IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 89/2026
[2026] NZSC 182

BETWEEN	INGENIOUS ASSET MANAGEMENT LIMITED Applicant
AND	SIMON MCCONNON First Respondent
	JOHN BAIRD MCCONNON Second Respondent
	KEVIN BRUCE RAMSEY Third Respondent
	STEPHEN MARK LAWRENCE Fourth Respondent
	CHRISTOPHER CAREY MCCULLAGH Fifth Respondent

Court:	Ellen France, Williams and Kós JJ
Counsel:	S W B Foote KC and G Jindal for Applicant M J Wallace and K L Maclean for First and Second Respondents No appearance for Third Respondent R M Stewart and A J Wakeman for Fourth and Fifth Respondents
Judgment:	23 November 2026

JUDGMENT OF THE COURT

A **The application for leave to appeal is dismissed.**

B **The applicant must pay the first, second, fourth and fifth respondents one set of costs of $4,850.**

REASONS

Introduction

[1] In the context of proceedings relating to the liquidation of Global Dairy Ltd (GDL), the applicant, Ingenious Asset Management Ltd, challenged the jurisdiction of an Associate Judge of the High Court in relation to a private law proceeding.[1] The challenge was brought in the form of an application to transfer proceedings to a High Court Judge and to stay orders and directions made by the Associate Judge. The argument for the applicant was primarily based on the meaning of s 22(4)(i) of the Senior Courts Act 2016. Essentially, that provision says an Associate Judge does not have jurisdiction in relation to "a proceeding for a writ or an order in the nature of mandamus, prohibition, or certiorari, or for a declaration or an injunction".[2]

[2] The High Court dismissed the applications,[3] and the applicant appealed to the Court of Appeal. The Court of Appeal dismissed the appeal, endorsing the conclusion of the High Court that s 22(4)(i) does not exclude the jurisdiction of an Associate Judge to exercise case management and interlocutory jurisdiction in ordinary civil proceedings where declaratory relief is sought in addition to other forms of relief.[4] The High Court and the Court of Appeal found that in s 22(4)(i), "declaration" must be understood to mean a declaration sought in public or administrative law proceedings.

Background

[3] The factual background is set out in the judgment of the Court of Appeal.[5] We need only note that, some three years after the liquidation of GDL in March 2020, creditors of GDL purported to assign their unsatisfied claims in the liquidation to the applicant.[6] The applicant then commenced its proceeding, alleging that GDL's

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1 The first to third respondents were directors of GDL, and the fourth and fifth respondents are the court-appointed liquidators.

2 The effect of s 21(2) of the Senior Courts Act 2016 is that the matters listed in s 22(4) are a statutory limitation on the jurisdiction of Associate Judges.

3 *Ingenious Asset Management Ltd v McConnon* [2024] NZHC 2982 (Muir J).

4 *Ingenious Asset Management Ltd v McConnon* [2026] NZCA 335 (Ellis, Campbell and Edwards JJ) [CA judgment].

5 At [4]–[8].

6 See *Ingenious Asset Management Ltd v McConnon* [2025] NZHC 3985, which determined the validity of these assignments.

creditors suffered loss as a result of the directors' mismanagement of GDL's affairs and the liquidators' conduct. A number of the causes of action in the applicant's statement of claim seek declaratory relief in addition to other orders.

The proposed appeal

[4] The applicant seeks leave on the question whether, under ss 21 and 22(4)(i) of the Senior Courts Act, properly construed, an Associate Judge may exercise case management and interlocutory jurisdiction in an ordinary civil proceeding in which a declaration is sought, or whether s 22(4)(i) excludes that jurisdiction.

[5] In supporting the application for leave to appeal, the applicant says, amongst other matters, that the Court of Appeal did not give sufficient emphasis to the statutory text, particularly, to the meaning of "proceeding". Next, the applicant says the Court took too narrow a view of, and over-emphasised, the fact that the Senior Courts Act had as one of its purposes, consolidating previous legislation. It is also submitted that continuity with the previous interpretation given to the predecessor provision in the Judicature Act 1908 was over-emphasised. Further, the applicant wishes to argue that the policy/case management concerns relied on by the Court of Appeal are irrelevant, as is the fact that more express wording was not used in the Senior Courts Act to exclude the Associate Judge's jurisdiction. Finally, the applicant says that as a result of the Court of Appeal's interpretation, there are inconsistencies in the treatment of remedies.

[6] The respondents support the judgment of the Court of Appeal and have given notice under r 20A of the Supreme Court Rules 2004 that, if leave is granted, they intend to support the judgment on other grounds.[7] The other grounds are first, that the declarations sought are not declarations in the true sense; and second, that the applicant's interpretation does not sit well with s 20(2)(b) of the Senior Courts Act which confers on an Associate Judge the powers of the Court under pt 16 of the Companies Act 1993, which is what is engaged here.

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7 We note that the third respondent has not filed submissions.

Our assessment

[7] In dismissing the appeal, the Court of Appeal considered the statutory text, purpose and context of the Act. In terms of text, the Court did not consider "proceeding" should be read narrowly; the grouping of the prerogative writs with declarations and injunctions suggested they are all remedies of the same nature and this approach was consistent with the context of s 22(4) as a whole, and in particular s 22(4)(g) and (h).[8]

[8] As to purpose, the Court considered the differences in wording in the Senior Courts Act from that in the Judicature Act did not signal an intention to make any changes from the consistently applied approach adopted under the latter Act, namely that jurisdiction was excluded for declaratory relief in public or administrative law proceedings.[9] The Court also considered that to limit the Associate Judge's jurisdiction, as the applicant would do, would have significant practical case management implications and indeed would have a "perverse consequence".[10]

[9] Nothing raised by the applicant calls into question the approach taken by the Court of Appeal. The Court applied the well-settled principles of statutory interpretation reflected in s 10(1) of the Legislation Act 2019. The Court undertook a careful analysis of the particular wording adopted in s 22(4)(i) in the context of the relevant provisions as a whole. It was orthodox, in the situation where a provision has been carried over from a predecessor statute, to consider the legislative history and, as well, to address the practical consequences of the competing views as to the meaning of the provision. The proposed appeal has insufficient prospects of success to warrant the grant of leave.

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8 Section 22(4)(g) reads: "an application for a search order or an interlocutory or a permanent injunction"; and (h) reads: "an application for review or other relief under the Judicial Review Procedure Act 2016".

9 This interpretation stems from the judgment in *Clark v Governor-General (No 1)* HC Wellington CIV-2004-485-1902, 2 February 2006.

10 CA judgment, above n 4, at [71].

Result

[10] The application for leave to appeal is dismissed.

[11] The applicant must pay the first, second, fourth and fifth respondents one set of costs of $4,850.

Solicitors:
Ormiston Legal, Auckland for Applicant
Maclean Legal, Christchurch for First and Second Respondents
Fee Langstone, Auckland for Fourth and Fifth Respondents