IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA604/2018
[2020] NZCA 170

BETWEEN	CLARENCE JOHN FALOON Appellant
AND	THE PLANNING TRIBUNAL AT WELLINGTON First Respondent
	THE ATTORNEY-GENERAL SUED ON BEHALF OF PALMERSTON NORTH JOINT VENTURE AIRPORT Second Respondent
	THE ATTORNEY-GENERAL SUED ON BEHALF OF MINISTER OF LANDS Third Respondent
	THE CLERK OF THE EXECUTIVE COUNCIL Fourth Respondent
	THE HIGH COURT OF NEW ZEALAND (TAURANGA REGISTRY) Fifth Respondent
	THE ATTORNEY-GENERAL SUED ON BEHALF OF THE COMMISSIONER OF INLAND REVENUE Sixth Respondent

Hearing:	13 February 2020
Court:	Kós P, Clifford and Courtney JJ
Counsel:	Appellant in person V McCall and A P Lawson for Third and Sixth Respondents
Judgment:	19 May 2020 at 10 am

JUDGMENT OF THE COURT

A The appeal is dismissed.

B There is no order for costs.

REASONS OF THE COURT

(Given by Kós P)

[1] Civil society requires a fair and effective civil justice system to determine disputes. Without it there would be anarchy and added conflict from resort to self-help remedies. Access to justice is a critical human right. But there must be some reasonable limits to recourse to law. Otherwise a different form of anarchy arises.

[2] Civil justice has some simple basic rules to maintain order. First, proceedings must involve claims by persons with a legitimate interest in the subject of the dispute (standing). Secondly, all persons likely to be affected directly by a judgment should be joined in the proceeding (joinder). Thirdly, claims cannot be undertaken by instalment: the claimant must bring all his or her claims on a subject together in the one claim (the rule in *Henderson v Henderson*).[1] Fourthly, claimants who fail usually must pay a substantial contribution to the other side's costs (costs). Fifthly, the judgment is determinative of all issues in the proceeding and must be implemented unless stayed pending an appeal (execution). Sixthly, generally there is only one right of appeal, but a right to seek leave to bring a second appeal (appeal). Seventhly, once those rights are exhausted, that is that and the final judicial determination is not to be subverted by collateral challenge through further proceedings on the same subject matter (finality).

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[1] *Henderson v Henderson* (1843) 67 ER 313 (Ch). See also *Commissioner of Inland Revenue v Bhanabhai* [2007] 2 NZLR 478 (CA) at [58]–[62]; *Beattie v Premier Events Group Ltd* [2014] NZCA 184, [2015] NZAR 1413 at [43]–[46]; *Johnson v Gore Wood & Co* [2002] 2 AC 1 (HL); and *Virgin Atlantic Airways Ltd v Zodiac Seats UK Ltd* [2013] UKSC 46, [2014] AC 160 at [17]–[26].

[3] As this Court observed recently, finality is integral to justice, because justice is concerned with the determination of rights.[2] Serial efforts to reopen otherwise final judgments may deny justice to parties and other persons entitled to depend upon those judgments, and delay justice to others with proceedings of their own needing attention.

[4] Finality and Mr Faloon are however strangers to one another. By this Court's count, he has filed previously a total of 19 proceedings, giving rise to some 60 judgments. This proceeding, his 20th, concerns, as Dobson J put it in the High Court judgment:[3]

> … allege[d] errors in adjudicating [Mr Faloon] bankrupt in 2016, and civil wrongs committed by all manner of entities claimed by Mr Faloon to have responsibility for the re-alignment of a stream on land adjoining the Palmerston North airport, and subsequent taking of that land from a company with which Mr Faloon's family was associated.

[5] Five of the 19 prior proceedings concerned in a direct way interests in or rights arising from the former ownership of the same land adjoining the Palmerston North airport by the Faloon family and family companies (in particular, a company called Trade Lines Ltd).[4] A further six proceedings were indirectly connected to Mr Faloon's claims regarding interests in or rights arising from the Palmerston North land. A table annexed to this judgment summarises these proceedings.

[6] Dobson J struck the latest (20th) proceeding out pursuant to r 5.35B of the High Court Rules 2016.[5] At the same time the Judge made a limited restraint order under s 166 of the Senior Courts Act 2016 restricting Mr Faloon or any agent purporting to act on his behalf from commencing any civil proceeding which relates in any way to his adjudication as a bankrupt, or to claimed interests in, or rights arising from, former ownership of land adjoining Palmerston North airport by Trade Lines, this order to have effect for a period of five years.[6]

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2 *Lyon v R* [2019] NZCA 311, [2019] 3 NZLR 421 at [10]; and *Taylor v R* [2018] NZCA 498, [2019] 2 NZLR 38.

