

IN THE SUPREME COURT OF NEW ZEALAND

SC 44/2008
[2008] NZSC 75

BETWEEN THORNTON ESTATES LIMITED
Applicant
AND CAVELL LEITCH PRINGLE & BOYLE
Respondent

Court: Elias CJ, McGrath and Wilson JJ
Counsel: L J Taylor and G D Jones for Applicant
C T Walker for Respondent
Judgment: 6 October 2008

JUDGMENT OF THE COURT

- A. The application for leave to appeal against the judgment of the Court of Appeal in *Cavell Leitch Pringle & Boyle v Thornton Estates Limited* [2008] NZCA 191 is granted.**
- B. The approved grounds of appeal are:**
- (i) Was the respondent in breach of a duty of care to the applicant in failing to expressly provide for, or to advise on, the passing of risk and the rights and obligations of the parties in the event of damage between contract and settlement?**
 - (ii) Was the respondent in breach of a fiduciary duty to the applicant in failing to advise the applicant to seek independent advice before committing itself to paying \$1.1 million in settlement?**

Solicitors:
Lane Neave, Christchurch for Applicant
Gilbert Walker, Auckland for Respondent