



## Supreme Court of New Zealand

1 May 2007

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

**PAPER RECLAIM LTD v AOTEAROA INTERNATIONAL LTD  
(SC 25/2006)**

**AOTEAROA INTERNATIONAL LTD v PAPER RECLAIM LTD  
(SC 28/2006)**

**[2007] NZSC 26**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

In February 2001 Paper Reclaim Ltd declined to continue using Aotearoa International Ltd as its exclusive agent for export sales of waste paper as it had done since the mid-1980s. Aotearoa International claimed that there was a contract between it and Paper Reclaim which could not be cancelled. The High Court found that there was a contract between the parties but that it could be terminated by the giving of eight years' notice.

The Court of Appeal allowed Paper Reclaim's appeal against the finding on the length of the required notice. It held that the necessary period of notice was 12 months only.

In a unanimous judgment the Supreme Court has confirmed that view but has disagreed with the Court of Appeal about how damages for breach of contract should be calculated in circumstances where Paper Reclaim had repudiated the contract without giving any notice. The Supreme Court has said that in fixing damages the High Court should now assume that Paper Reclaim would in February 2001 have taken the opportunity of terminating the contract by giving 12 months' notice. The Court has rejected Aotearoa's claim that Paper Reclaim was also in breach of a fiduciary duty of loyalty to Aotearoa. It has confirmed that the Court of Appeal was right to set aside the costs order made in the High Court in favour of Aotearoa and had directed that costs should be assessed by the Court of Appeal in light of the result of the appeal.

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