3 *Faloon v Planning Tribunal* [2018] NZHC 2420 [High Court judgment] at [4].

4 *Bank of New Zealand v Faloon* HC Wellington M354/96, 18 October 1996; *Faloon v District Land Registrar* [1997] 3 NZLR 498 (HC); *Faloon v Attorney-General* HC Wellington CP310/99, 5 October 2000 (and associated judgments); *Faloon v Commissioner of Inland Revenue* (2002) 20 NZTC 17,618 (HC); and *Faloon v Palmerston North Airport Ltd* [2012] NZEnvC 105 (and associated judgments).

5 High Court judgment, above n 3, at [17].

6 At [24]–[25].

[7] Mr Faloon appeals.

This proceeding

[8] The statement of claim in this proceeding is, as the Judge said below, prolix in the extreme.[7] It offends almost every rule of pleading. It mixes pleading and evidence in a suffocating and confused concoction. We mean no discourtesy in saying that it has been obscured, rather than informed, by an incomplete legal education received by Mr Faloon some sixty years ago.

[9] The first cause of action purports to seek judicial review of a paragraph in a judgment of Associate Judge Bell, adjudicating Mr Faloon bankrupt, in which he found that Mr Faloon may have acted as an executor de son tort before the grant of probate of his father's estate.[8] It may be noted that that simple proposition is then attenuated to 11 prayers for relief including money claims against the Attorney-General. In addition, Mr Faloon seeks judicial review of two decisions of the Planning Tribunal at Wellington in 1987 and 1990.

[10] The second cause of action, purportedly advanced under the Judicial Review Procedure Act 2016 and the Crown Proceedings Act 1950, concerns:

> [a] question relating to the title, possession and market-value of 5.6293 hectares of 'Relationship property' of [Mr Faloon's parents] including a question relating to the title, possession, and market value of the 404-Metre-long 1977-Year Diversion of the Kawau stream constructed in 4 lands by T J Faloon and the applicant …

[11] Some 13 prayers for relief are advanced, some incorporating sub-prayers, seeking inter alia declaratory orders that the taking of part of the land, being 1.8404 hectares including a part of the stream diversion under the Public Works Act 1981, was invalid; seeking orders for inspection, photography, measurement, production of evidence, and correcting all errors in a cadastral survey; that alterations made to a plan for the diversion of the Kawau stream were in contravention of the Copyright Act

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7 At [2].

8 *Commissioner of Inland Revenue v Faloon* [2016] NZHC 760, (2016) 27 NZTC 22-076 at [30].

1962, tortious and a fraud on powers given to Mr Faloon and his father by the Manawatu catchment; and a finding that the:

> … ongoing grievance that the applicant has over the taking of the land belonging to the family farming company Trade Lines Ltd … is, in point of law, a *lis mota* between the applicant and the Crown …

[12] The third cause of action concerns further claims in relation to the same 1.8404 hectares of land and seeks declarations in relation to the status of certain deeds and other instruments drawn up in relation to the taking of that land under the Public Works Act by the Crown in 1993. There are some seven prayers for relief in relation to that cause of action.

[13] As the Judge put it:

> [2] The statement of claim is prolix in the extreme, running to some 42 pages. The three causes of action reflect legally inconsequential variations on claims that have previously been pursued by Mr Faloon and rejected, both on their merits and as abuses of process. For the reasons I outline briefly below, I am satisfied that all three causes of action in this purported proceeding should be struck out.
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> …
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> [4] Mr Faloon's complaints allege errors in adjudicating him bankrupt in 2016, and civil wrongs committed by all manner of entities claimed by Mr Faloon to have responsibility for the re-alignment of a stream on land adjoining the Palmerston North airport, and subsequent taking of that land from a company with which Mr Faloon's family was associated. Both complaints have both been aired extensively before the Courts. There are numerous decisions that have held the array of pretexts for Mr Faloon to pursue claims on these matters to be entirely untenable.

Should this proceeding have been struck out?

[14] It is abundantly clear that this proceeding is an abuse of process and that the decision to strike it out was correct. We make three points in the context of the basic rules outlined in [2] above.

Infringement of seventh basic rule (finality)

[15] First, and fundamentally, this proceeding seeks to reopen matters determined in earlier proceedings. As the Judge noted, Mr Faloon has attempted to revive claims

that have previously been pursued and rejected, both on their merits and as abuses of process.

