

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**CIV-2014-404-1314  
[2016] NZHC 30**

UNDER the Companies Act 1993  
IN THE MATTER of Action Media Limited (In Liquidation)  
BETWEEN ACTION MEDIA LIMITED (IN  
LIQUIDATION)  
First Plaintiff  
AND HENRY DAVID LEVIN AND VIVIEN  
JUDITH MADSEN-RIES AS  
LIQUIDATORS OF ACTION MEDIA  
LIMITED (IN LIQUIDATION)  
Second Plaintiffs  
AND SEAN WESLEY MITCHELL  
First Defendant  
AND FARRY & CO TRUSTEES LIMITED  
Second Defendant

On the papers

Judgment: 28 January 2016

---

**JUDGMENT OF THOMAS J**

---

*This judgment was delivered by me on 28 January 2016 at 4.00 pm  
pursuant to Rule 11.5 of the High Court Rules.*

*Registrar/Deputy Registrar*

*Date: .....*

Solicitors:

Meredith Connell, Auckland.  
Cogswell Law, Auckland.

[1] By memorandum dated 18 December 2015 the plaintiffs seek clarification and/or recall of my judgment dated 9 December 2015.

[2] There are two areas in respect of which the plaintiffs seek clarification:

- (i) The order that the liquidators obtain further discovery from Inland Revenue in respect of correspondence concerning the Company's creditor's compromise; and
- (ii) The application seeking orders under s 286 Companies Act 1993 (the Act).

### **Discovery of Inland Revenue correspondence**

[3] The plaintiffs' concern is that the order is wider than the relief sought by the defendants in their interlocutory application.

[4] The application itself was somewhat ambiguous in its wording, but in any event, the way in which the application was argued and responded to by the plaintiffs led to the result as set out in the judgment. In the circumstances, it is not appropriate for me to comment any further.

### **Application seeking orders under s 286 of the Act**

[5] Counsel for the plaintiffs' suggests the judgment should be amended under the "slip rule" because the conclusion relating to this aspect of the application was not set out in the "results" section of the judgment.

[6] The defendants sought directions under s 286 of the Act. This aspect was dealt with in paragraphs 53 – 58 of the decision which made it clear that the orders sought would not be made. The fact that was not specifically listed in paragraph 67 does not change the outcome, and, of course, the orders sought were not made.

**Result**

[7] For the reasons given, the judgment will not be recalled.

---

Thomas J