant “relating to the content, nature or tenor of the information or matter” i.e. of the Target programme.

[d] Rather, the plaintiff’s contract with Top Shelf was for repair of a car i.e. for the supply of automotive repairs services. That is the distinction the Master was drawing when he said:

“[19] ... The plaintiff did (unknowingly) enter into a contract with Top Shelf for the supply of services and in a sense the broadcast “related” to this supply. However, the contract could not reasonably be said to relate to the “content, nature or tenor” of the information included in the broadcast. ...”

[e] Paradoxically (and this is the source of the plaintiff’s complaint), the Target programme criticised rather than advertised or promoted the plaintiff’s services – the very antithesis of the s 15(2)(b) exception.

[f] If the plaintiff’s interpretation of s 15(2)(b)(ii) is correct, then the Fair Trading Act would catch everyone who critically reviewed a film or book or restaurant in a newspaper or on radio or television (providing they had purchased the book, or a theatre ticket, or paid for their meal). I agree with Mr Russell’s submission for the second defendant, that such an outcome could not be reconciled with the obvious intention of s 15, and therefore cannot be the proper interpretation of the provision.



#### **Fourth cause of action – negligence**

[32] In the plaintiff's proposed amended statement of claim, negligence is pleaded as the second cause of action.

[33] Mr Cullen's submissions for the plaintiff were:

- [a] It is unclear whether the plaintiff will have a cause of action in defamation. Whilst the law recognises a cause of action for slander of a person's goods, what the defendants did here was to describe the services provided by the plaintiff's CARS business (the repair work was actually done by a mechanic employed by the plaintiff in CARS) as substandard. The defendants submit that, in those circumstances, no action in defamation lies. The defendants contend that their comments were "not sufficiently disparaging of the plaintiff personally to warrant defamation action".
- [b] If there is no cause of action in defamation, there can be no basis for denying the possibility of a cause of action in negligence.
- [c] The Master acknowledged that negligence was arguable, both in terms of the relationship between plaintiff and defendants being arguably sufficiently proximate, and in terms of the reasonable foreseeability of damage if care was not taken in relation to the Target programme.
- [d] Only when relevant findings of fact have been made can the appropriateness of a cause(s) of action be determined. In particular, it is not until the facts are determined that the Court can decide whether to follow the approach exemplified by the Court of Appeal in *South Pacific Manufacturing Co. Ltd v New Zealand Security Consultants & Investigations Ltd* [1992] 2 NZLR 282 (CA) or that adopted by the House of Lords in *Spring v Guardian Assurance Plc* [1995] 2 AC 296; [1994] 3 All ER 129, the latter endorsed by the Court of Appeal

in *Midland Metals Overseas Pte Ltd v The Christchurch Press Co. Ltd* [2002] 2 NZLR 289.

[e] The Master erred in commenting that “all the Judges (in *Midland Metals*) held that *Spring* had not altered the law in New Zealand. In fact, all the Judges in *Midland Metals* recognised the authority of *Spring*, but distinguished it on its facts. They held that *Spring* involved a relationship so proximate (it was between employer and employee) that qualified privilege would defeat any claim in defamation, and that there were no policy reasons telling against the imposition of a duty of care in that limited situation.

[f] *Midland Metals* is itself distinguishable on its facts from the situation here. It involved “normal journalism” – a journalist reporting comments made by a company employee critical of Chinese-made underground electrical cables supplied to the company. By contrast, the defendants here had deliberately set out to create a story involving the plaintiff and his services, for them to televise. The factual distinction was recognised by the Master when he held that the requirements of a sufficiently proximate relationship and the reasonable foreseeability of harm in the absence of proper care, were arguably met.

[34] For the first defendant, Mr Allan argued:

[a] There is no “duty of care in accuracy” owed by a broadcaster to a member of the public who is the subject of the broadcast. If the broadcaster defames a person, that person’s remedy is in defamation. There is therefore no need to extend negligence to such a situation.

[b] The Court of Appeal has made it clear that no cause of action in negligence will be superimposed where one already exists in contract or in defamation: *South Pacific; Bell-Booth Group Ltd v Attorney-General* [1989] 3 NZLR 148 (CA).

[c] The Master's decision is also supported by *Collier v Butterworths of NZ Ltd* (1998) 12 PRNZ 38 at 42, *Earl v Baddeley* 7.5.01 Nicholson J, HC Auckland CP383-SD00 and *Balfour v Attorney-General* [1991] 1 NZLR 519 (CA).

[d] The Court of Appeal has recently reaffirmed its views in *Midland Metals*.

[e] If the Court permits the plaintiff to pursue his cause of action in negligence, then a proper foundation for the duty of care needs to be pleaded.

[35] I consider the Master was wrong to strike out the negligence cause of action.

