

1.5. Climate Change Litigation – *Smith v Fonterra & Ors* - Strike out application

Mr Mike Smith filed proceedings against several New Zealand greenhouse emitting companies last year (namely Fonterra Co-operative Group Ltd, Genesis Energy Ltd, Dairy Holdings Ltd, NZ Steel Ltd, Z Energy Ltd). The claim sought to hold the companies liable for contributing to climate change, which will adversely affect groups such as Māori, under the grounds of public nuisance, negligence and a novel tort duty said to give rise to an inchoate duty. The defendants sought to strike out the claims.

Justice Wylie issued his judgment on the strike out applications on 6 March. His Honour struck out the claims alleged in public nuisance and negligence. However, he decided that he could not determine that the claim of a novel, inchoate duty, to hold corporate greenhouse emitters to account to the public was untenable and required a full hearing. It is possible that the judgment will be appealed and we will inform you if that occurs.

9(2)(h)