

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



Meek v New Zealand Rugby Union Incorporated [2022] NZHC 2591

High Court of New Zealand, Cooke J, 7 October 2022

An injured player sought compensation for football injuries but the statement of claim was struck out.

Key words: Liability, New Zealand, Football, Rugby Union, Foundation, Strike Out, Limitation, Discrimination, Defamation

1. Mr Meek alleged that he suffered an injury when as a schoolboy in the 1980s, he was playing rugby union and a scrum collapsed on top of him, causing him to be knocked out. Mr Meek suffered pain as a result, was unable to work, and lost his medical records in the Christchurch earthquakes.
2. New Zealand Rugby Union (NZRU) and a separate legal entity, the New Zealand Rugby Foundation Incorporated (the Foundation), provided some support from 2005 as a Very Injured Player (a VIP).
3. Mr Meek did not report the injury to the Accident Compensation Corporation (ACC)¹ and claimed that (at [6]):

NZRU failed in its duty of care in the 1980s to ensure that he received the right level of care and treatment, that he has missed out on ACC lump sum payments because of the lack of support, that NZRU's conduct amounts to ill treatment and neglect, that he has suffered a great deal and forced to live on a benefit with little hope, and that the NZRU has a duty of care now to look after him as an injured player.

4. He also claimed defamation, discrimination and breach of contract.
5. NZRU applied to strike out Mr Meek's claim on the basis that it disclosed no reasonably arguable cause of action.
6. The Court noted that striking out a claim involves:

¹ The New Zealand Crown entity responsible for administering the country's no-fault accidental injury compensation scheme, commonly referred to as the ACC scheme. The scheme provides financial compensation and support to citizens, residents, and temporary visitors who have suffered personal injuries.

- pleaded allegations are assumed true unless entirely speculative,
 - the cause of action is clearly untenable,
 - the jurisdiction being exercised sparingly,
 - if a defect can be cured by amendment, then this is preferred.
7. The Court found that Mr Meek's claim was statute-barred by s 317 of the [Accident Compensation Act 2001](#). A claimant who at one point had cover for a personal injury loses the right to sue for damages if a claim is not made at the appropriate time.
8. Further, the Court found that even if the claim could be made, it was statute-barred by the [Limitation Act 2010](#).
9. The Court noted that (at [17]):
- ...there is no recognised duty of care on a sports organising body to ensure that a person lodges an ACC claim when an accident arises in the course of engaging in the sport administered by that body.
10. The fact that the Foundation accepted Mr Meek as a VIP did not create a contract between Mr Meek and the Foundation, and a charitable organisation had no legal obligation to give any particular claimant for charitable benefits any particular benefit.
11. Even if Mr Meek could establish that NZRU had engaged in discriminatory conduct by his being treated differently from other VIPs, the claim would not succeed. This was because:
- it is the Foundation (a separate legal entity) and not the NZRU that deals with the VIPs; and
 - no such prohibited ground of discrimination was identified in either the [Bill of Rights Act 1990](#) (NZ) or s 21 of the [Human Rights Act 1993](#) (NZ).
12. Mr Meek also made a claim in defamation that the NZRU's failure to accept Mr Meek's claims effectively involved it in contending that he was a liar.
13. No defamatory and untrue statement about Mr Meek could be identified as being made by the NZRU, or published by the NZRU, and so no tort of defamation could be established.
14. The statement of claim was struck out.

IMPLICATIONS



The Court noted (at [35]):

In the end, however, what he seeks to advance in this case is a claim that the NZRU should accept some moral responsibility for his situation, and that it should treat him with more respect. But this is a court of law and it

is the Court's function to identify legal claims and dispassionately rule on them. In the present case there is no arguable legal responsibility on the NZRU for Mr Meek's situation. There is no legal basis for Mr Meek to be awarded damages. One of the main reasons for this is the existence of the ACC regime, but there are other reasons why Mr Meek's legal claims cannot succeed. For that reason the statement of claim is struck out.

The case thus illustrates the limitation of the law, and the importance of those suffering injury at a young age to make a timely claim.

VIEW THE CASE



This case may be viewed at <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZHC/2022/2591.html>

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