[36] The defendants submit that the plaintiff has no cause of action in defamation because he was not personally defamed. Rather, the "Target" programme criticised the automotive repair services of the plaintiff's business CARS. If the defendants are correct, then they cannot, consistent with that, argue that the plaintiff's negligence cause of action should be struck out because the plaintiff can sue in defamation. Fundamental to the Court of Appeal's decisions in *South Pacific* and *Bell-Booth* is the Court's unwillingness to extend the law of negligence in New Zealand to situations where other remedies already right any wrong. That unwillingness is heightened in situations where defamation is an available remedy. That is because the defences available in defamation are not also available in negligence. Cooke P explained this consideration in *South Pacific* at pp 301-302, pointing out that it was the one "that weighed most with the Court of Appeal in *Bell-Booth*". His Honour said:

"... The suggested cause of action in negligence would therefore impose a greater restriction on freedom of speech than exists under the law worked out over many years to cover freedom of speech and its limitations. By a side wind the law of defamation would be overthrown. That this is reality, not mere theory, is apparent from the various causes of action in defamation pleaded in the *South Pacific* case and from the plea in *Laing v Mortensen* that the plaintiffs have suffered loss of reputation. Qualified privilege is conferred because of reciprocal duty and interest between a writer or speaker and those

with whom he communicates. To cut down the practical scope of the protection would run counter to public policy in this field.”

[37] In *Midland Metals* Blanchard J at paragraph [50] again referred to “the careful balance which has been worked out in the law of defamation ... over a long period of time”.

[38] Mr Allan submitted that the Master’s decision is supported by the judgment of Young J in *Collier v Butterworths of New Zealand Ltd* (1998) 12 PRNZ 38. I cannot accept that. *Collier* differs from this case in two fundamental respects. First, there was not in *Collier* the proximity between the parties which the Master recognised arguably exists here. Young J said:

“All that Mr Collier can point to is that he is someone who could be harmed in terms of both reputation and self-esteem if a legal publisher disseminated a critical report of litigation in which he was involved.”  
(p 41)

[39] Secondly, Young J considered that any duty of care would be limited to situations of publication for gain. He said:

“If there is a duty which Mr Collier can successfully rely on that requires a publisher to take reasonable care in relation to the publication of derogatory remarks, such duty would appear to apply, at its very narrowest, to those who publish for gain. It would obviously extend to newspapers, radio stations, and television channels as well as the publishers of specialist magazines. This is very much the way the case was put to me by Mr Collier.” (p 41)

[40] There was not publication for gain in *Collier*, but there was here.

[41] Having referred to *Furniss v Fitchett* [1958] NZLR 396, Young J at p 41 observed that:

“... New Zealand Courts have not adopted an absolute position that claims based on the publication of derogatory statements can only be addressed via a claim in defamation.”

[42] Young J summarised his views, relevant to this case, as follows:

“... ”

- (2) Both in New Zealand and in England and Wales there are cases where the Courts will recognise that, because of the special relationship between the parties, a duty of care in relation to the publication of derogatory statements does exist. A New Zealand example is *Furniss v Fitchett* and an English example is *Spring v Guardian Assurance plc*.
- (3) Such cases are the exception rather than the norm and a special relationship (for example employer/employee or doctor/patient) or some particular element of proximity and/or reliance is necessary before the Courts will hold that such a duty exists.

...” (p 42)

[43] *Collier* was, of course, decided before the Court of Appeal’s recent decision in *Midland Metals*. Mr Allan submitted that, consistent with its earlier decisions in *South Pacific* and *Bell-Booth*, the Court of Appeal in *Midland Metals* affirmed that in New Zealand a claim of negligence is excluded where the plaintiff’s claim properly lies in defamation. I think that accurately encapsulates *Midland Metals*, but I do not think it assists the defendants here. First, *Midland Metal*’s causes of action in defamation and malicious falsehood were not the subject of a strike out application. It was *Midland*’s attempt to plead also negligent misstatement giving rise to damages for injury to reputation that was the subject of the strike out application. Certainly, the defendants in this case have not sought to strike out the plaintiff’s cause of action in defamation, but they submit strongly that it is not open to the plaintiff, because his personal reputation (as opposed to that of his CARS business) was not damaged. So there is the distinction that defamation was open to the plaintiff in *Midland Metals*, but is argued not to be open to the plaintiff here.

[44] Secondly, the Court in *Midland Metals* was at pains to make it clear that there was not in that case the necessary special relationship or proximity to found a duty of care. The Court distinguished *Spring*, as involving an altogether different situation where there was a special (employer/employee) relationship.

[45] I think the differences between the situation in this case and that in *Midland Metals* are sufficiently demonstrated by the following passage from the judgment of Gault P:

“[39] So far as the media respondents are concerned, there is not the necessary special relationship or proximity between a newspaper publisher and persons who (or whose goods) are referred to in a news item. That is clear from the judgments of this Court in *Fleming v Securities Commission* [1995] 2 NZLR 514 at 533 (per Richardson J) and p 534 (per Casey J). To impose such duties would be to fundamentally change the business of newspaper publishing.

[40] The position with respect to Orion and Mr Scott is no different. They are alleged to have made untrue statements concerning the cables to a journalist without taking care to refer the journalist to Midland Metals. As Mr Miller, who appeared for the Orion respondents, pointed out, the allegation seems to assume that persons interviewed have some control over the media and the steps they take prior to publication.