[16] As to the first cause of action, the decision of Associate Judge Bell has already been the subject of final consideration by this Court.[9] Mr Faloon has previously raised the issue of rehearing the Planning Tribunal decisions in *Faloon v Palmerston North Airport Ltd* and must be taken to have been resolved by those proceedings.[10] Further, the pleaded ground for judicial review of these decisions (the existence of special powers) had already been considered and rejected by Duffy J in *Faloon v Public Trust*.[11]

[17] As to the second cause of action, and the further challenge made there to the decision of Associate Judge Bell, Mr Faloon has already exhausted his appeal rights against that judgment.[12] He may not now go round the back and attempt re-entry through the tradesman's entrance of judicial review. The underlying issues regarding the diversion of the Kawau stream have previously been determined, including, as we have noted, the existence of any joint special power. Mr Faloon has without success already sought orders for inspection of the property,[13] an order to correct errors in the cadastral survey affecting the titles to land,[14] an order that the taking of the land (including the diversion) was invalid,[15] an order that compensation had not been paid in respect of the land,[16] orders in relation to alterations made to copyright plans,[17]

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9 *Faloon v Commissioner of Inland Revenue* [2016] NZCA 537, (2016) 27 NZTC 22-077 [*Faloon v Commissioner of Inland Revenue (CA)*]. Mr Faloon twice applied for recall of this decision: *Faloon v Commissioner of Inland Revenue* [2016] NZCA 588, (2016) 27 NZTC 22-083; and *Faloon v Commissioner of Inland Revenue* [2017] NZCA 5, (2017) 28 NZTC 23-003, and unsuccessfully sought leave to appeal to the Supreme Court: *Faloon v Commissioner of Inland Revenue* [2017] NZSC 65, (2017) 28 NZTC 23-014.

10 *Faloon v Palmerston North Airport Ltd*, above n 4, at [11].

11 *Faloon v Public Trust* HC Tauranga CIV-2010-470-52, 15 August 2011 at [7]–[10]. The existence of the joint "special power" has been discussed and rejected in a number of other proceedings, including: *Faloon v Attorney-General*, above n 4, at [19]–[22]; *Faloon v Commissioner of Inland Revenue*, above n 4, at [9]–[10]; and *Faloon v Commissioner of Inland Revenue* (2010) 24 NZTC 24,230 (HC) at [7], [15], [34] and [36].

12 See above at [16].

13 *Faloon v Registrar of Companies* HC Tauranga M53/02, 18 February 2003 at [8(c)] and [28]–[34].

14 *Faloon v Commissioner of Inland Revenue* [2016] NZHC 2063 at [1].

15 *Faloon v Commissioner of Inland Revenue*, above n 4, at [34]–[35].

16 *Faloon v Palmerston North Airport Ltd*, above n 4, at [7]. Mr Faloon's claim for compensation has also been discussed in the context of other proceedings, including: *Faloon v Commissioner of Inland Revenue* CIV-2009-470-319, 21 August 2009 at [14]–[18]; and *Faloon v Commissioner of Inland Revenue*, above n 4, at [30].

17 *Faloon v Public Trust* HC Auckland CIV-2010-470-52, 30 September 2010 at [18]–[21].

the existence of an incorporeal hereditament,[18] and orders that Mr Faloon was entitled to the land.[19]

[18] Finally, insofar as the third cause of action seeks to judicially review the compulsory taking of the Palmerston North land in 1993, this issue has already been determined against Mr Faloon, primarily on the basis that this could only be a complaint, if tenable at all, that could be pursued by Trade Lines (as the company from which the land was acquired).[20]

Infringement of third basic rule (rule in Henderson v Henderson)

[19] Secondly, to the extent that any of the relief sought by Mr Faloon in these proceedings has not previously been sought, it is patent that Mr Faloon should have raised those claims in the earlier related subject matter proceedings, in accordance with the rule in *Henderson v Henderson*.

[20] In particular, in respect of the second cause of action, Mr Faloon had the opportunity to seek a declaratory order that the power to acquire the land under the Public Works Act was an "invalid delegation" and that the Crown failed to obtain written consent to the diversion when making claims against the Minister of Lands in respect of the acquisition of the land and the validity of the diversion.[21] In relation to the third cause of action, to the extent that the various declarations sought by Mr Faloon have not previously been raised, they ought to have been raised in those same proceedings.

Inadvertent non-compliance with r 5.35B(3)

[21] Thirdly, there is nothing in Mr Faloon's complaint that the judgment was ineffective by reason of oversight by the Judge to comply with the exact terms of r 5.35B(3). The omission was merely to inform Mr Faloon that he had a right of appeal from the order. As an experienced litigant, and appellant, Mr Faloon may be taken to

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18 *Re Faloon ex parte Bank of New Zealand* HC Wellington B175/97, 12 August 1997 at 3.
19 *Faloon v Attorney-General*, above n 4, at [22].
20 See, for example, *Faloon v Attorney-General*, above n 4, at [17]–[22]; *Faloon v Commissioner of Inland Revenue*, above n 4, at [34]–[35]; and *Faloon v Commissioner of Inland Revenue (CA)*, above n 9, at [25].
21 *Faloon v Attorney-General*, above n 4; and *Faloon v Commissioner of Inland Revenue*, above n 4.

have known that right existed. In any event, the omission was identified by another Judge, who issued a minute advising Mr Faloon of that fact on 2 October 2018.[22] Mr Faloon filed the present appeal the following day, 3 October 2018. He did so within time. He was not prejudiced at all by that inadvertent omission.

