

IN THE DISTRICT COURT
AUCKLAND OFFICE

CIV-2012-004-696

BETWEEN GRACE HADEN of 23 Wapiti Ave, Epsom, Auckland
First Plaintiff

AND VERISURE INVESTIGATIONS LIMITED of a duly incorporated
company having its registered office at 23 Wapiti Ave, Epsom,
Auckland
Second Plaintiff

AND NEIL EDWARD WELLS of 1308 State Highway 3, RD 5, Te
Kuiti 3985, Barrister
First Defendant

AND WINIFRED NORIEN HOADLEY of 74 Castor Bay Road,
Castor Bay, Auckland 0620, Barrister
Second Defendant

AND GRAEME JOHN COUTTS of 15A Saltaire Street, Avondale,
Auckland 1026
Third Defendant

APPLICATION TO RECALL COST DECISION OF
JUDGE B A GIBSON

DATED THE 26th DAY OF June — 2013

NEXT EVENT:
JUDICIAL OFFICER:
CASE OFFICER:

Grace Haden
23 Wapiti Ave
Epsom
Auckland
Phone 5201815
Grace@verisure.co.nz

APPLICATION FOR RECALL OF JUDGMENT

Take Notice that on _____, or as soon as he may be heard, the Plaintiff will move the District Court at Auckland for recall of the Judgment CIV -2012-004-000696 of JUDGE B A GIBSON dated 24 June 2013 .

UPON THE GROUNDS

- 1.0 The judgment is unsafe as the indemnity costs were not actual costs as required by section 4.6.1 (b) District Court Rules.
- 2.0 A Sound Judgment cannot be made on false and incomplete accounts and to do so would be to condone false accounts an act which will likely undermine the integrity of the Court if not corrected.
- 3.0 Section 27 bill of rights provides for the right to the observance of natural justice and the right to have their interests protected.

IN PARTICULAR

- 4.0 It is unlawful to produce false accounts section 260 Crimes act and
- 5.0 Section 240 of the Crimes Act 1961 creates the offence of causing loss by deception; the court cannot condone a Crime.
- 6.0 The defendants did not seek to correct the cost references which are clearly not part of these proceedings and were brought to their attention.
 - 6.1 They allowed the false accounts to remain before his honour.
 - 6.2 By becoming aware of an error and allowing it to stand the defendants have fulfilled the “recklessness” component of the offence.
- 7.0 Further on closer examination the accounts are false in the following manner

7.1 The accounts on which the costs were based were invoiced by Brookfields to a client called AWINZ, the parties in this litigation are not AWINZ they are three individuals and accounts for these litigant should have been kept separately from that of any trust.

7.2 Peter McCutcheon was not involved in the district court matter

7.3 The items listed under 31.7.12 are not quantified on the full accounts and therefore no value can be attributed to them

7.4 24 August Translegal was not involved in these proceedings and were communicated with for a different purpose.

7.5 The item 29.8 was grouped with other matters for other parties for which a total of \$390 was charged, this has been totally attributed to these proceedings

7.6 The items under the 29 September listing when cross-referenced to the attached documents add up to a sum \$1,035 less than what is claimed.

7.7 The addition on the sub totals do not add up to \$13451.

8.0 The accounts supplied by Mr Neutze 23rd May for his application for indemnity costs and which were relied upon by the courts as true are on examination, materially false.

9.0 Justice cannot be served when falsehoods are placed before the court and for the court to consider false evidence will result in a miscarriage of justice and deny the plaintiffs to their right under the bill of rights.

RECALL

10.0 Recall in this matter is justified under the accepted criteria governing recall, as defined in the trite authority *Horowhenua v Nash (No 2)*:

Horowhenua County v Nash (No 2):1

[F]irst, where since the hearing there has been an amendment to a relevant statute or regulation or a new judicial decision of relevance and high authority; secondly, where counsel have failed to direct the Court's attention to a legislative provision or authoritative decision of plain relevance; and thirdly, where for some other very special reason justice requires that the judgment be recalled.

11.0 It is a very special reason that demonstrably incorrect judgment statements not be allowed to stand which will bring the court itself into disrepute. The Judgment finding above denied elementary court access on self-evidently false statements of fact which directly contradict the court record, and/or, minimally require the necessary reference where none are known to exist.

12.0 This application is made in reliance upon the established principles of natural justice and equity and good conscience, *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2009] NZSC 122 (No 1 and No 2), *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (NZSC), *Atty Gen v Chapman* [2011] NZSC 110, § 27 of the New Zealand Bill of Rights Act 1990 and the International Covenant on Civil and Political Rights.

Grace Haden for herself and
Verisure Investigations Limited

Copy to Brookfields Neutze

¹ [1968] NZLR 632 (SC) at p 633. See also *Rainbow Corporation Ltd v Ryde Holdings Ltd* (1992) 5 PRNZ 493 (CA) and *Unison Networks Ltd v Commerce Commission* [2007] NZCA 49 at para [10].