

***Peka v Te Hei* SC 30/2025: respondent's oral outline / submission references**

**(A) Overview / three common threads (BK):**

*(1) Tort expansion sought despite dense statutory context*

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|---|------------------------------|
| - Prisoners' and Victims Claims Act 2005 as triggered by damages awards under New Zealand Bill of Rights Act 1990/others; wide limitation and other procedural changes but no new/alterd substantive cause of action here | RS [36]-[40] / CAS [16]-[20] |
| - Accident compensation scheme – remedies / statute bar   | RS [16.1] / [16.3]           |
| - Deaths by Accident Compensation Act 1952 – remedy/limit   | RS [10]                      |
| - Victims Rights Act 2002 – support / services  | RS [16.3.2]                  |
| - Sentencing Act 2002 / Criminal Justice Act 1985 – reparation  | RS [16.2]-[16.3]             |
| - Law Reform Act 1936 – remedy / exemplary damages bar:   | CAS [4]-[12]                 |
| (a) Not permissible simply to point to statutory provision and seek a common law analogue, as by Tribunal/appellant   | RS [22]                      |
| (b) As to PVCA, in particular: no parliamentary intent/object as claimed and no basis to modify statutes or <i>van Soest</i>  | RS [36]                      |
| (c) Distinct from scope for common law in <i>Smith v Fonterra</i>   | RS [15]-[16]                 |

*(2) Further objectionability of tort expansion sought given:*

- |   |                 |
|---|-----------------|
| - Absence of any evidenced or submitted claim of underlying social or economic change; groundswell cases; and any basis to assess impact; and | RS [7]-[9]      |
| - Extensive prescriptive statute reform / law reform reviews  | RS [22.3]/fn 27 |

*(3) Issues appropriate to parliamentary/law reform review; ill-suited to common law / interpretative reform*

RS [18]-[22]

**(B) Cross-appellant submissions (referral back)**

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|---|---------------|
| (1) <i>Law Reform Act 1936 / merger of judgment (BK)</i>    | CAS [4]-[12]  |
| (2) <i>Referral back as mental injury claim (BK)</i>        | CAS [13]-[15] |
| (3) <i>Whether any basis for referral back in PVCA (AS)</i> | CAS [16]-[20] |

**Under paragraph 6(2) of the Supreme Court Submissions Practice Note 2023 and having made appropriate inquiries to ascertain whether the submission contains any suppressed information, counsel certify that, to the best of their knowledge, the submission is suitable for publication (that is, it does not contain any suppressed information).**

**(C) Respondent submissions as to substantive appeal (BK)**

<i>(1) Revisiting / reversal of Pou</i>	RS [6]
<i>(2) Whether a common law cause of action, including in light of tikanga</i>	RS [23]-[27]
<i>(3) Revisiting van Soest</i>	RS [28]-[35]
<i>(4) Relevance of PVCA to tort expansion sought</i>	RS [36]-[39]