Should a limited restraint order have been made?

[22] It is also abundantly clear that the decision to place Mr Faloon under s 166 litigation restraint was correct. We make two points.

[23] First, the prerequisite for making the order was the bringing of at least two proceedings that are or were "totally without merit".[23] That was plainly made out here, for the reasons given by the Judge at [19] to [22] of his judgment. We set those out:

> [19] Having reviewed the history of Mr Faloon's extensive litigious initiatives, I am satisfied that at least two of those proceedings have been totally without merit. I am annexing to this judgment a schedule of 56 judgments issued in matters in which Mr Faloon has been involved. I accept it may not be entirely exhaustive. I am also annexing a schedule of judgments involving Central Equipment Company Limited, for which litigation Mr Faloon appears to have been at least primarily responsible. Not all of these cases concern the same or similar issues to those in Mr Faloon's current application, but collectively they demonstrate Mr Faloon's litigious nature.
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> [20] I note, for example, that in two separate appeals, the Court of Appeal has described Mr Faloon's litigation as either "hopeless" or "hopeless" and "an abuse of the process of the Court".
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> [21] The effect of numerous High Court judgments has been that Mr Faloon was pursuing untenable causes of action and often was asserting a claim for which he did not have standing.
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> [22] I am also mindful that whilst Mr Faloon remains an undischarged bankrupt, there would inevitably be issues of his ability to legitimately provide security for costs, which would be a predictable first step for defendants having to deal with any claim that was accepted for filing.
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> (footnotes omitted)

[24] The degree of abuse of process, refiling proceedings raising issues already determined and otherwise which ought to have been incorporated in those earlier proceedings, is profound. It is as bad a case as this Court has seen. Mr Faloon sought

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22 *Faloon v Planning Tribunal* HC Palmerston North CIV-2018-454-77, 2 October 2018 (Minute of Mallon J) at [4].

23 Senior Courts Act 2016, s 167(1).

before us to draw distinctions between these and his other proceedings. Even if the distinctions passed muster, and they do not, they fall foul of the third basic rule referred to above. For instance, an aspect which Mr Faloon seeks now to pursue concerning the allegedly concealed diversion and extension of some underground pipes in fact came to his attention when his father told him about it in hospital on 11 March 1977, some 43 years ago. Mr Faloon's submission that he had "not had the opportunity" to pursue the issue earlier cannot sensibly be accepted.

[25] Secondly, the right to natural justice ordinarily is engaged when making a s 166 order, because of the importance of the right to access the courts.[24] However, because Mr Faloon's statement of claim sought to re-open matters already finally determined, it was open to the Judge to issue a limited restraint order prohibiting relitigation of those same matters, without notice and without giving him the opportunity to be heard. That very course was anticipated by this Court in *Genge v Visiting Justice at Christchurch Men's Prison*:[25]

> [We] have said the right to access to the courts will "normally" engage the right to natural justice. But we acknowledge that there may be a narrow class of case where prior notification or hearing before the making of a civil restraint order may not be required. The courts have always had an inherent jurisdiction to prevent egregious abuse of judicial process by, for instance, the repeated filing of claims already adjudicated and determined. In such cases it has been commonplace for the High Court to direct that no further proceedings asserting the same claim be received for filing. That jurisdiction has been enlarged, legislatively, by r 5.35B of the High Court Rules 2016, inserted in 2017, which permits proceedings which are a plain abuse of process to be struck out or stayed by a judge on receipt. The right to a hearing is expressly ousted, although there is (as here) a right of appeal. Conceivably, and alternatively, a judge might instead adopt a parallel course of making an own-motion restraint order, without notice, confined to precluding what in substance is the refiling of a claim already adjudicated.
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> (footnotes omitted)

[26] In this instance the Judge did both. No objection can be taken to that course in these circumstances. To have struck the proceeding out without making any further order would merely have invited its refiling in some related form.

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[24] *Genge v Visiting Justice at Christchurch Men's Prison* [2019] NZCA 583, (2019) 24 PRNZ 695 at [15].

[25] At [16].

Applications in support of appeal

[27] For completeness we record that Mr Faloon made two interlocutory applications in support of his appeal. The first was for declaratory orders identifying the character and capacity of the parties on appeal; the second was to adduce further evidence on appeal. The first application is declined as no clear basis for the order has been identified, and would in any case be inappropriate as several of the respondent parties have not been correctly named. The second application is declined as the further evidence Mr Faloon seeks to adduce is neither credible, fresh nor cogent. We say no more about these applications.

