

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF NAME,  
ADDRESS OR IDENTIFYING PARTICULARS OF THE WITNESS  
IDENTIFIED IN [13], [64] AND [65] OF THE JUDGMENT IN [2018] NZHC  
2330 REMAINS IN FORCE.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 16/2022  
[2023] NZSC 79**

BETWEEN ROBERT ROPER  
Appellant

AND MARIYA ANN TAYLOR  
First Respondent

ATTORNEY-GENERAL  
Second Respondent

**SC 23/2022**

BETWEEN ATTORNEY-GENERAL  
Appellant

AND MARIYA ANN TAYLOR  
First Respondent

ROBERT ROPER  
Second Respondent

Court: Winkelmann CJ, Glazebrook, O'Regan, Williams and  
William Young JJ

Counsel: J F Mather for Appellant (SC 16/2022) and Second Respondent  
(SC 23/2022)  
G F Little for First Respondent  
A C M Fisher KC and E N C Lay for Second Respondent  
(SC 16/2022) and Appellant (SC 23/2022)

Judgment: 3 July 2023

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## JUDGMENT OF THE COURT

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- A**     **There are no costs orders in this Court.**
- B**     **Costs in the Courts below are to be dealt with by those Courts.**
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## REASONS

### Introduction

[1] Ms Taylor sought compensation for post-traumatic stress disorder caused by Mr Roper sexually assaulting and falsely imprisoning her in the late 1980s while both were employed by the Royal New Zealand Air Force (RNZAF).

[2] The Court of Appeal, by majority, held that Ms Taylor's claim for compensation for false imprisonment could proceed.<sup>1</sup> The Court of Appeal also held that the false imprisonment claim was not covered by s 21B of the Accident Compensation Act 2001 (the Act).<sup>2</sup>

[3] Mr Roper and the Attorney-General, on behalf of the RNZAF, appealed to this Court against the Court of Appeal decision. Ms Taylor cross-appealed.<sup>3</sup>

[4] This Court allowed the appeal and held that Ms Taylor could not sue for compensatory damages for false imprisonment and (tentatively) that s 21B would, in any event, be engaged.<sup>4</sup>

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<sup>1</sup> *Taylor v Roper* [2020] NZCA 268, [2021] 3 NZLR 37 (French, Brown and Clifford JJ) [First CA judgment] at [198]–[209].

<sup>2</sup> *Taylor v Roper* [2021] NZCA 691, [2022] 2 NZLR 671 (French, Brown and Clifford JJ) containing the addendum to the First CA judgment addressing s 21B of the Act: at [5]–[51].

<sup>3</sup> *Roper v Taylor* [2022] NZSC 62 (Glazebrook, O'Regan and Ellen France JJ).

<sup>4</sup> *Roper v Taylor* [2023] NZSC 49 (Winkelmann CJ, Glazebrook, O'Regan, Williams and William Young JJ) at [103].

[5] In her cross-appeal Ms Taylor argued that the accident compensation regime did not apply to bar her claim for compensatory damages. This Court dismissed the cross-appeal, holding that the ban in s 317(1)(a) and (b) of the Act applies.<sup>5</sup>

### **Submissions on costs**

[6] Mr Roper submits that costs should follow the event in the normal manner. He is legally aided and seeks costs equal to his full legal aid costs.

[7] The Attorney-General does not seek costs in this Court.

[8] Ms Taylor submits that any entitlement Mr Roper may have to costs as a result of succeeding on appeal should be offset against exemplary damages awarded against him. Ms Taylor submits further that she should be entitled to costs on a 3B basis in the High Court and the Court of Appeal.

### **Our assessment**

[9] We make no order for costs. While compensatory damages are not available, the claim for exemplary damages is still to be decided.<sup>6</sup> The matter is therefore ongoing and there have been findings by the High Court of serious misconduct by Mr Roper.<sup>7</sup>

### **Result**

[10] There are no costs orders in this Court.

[11] Costs in the Courts below are to be dealt with by those Courts.

#### **Solicitors:**

Albany Legal Ltd, Auckland for Appellant (SC 16/2022) and Second Respondent (SC 23/2022)  
Chambers Craig Jarvis, Auckland for First Respondent  
Crown Law Office, Wellington for Second Respondent (SC 16/2022) and Appellant (SC 23/2022)

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<sup>5</sup> At [51].

<sup>6</sup> We are not to be taken as making any comment on the claim for exemplary damages.

<sup>7</sup> *M v Roper* [2018] NZHC 2330 (Edwards J) at [74]–[77].