[41] Orion was not a purchaser of cables from Midland Metals. It was not asked by Midland Metals either for advice about the cables or to communicate information about them to the journalist. There was no reliance; Midland Metals did not even know of the journalist’s approach. There can be no general proximity between an importer/supplier and an ultimate user of cables or other goods. There is just no sufficient basis for a duty of care of the kind alleged. The claims were rightly struck out.

[42] We agree with the judgments below. In the absence of a special relationship between the maker of the statement and the person about whom (or whose goods) the statements are made, or assumption of responsibility by the former, it would be an unwarranted intrusion upon freedom of expression to impose duties of the kind proposed.”

[46] The Master has already held that it is reasonably arguable that there was between the parties the necessary proximity or relationship which the Court of Appeal held was absent in *Midland Metals*. The following passage in the judgment of Tipping J reinforces my point:

“[64] The case of *Spring v Guardian Assurance Plc* [1995] 2 AC 296, to which Gault J has referred in detail, does not provide any justification for adopting the course which Mr Fardell urged upon us. In that case a duty of care was held to exist because there was sufficient proximity between the former employer and former employee to justify a duty being imposed on the employer to take care when supplying a reference about the employee. There were no policy reasons to justify denying a duty of care. Indeed there were policy reasons why a duty of care should be recognised because qualified privilege would otherwise have defeated a claim which was seen as meritorious in policy terms.

[65] In the present case, there is clearly no sufficient proximity between those who published the words and those who are said to have been harmed by them. There was no relationship between them save that created by the publication in issue. To ascribe proximity on that basis would be circular and tend to beg the question. There are also major policy reasons why the law should decline to recognise a duty of care in those circumstances. These policy reasons relate to the undesirability of upsetting the careful balance between private interests and freedom of speech which the law of defamation and the associated torts have struck. ...”

[47] Mr Allan also relied on *Balfour v Attorney-General* and *Earl v Baddeley*. Neither of those cases really advances his argument. *Balfour* was decided before *South Pacific*, and well before *Midland Metals*. Certainly, the Court of Appeal reiterated what it had said in *Bell-Booth* – that any attempt to merge defamation and negligence was to be resisted. It also said:

“An inability in a particular case to bring it within the criteria of a defamation suit is not to be made good by the formulation of a duty of care not to defame.”

[48] But those remarks were obiter observations, the appeal being dismissed because the necessary causative element had not been established. I consider that what the Court of Appeal said in *South Pacific* and *Midland Metals* must be regarded as more contemporary, and therefore reliable, guides to the way New Zealand law is developing, or might develop, in this area. The Court of Appeal’s decision in *Lange v Atkinson* [2000] 3 NZLR 385 should not be overlooked, but nor should its ambit be exaggerated. See Gault J’s judgment for the majority in *Midland Metals* at paragraph [23].

[49] In *Earl v Baddeley* Nicholson J did no more than hold that the exclusion of other causes of action in a defamation case was limited to negligence. He referred to a passage in Cooke P’s judgment in *Bell-Booth* which I think was actually saying that negligence law ought not to be imported into areas where other, established causes of action already provide a remedy. This is the point I made in paragraph [36] above.

[50] Is there justification for imposing a duty of care upon the defendants in the circumstances of this case? Should defendants who single out a plaintiff, have him

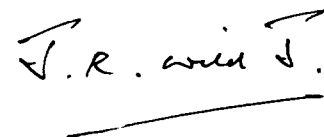
perform a service for one of them, covertly film him doing so, and then publicly criticise his work on a telecast programme, be obliged to exercise reasonable care as to the accuracy of their telecast comments about the plaintiff's work? Perhaps yes. Maybe no. But the point is at least arguable if the plaintiff has no remedy in defamation, as the defendants contend.

[51] I therefore consider that the negligence cause of action ought not to have been struck out, but is properly for decision at trial. The application to review the Master's decision is allowed, to the extent that I reinstate the plaintiff's cause of action in negligence, or permit the plaintiff to amend his claim by pleading the second cause of action in his draft amended statement of claim.

[52] Mr Allan took the opportunity roundly to criticise the plaintiff's proposed amended statement of claim. In general terms, he criticised it as prolix and as pleading matters of evidence rather than making allegations of fact. I consider there is justification in this criticism. Before filing his proposed amended statement of claim, the plaintiff should attempt to condense it to the pleading which most succinctly yet fully and fairly informs the defendants of the nature and basis for his claim. In particular, in the negligence cause of action which I have permitted the plaintiff to pursue, he should make a careful attempt to plead as adequately as he can the factual basis which he alleges gives rise to a duty of care.

[53] Having reviewed the Master's decisions to strike out the plaintiff's causes of action for interference with the plaintiff's business by unlawful means and for breach of the Fair Trading Act, I uphold those decisions. Those two causes of action remain struck out.

[54] As the plaintiff has only been partly successful, I allow him costs against the defendants in the sum of \$750 plus any proper disbursements as fixed by the Registrar, failing agreement.



Judgment delivered at 3.15 pm on 1 October 2002



**Solicitors**

Thomas Dewar Sziranyi Druce, Lower Hutt for the Plaintiff

Grove Darlow, Auckland for the First Defendant

KPMG Legal, Wellington for the Second Defendant