Result

[28] The appeal is dismissed.

[29] The Crown not seeking costs, no order is made.

Solicitors:
Crown Law Office, Wellington for Third and Sixth Respondents

***Faloon v Planning Tribunal* CA604/2018 — table of previous judgments**

Case name	Cause of action and relevant applications	Held	Substantive or strike out?
Proceeding one: collection of duties and tax issues related to amended assessment of income			
1. *Faloon v Comptroller of Customs* (1988) 10 NZTC 5,260 (HC) CP670/87	Mr Faloon claimed that he suffered loss because of the failure of the Comptroller of Customs to collect duty on hay tedders imported into New Zealand by manufacturers other than Central Equipment Company Limited (CEC) (as required by the Customs Act 1966). Because of this alleged failure it was said that Mr Faloon's company had not received the tariff protection to which it was entitled for its own products. Mr Faloon also sought to have reviewed by the Court the Commissioner of Inland Revenue's exercise of the discretion under s 31(1) of the Income Tax Act 1976 in refusing to make amended assessments of the income of CEC between 1973 and 1982 based on the patent rights claimed by Mr Faloon and the profits said to have accrued thereon. The respondents applied to strike out both claims.	Ongley J was not prepared to strike out the claim in relation to the Comptroller of Customs as being so clearly untenable that it could not possible succeed. However, the Judge considered the pleadings to be unsatisfactory and directed that Mr Faloon file a fresh statement of claim. The claim against the Commissioner was struck out on the basis that no reasonable cause of action was to be found in the statement of claim — there was nothing alleged in the statement of claim which laid a foundation for reviewing the exercise by the Commissioner of his discretion under ss 30(2) or 31(1) of the Income Tax Act or to support the contention that he had failed to perform his statutory duties in any way relevant to the proceedings.	Strike out (application declined in respect of first claim and granted in respect of second claim).

Proceeding two: infringement of patents			
2. *Faloon v Attorney-General* (1989) 12 TRNZ 476 (HC) CP674/87	Mr Faloon sought damages from the Commissioner for infringement of patents which Mr Faloon had obtained for agricultural machinery inventions used by CEC. The Commissioner had written to CEC requesting information concerning the inventions for the purposes of a tax assessment. Mr Faloon claimed that the mere mention of the inventions in the letter amounted to an unlawful use of them and that a reference to assignments of the patents amounted to a slander of title to the patents. The Attorney-General applied to strike out the claim.	Ongley J struck out the claim on the basis that no reasonable cause of action was disclosed by the statement of claim. The allegation of unlawful use of the inventions was not capable of being reasonably construed to found a cause of action having a valid legal basis. Nor was there any reasonable cause of action established in relation to the alleged slander of Mr Faloon's title to the patents.	Strike out (application granted).
Applications in respect of proceedings one and two			
3. *Faloon v Comptroller of Customs* CA236/88, 16 March 1998	Mr Faloon applied to be joined as a party in his capacity as representative of the estate of his late father to appeals against the High Court strike out decisions (see 1 and 2) (as he no longer had standing to act for himself as appellant due to having been adjudicated bankrupt).	Assuming, without deciding, that Mr Faloon was entitled to claim a representative interest, the Court was satisfied that there was no basis for joining him in any different capacity — the first proceeding did not raise any question regarding the rights of Mr Faloon's late father, and the second proceeding involved a claim made by Mr Faloon personally for damages against the Crown. It was not then open to him to assert a different claim on behalf of the estate of his late father resting on different patents. References in Mr Faloon's application to other disputes were irrelevant to the present appeals so could not assist.	Interlocutory (application for joinder declined).
4. *Faloon v Comptroller of Customs* CA236/88, 15 June 1998	Mr Faloon sought conditional leave to appeal to the Privy Council against the Court of Appeal's joinder decision (see 3). The Court also dealt with applications to strike out the substantive appeals (against the decision in 1 and 2) for failure to prosecute and applications by Mr	The Court declined the application for conditional leave on the basis that the question of whether (in effect) the estate of the late Mr Faloon should be made a party to the appeals was not of great general or public importance, nor otherwise of a kind which ought to be submitted to the Privy Council for decision.	Application for conditional leave to appeal (application declined). Strike out (appeals struck out).

