

IN THE SUPREME COURT OF NEW ZEALAND

**SC 92/2011
[2011] NZSC 140**

BETWEEN	ROBERT MICHAEL SYMONS First Applicant
AND	GREGORY JOHN SYMONS Second Applicant
AND	ROBERT MICHAEL SYMONS AND ANNETTE SYMONS AS TRUSTEES OF THE ST ANTHONY TRUST Third Applicant
AND	GREGORY JOHN SYMONS, CLAIRE ANNE SYMONS AND LORRAINE JEAN SYMONS AS TRUSTEES OF THE DRAKENSBERG TRUST Fourth Applicant
AND	WILTSHIRE INVESTMENTS LIMITED Respondent

Court: Elias CJ, McGrath and William Young JJ

Counsel: S P Bryers and M A Karam for Applicants
D A Laurenson for Respondent

Judgment: 17 November 2011

JUDGMENT OF THE COURT

- A** Leave to appeal is granted in relation to the indebtedness associated with Opus Fintek Ltd (in receivership).
- B** The approved question is whether the Associate Judge ought to have entered summary judgment despite the non-disclosure of the 2009 settlement agreement between Opus Fintek Ltd and Hats Holdings Ltd.

REASONS

[1] We are not persuaded, at least for the moment, that the approved ground of appeal provides a basis for impeaching the judgment in relation to the debts of Fibroin Initiatives Ltd. If the applicants wish to pursue their application for leave in relation to that indebtedness, they may do so at the hearing of the appeal.

Solicitors:
Rogers & Rutherford, Auckland for Applicants
Hornabrook Macdonald, Auckland for Respondent