

**In the High Court of New Zealand
Auckland Registry**

CIV2005-404-4495

Under Part I of the Judicature Amendment Act 1972

In the matter of an application for review

between

**The New Zealand Recreational Fishing Council Inc, and New Zealand Big
Game Fishing Council Inc**

Plaintiffs

and

Minister of Fisheries

First Defendant

and

The Chief Executive of the Ministry of Fisheries

Second Defendant

and

**Sanford Limited, Sealord Group Limited, and Pelagic & Tuna New Zealand
Limited**

Third Defendant

**Notice of Opposition by Plaintiffs to First and Second Respondents'
Application For Stay**

Dated Wednesday, 6 June 2007

Before: Harrison J

Next Event Date: 8 June 2007



HESKETH HENRY
Lawyers

Plaintiffs Solicitors
11th Floor
41 Shortland Street
Private Bag 92093
DX CP 24017
AUCKLAND
Tel +64 9 375 8700
Fax +64 9 375 8771

Solicitor
Senior Counsel

Stuart Ryan
Alan Galbraith QC

09 375 8778
09 309 1769

stuart.ryan@heskethhenry.co.nz
argalbraith@xtra.co.nz

Take Notice that the Plaintiffs intend to oppose the application by the First and Second Respondent dated 23 May 2007.

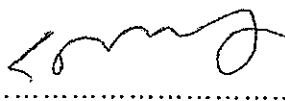
The plaintiffs are opposed to the making of the orders numbered 1 to 2 in the notice of application.

The grounds on which the appellant opposes the making of the orders are:

- a. The grounds 1-7 of the first and second respondents' application for stay, if correct, are not a sufficient reason to defer consideration of sustainability and other decisions affecting the kahawai stocks.
- b. It is denied that the second respondent has insufficient resources to enable fresh consideration of decisions for the kahawai stocks.
- c. The second respondent, the Ministry of Fisheries has recently released a draft plenary report for kahawai which contains a stock assessment for KAH1. This will facilitate fresh decision-making for the TAC for KAH1 (an area which includes the Hauraki Gulf).
- d. The respondents will not be injuriously affected if the stay is not granted, nor will any legal rights be rendered nugatory if no stay is granted, as the parties will be entitled to continue to fish under existing allocations until the outcome of any fresh decisions.
- e. Appearing in the affidavit of Kim Andrew Robert Walshe filed in support.

The Plaintiffs rely on rule 12(3) of the Court of Appeal Rules and *Dymocks Franchise Systems (NSW) Pty Ltd v Bilgola Enterprises Ltd* (1999) 13 PRNZ 48 and *Philip Morris (NZ) Limited v Liggett & Myers Tobacco Co (NZ) Limited* (1977) 2 NZLR 41 (CA).

Dated at Auckland on the 6th June 2007



S J Ryan

Solicitor for the Plaintiffs

To: The High Court
And To: The First and Second Respondents
And To: The Third Respondents