	Faloon seeking orders on a number of other matters.	The Court struck out the appeals on the basis that there was evidence showing inordinate delay in prosecuting them, and because there had not been identified any point in the appeals with any real chance of success. The Court declined the other applications by Mr Faloon on the basis that the Court had no jurisdiction to deal with originating applications.	
Proceeding three: removal of caveats related to Palmerston North land			
5. *Bank of New Zealand v Faloon* HC Wellington M354/96, 18 October 1996	BNZ applied for the removal of a caveat lodged by Mr Faloon in respect of land registered in the name of Trade Lines Ltd adjoining the Palmerston North airport. Mr Faloon claimed two interests in the land: first, ownership of a diversion of the Kawau Stream; and secondly, certain partial and qualified interests in land belonging to Trade Lines Ltd and other adjoining lands for the purposes of s 97 of the Public Works Act 1981.	Goddard J was prepared to accept that Mr Faloon's claim was capable of being derived through his interest in the estate of his late father, in which he was a residuary beneficiary, subject to a life interest. However, the Judge could see nothing in the evidence supporting Mr Faloon's proposition that he or his late father was or had been the "owner of a diversion of the Kawau stream", and nothing that gave rise to an interest in the land. Similarly, there was nothing giving rise to the interest in the land for the purposes of the Public Works Act.	Substantive (application for removal of caveat granted).
Proceeding four: registration of caveats over Palmerston North land			
6. *Faloon v District Land Registrar* [1997] 3 NZLR 498 (HC)	Mr Faloon registered two caveats against land owned by Palmerston North Airport Ltd claiming an interest in that land (an equitable easement in gross, based on the piping of the Kawau stream). Palmerston North Airport Ltd challenged the caveats by presenting a mortgage for registration. Mr Faloon then applied to the High Court under s 145 of the Land Transfer Act 1952 for an order that the caveats not lapse. That position held until an order made by consent by Doogue J on 17 December 1996. Mr Faloon's sister was then added as a plaintiff claiming an identical interest.	Ellis J found that the agreement to pipe did not create an easement, let alone an easement in gross over airport land. Nor was there anything in the letter of 18 August 1975 from the city engineer regarding the piping that would entitle the late Mr Faloon or anyone else to charge for conveying water in the pipe through the middle land. Furthermore, the land was subsequently acquired under the Public Works Act, and therefore became absolutely vested in fee simple in the Crown freed and discharged from all mortgages, charges, claims, estates or interests of whatever kind. Even if the land taken was subject to an easement, it	Substantive (application for caveat declined).

		would have been in favour of the airport land and so the interests would merge. Mr Faloon therefore had no interest in land which could support a caveat.	
7. *Faloon v Trade Lines Ltd (In Liq)* CA121/97, 13 December 2001	The Land Registrar applied to strike out Mr Faloon's appeals against Ellis J's decision (see 6). The appeals were not advanced during Mr Faloon's bankruptcy by the Official Assignee, and nor had they been prosecuted since the discharge from bankruptcy.	The Court noted that there had been further dealings with the subject land since the appeals were filed, and there was nothing before the Court suggesting any derogation from the presumed indefeasibility of the title of the current registered proprietors. To the extent that the appeals sought the restoration of the caveats their objective was unattainable. The Court concluded that the appeals ought to be struck out, having languished, inexcusably, for more than four years and being unable to serve any useful purpose.	Strike out (application to strike out appeals granted).
Proceeding five: bankruptcy (related to guarantees of the indebtedness of Trade Lines Ltd)			
8. *Re Faloon ex parte Bank of New Zealand* HC Wellington B175/97, 12 August 1997	Mr Faloon applied to set aside bankruptcy notices issued by the High Court at the instance of BNZ. The debt arose out of guarantees of the indebtedness of Trade Lines Ltd. Mr Faloon did not dispute the guarantee or Trade Lines Ltd's indebtedness. Rather, the application turned on his claim arising out of work done by his father and perhaps himself on the land in connection with the diversion of the Kawau Stream (claiming an incorporal hereditament).	Ellis J noted that Mr Faloon's claims were directed to the Palmerston North City Council, Palmerston North Airport Ltd and the Crown. BNZ was not involved. At most the claims could produce money to pay BNZ. The claims therefore did not constitute a counterclaim, set off or cross demand that would assist in the present case.	Substantive (application to set aside bankruptcy notice dismissed).
Proceeding six: registration of land			
9. *Faloon v Attorney-General* HC Wellington CP310/99, 5 October 2000	Mr Faloon claimed that he had been deprived of his interests in land, or suffered loss, by wrongful actions of the Registrar-General of Land in making 10 entries in the Register of Land, such entries leading to and causing loss to Mr Faloon through loss of his interests in land (being the Kawau stream diversion and the compulsory acquisition of land). The Attorney-General applied to strike out the claim.	Gendall J concluded that the multiple, intricate, detailed but extremely convoluted pleadings in the statement of claim made it impossible for the defendant to properly plead them. The pleadings did not establish any reasonable cause of action — the two causes of action of omission or mistake of misfeasance by the Registrar and by misdescription of the land could not have any tenable or possible basis as repeated High Court decisions had held that none of the plaintiffs had any interest in the land. In the	Strike out (application granted).

