



Supreme Court of New Zealand

24 March 2010

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

**Susan Couch v The Attorney-General
(SC 49/2006)
[2010] NZSC 27**

PRESS SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at www.courtsofnz.govt.nz.

The appellant, Ms Couch, was seriously injured by William Bell while he was on parole. She claims that the Department of Corrections was negligent in the way it administered Bell's parole conditions and that this negligence caused the injuries she suffered. Her claim seeks exemplary damages.

This Court has unanimously allowed Ms Couch's appeal and has reinstated the proceedings.

The Court of Appeal, by a majority, ordered that Ms Couch's claim be struck out as untenable in law. Following an earlier judgment, this Court adjourned the appeal to enable the parties to address questions relating to exemplary damages which were not, at that time, able to be considered at the hearing.

In this judgment, this Court has confirmed that exemplary damages are available for negligence and that exemplary damages arising out of personal injury covered by the Accident Compensation Act 2001 are not barred by s 317 of that Act.

The members of this Court (Elias CJ dissenting) have agreed, not following on this point an earlier decision of the Privy Council, that exemplary damages should not be available in cases of negligence unless the defendant consciously appreciated the risk the conduct in question posed to the safety of the plaintiff and proceeded deliberately and outrageously to run that risk causing harm to the plaintiff.

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