

IN THE SUPREME COURT OF NEW ZEALAND

**SC 89/2015
[2015] NZSC 162**

BETWEEN

**ANTHONY PAUL MOUNT AND KAYE
PAMELA MOUNT
Applicants**

AND

**ELEANOR MARGARETTA HANNAY
First Respondent**

**GORDON RICHARD ROBERTS AND
VALERIE DAWN ROBERTS
Second Respondents**

**SARAH JANE WILLIAMS AND
GEOFFREY NIGEL RUTHERFURD
WILLIAMS
Third Respondents**

**PATRICK JOHN MCENTYRE AND
MARY HELEN MCENTYRE
Fourth Respondents**

**THOMAS ROBERT MILLER AND
MARGARET GORDON MILLER
Fifth Respondents**

**PAMELA ALISON HALE AND PHILIP
RALPH PALMER
Sixth Respondents**

**ISOBEL MARGARET HALE,
MARGARET ROWLANDS AND
CALDER BOTTING AS TRUSTEES OF
THE HALE FAMILY TRUST
Seventh Respondents**

**ROBERT WILLIAM ASHLEY AND
ELAINE MARGARET ASHLEY
Eighth Respondents**

**JOSEPH KWAI PING SUE AND PO
CHUE SUE
Ninth Respondents**

**CHRISTINE ANGELA HAY
Tenth Respondent**

MERCIA LAURA HOSKIN
Eleventh Respondent

ELIZABETH CLARE OLLIVER
Twelfth Respondent

DALE FRANCIS PETERSON AND
LARAINE ALEXANDRA PETERSON
Thirteenth Respondents

DOUGLAS OPIE MOUNTFORT
Fourteenth Respondent

JUDITH MAY SILKE
Fifteenth Respondent

BRYAN JAMES PENNEY AND TRACY
BRIGITTE PENNEY
Sixteenth Respondents

GEOFFREY GILBERT GUDSELL AND
KAY LORRAINE GUDSELL
Seventeenth Respondents

DOUGLAS GREGORY, VIRGINIA
ELIZABETH GREGORY AND TREVOR
NELSON CAMERON AS TRUSTEES
OF THE D & V E GREGORY FAMILY
TRUST
Eighteenth Respondents

BEVERLEY PULLAR
Nineteenth Respondent

ELAINE FAULKNER HOLLINS
Twentieth Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: Applicants in person
A R Shaw for Respondents

Judgment: 30 October 2015

JUDGMENT OF THE COURT

- A** **The application for leave to appeal is dismissed.**
- B** **The applicants are to pay the respondents (collectively) costs of \$2,500.**
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REASONS

[1] The applicants were defendants in summary judgment proceedings in the High Court in which it was alleged that they and an associated company had misapplied money which clients had entrusted to them for investment purposes. Summary judgment was granted against them.¹ Their subsequent appeal to the Court of Appeal achieved limited success as to quantum but was otherwise dismissed.²

[2] The applicants seek leave to appeal. The basis of the proposed appeal is that the respondents – that is their former clients – (a) failed to disclose all relevant documents in the High Court proceedings; and (b) compromised the ability of the applicants to defend their proceedings by their litigation tactics (including by limiting the applicants’ access to funds; obtaining assistance from a litigation funder from June 2012 without disclosing this until August 2013; and taking steps to enforce the summary judgment before the appeal was heard). Their broad contention is that they were denied their entitlement to natural justice.

[3] These arguments were not advanced in the Court of Appeal. As counsel for the respondents notes, they largely involve attempts to relitigate the merits of interlocutory decisions made in the course of the proceedings which were themselves appealable. The funds released to the applicants for the defence of the civil and associated criminal proceedings totalled, according to the respondents, at least \$600,000.

¹ *Hannay v Mount* [2013] NZHC 3497.

² *Mount v Hannay* [2014] NZCA 600.

[4] We see no issue of public or general importance in the proposed appeal and no appearance of a miscarriage of justice.

Solicitors:
C & F Legal Limited, Nelson for Respondents