		Judge's view, the pleadings were so flawed as to be beyond remedy.	
10. *Faloon v Attorney-General* CA255/00, 11 December 2000	Mr Faloon sought to appeal the judgment of Gendall J (see 9) but filed his appeal out of time.	The Court granted the application for an extension of time.	Interlocutory (application for extension of time in which to appeal granted).
11. *Faloon v Attorney-General* CA255/00, 23 July 2001	Mr Faloon sought an extension of time in which to file the case on appeal and apply for a fixture in respect of his appeal against the judgment of Gendall J (see 9) as he had several outstanding proceedings in the High Court which wold have a bearing on the substantive appeal, and he had encountered difficulties accessing the High Court file.	The Court declined the application for an extension of time to file the case on appeal. If the appeal were to proceed to a hearing, there would be two major obstacles (accepting the facts as pleaded). First, there could be no interest in the pipeline by any of the appellants that could found an ownership interest, ownership having vested exclusively in Trade Lines Ltd. The appellants' claim, which depended on showing that the appellants had been deprived of interests in land through the registration process, was accordingly hopeless. Secondly, the appellants, and in particular Mr Faloon, were plainly relitigating against the Crown issues already decided adversely to them in their various previous proceedings (for example the claim for an easement in gross was the subject of Ellis J's judgment rejecting that claim).	Interlocutory (application for extension of time to file the case on appeal declined).
Proceeding seven: tax issues relating to Central Equipment Ltd, taking of land under Public Works Act			
12. *Faloon v Commissioner of Inland Revenue* (2002) 20 NZTC 17,618 (HC) M757-SD/01	Mr Faloon sought to alter "disputable decisions" under s 138P(2)(b) of the Tax Administration Act 1994. The statement of claim did not clearly identify the "disputable decision" but it emerged during the hearing that it was the Commissioner's disallowance of CEC's claim for a tax credit in December 1996 on the basis that CEC had never paid the rates in question — they had been paid by the liquidator of Trade Lines Ltd and had already been claimed for GST purposes by that company. A claim was also made against the Minister of Lands which alleged that the Minster acted unlawfully in	Elias CJ held that Mr Faloon's first claim was both procedurally flawed and fatally flawed because Mr Faloon, not being the taxpayer, was not a disputant within the definition of the Act and therefore did not have standing to challenge the assessment. In respect of the second claim, no tenable cause of action was disclosed and the issues had previously been litigated (including in a strike out application by Gendall J, see 9). The Court had previously decided that neither Mr Faloon nor CEC had any interest in the land taken by proclamation and the taking had been held to be valid. There was therefore no purpose in	Strike out (application granted).

	the matter of the Public Works Act taking by proclamation of land for the Palmerston North airport and in failing to protect the interests of Mr Faloon in the land. The respondents applied to strike out the claims.	the proceedings.	
Proceeding eight: orders preventing Trade Lines Ltd's removal from the Companies Register			
13. *Faloon v Registrar of Companies* HC Tauranga M53/02, 18 February 2003	Mr Faloon made various interlocutory applications in respect of a claim for orders that Trade Lines Ltd (in liq) not be removed from the Companies Register and that the second and final report of the liquidator be rescinded and set aside. The interlocutory applications were for an order that the proceeding be referred to a judge pursuant to s 26N of the Judicature Act 1908; an order striking out the Registrar of Companies' notice of opposition pursuant to rr 458F(1), 244(1) and 186 of the High Court Rules; and an application for orders that a Mr Harte be examined before the Court pursuant to r 509 and that property described in the schedule to an order of the Planning Tribunal be inspected pursuant to r 322.	Master Faire granted the application for an order referring the proceeding to a judge as there was no opposition, although noting that the application was made out of an abundance of caution. Master Faire declined the application for an order that Mr Harte be examined before the Court as none of the grounds for making an order under r 509 existed, and he had already made an affidavit in the proceeding and could be cross-examined by the issue of a notice under r 508. Master Faire also declined the application for inspection of property as it would not achieve Mr Faloon's objective (to ascertain whether the particular title reference in a Planning Tribunal order matched the piece of land that he believed had been taken and for which no full compensation had been paid), nor would it assist in the proper determination of the originating application. Master Faire declined the application for an order striking out the Registrar's notice of opposition but directed the Registrar to file and serve an amended notice of opposition providing specific responses to each of the numbered paragraphs under the heading *Ground* in the originating application.	Interlocutory (application for referral to judge granted; application striking out the notice of opposition declined; applications for examination order and inspection order declined).
14. *Faloon v Registrar of Companies* HC	Mr Faloon sought an order striking out the Registrar of Companies' second notice of opposition for non-compliance with r 244 of the High Court Rules	Master Faire declined the application for strike out on the basis that the notice of opposition was compliant with r 244 of the High Court Rules. He also set out	Interlocutory (application to strike out the notice of opposition declined).

	Tauranga CIV-2003-470-477, 16 July 2003	(see 13).	precisely what was being alleged by the Registrar for Mr Faloon's benefit.	
15.	*Faloon v Registrar of Companies* HC Tauranga CIV-2003-470-477, 25 February 2004	Mr Faloon sought orders excusing him from providing security as fixed by the Registrar in respect of an appeal against a decision striking out the proceedings for failing to pay a setting down fee in time, reducing the amount of security and/or extending the time to allow him to lodge security, on the basis that there were exceptional circumstances and the matters Mr Faloon sought to raise on appeal were novel and important points.	Venning J noted while Mr Faloon saw the appeal as an opportunity to raise all the issues which had not yet been ruled upon by the Court in the proceedings in the High Court in his view, the Registrar of Companies considered the only issue before the Court of Appeal would be whether Paterson J was correct to strike out the proceeding due to Mr Faloon's failure to comply with orders of the Court. Given that the Court of Appeal could only deal with the latter issue, there were no exceptional circumstances or novel points raised by the appeal. On that basis the application to dispense with security was declined, but Venning J did reduce the sum of security and extended the time for payment.	Interlocutory (application for dispensation of security for costs declined, applications for reduction of sum and extension of time in which to pay security granted).
Proceeding nine: tax issues related to assessment of gift duty				
16.	*Faloon v Commissioner of Inland Revenue* (2005) 22 NZTC 19,653 CIV-2005-470-508	Mr Faloon sought to challenge an assessment of gift duty by the Commissioner under s 138F of the Tax Administration Act 1994. Essentially, Mr Faloon's cause of action related to two easements in gross registered on the title to the Palmerston North land, for which the grantee (CEC) paid no consideration and that Mr Faloon held a "beneficial interest". Mr Faloon filed a gift statement in respect of the grant of the easements, but this was declined on the basis that the easement in gross had been held to be a nullity so no value could be attributed to its creation. Mr Faloon alleged that this relied on a "disputable decision" and therefore the gift duty was assessed incorrectly. What Mr Faloon really sought, however, was an order that the Commissioner carry out a formal valuation process in respect of the gift (which Mr Faloon asserted was required by ss 20	Asher J noted that much of the statement of claim related to Mr Faloon's underlying grievances and seemed to be irrelevant to the cause of action ultimately pleaded. However, Asher J considered this to be a new cause of action because it related to the correctness of a decision of the Commissioner on gift duty. Asher J concluded that the underlying easement seemed to create a meaningless right, noting that Gendall, Ellis and Heron JJ had expressed reservations about its legitimacy. The gift statement also did not make commercial sense in terms of its timing (many years after the easement was allegedly agreed or registered), indicating a tactical move (that is, to keep litigation relating to Mr Faloon's underlying disputes alive). However, the basis of the	Strike out (application granted).

	and 68 of the Estate and Gift Duties Act 1968). The Commissioner applied to strike out the claim.	cause of action (that the Commissioner was required to carry out a valuation process), was, although technical, not without merit, so the claim could not be struck out on this basis. More problematically, Mr Faloon had no status to bring the proceeding as he was not the donor of the easement (but rather Trade Lines Ltd), and therefore had no legitimate status to lodge the gift statement. Mr Faloon therefore had no reasonable cause of action against the defendant and the proceeding had be struck out. This was further exacerbated by the fact that any cause of action had passed to the Official Assignee.	
17. *Faloon v Commissioner of Inland Revenue* (2006) 22 NZTC 19,832 CIV-2005-470-508	Mr Faloon applied for recall of Asher J's strike out judgment (see 16).	Asher J considered that none of the matters raised by Mr Faloon related to developments since the judgment or a legislative provision or authoritative decision of plain relevance to which Asher J was not referred. Any issue relating to whether Mr Faloon was trustee of his father's estate did not affect the outcome because neither he nor his father was the donor nor the donee in relation to the alleged gift which was the subject of the proceedings. No proper basis had been put forward by Mr Faloon for recall, which was yet another attempt in a different form to relitigate the same issues he had been pursuing since 1996.	Recall (application declined).
18. *Faloon v Commissioner of Inland Revenue* [2010] NZCA 223, (2010) 24 NZTC 24,325 CA680/2009	Mr and Mrs Faloon applied to review a decision of the Registrar declining their application for a waiver of security for costs in respect of an appeal seeking a "rehearing" of Asher J's decision declining the application for recall (see 17).	The Court noted that the Faloons had not pointed to any grounds in support of waiver. The application traversed the perceived merits of the underlying disputes and objected to the recall decision being made on the papers. The Court considered there to be good reasons to require security: it was unclear whether the applicants were impecunious, it was not clear whether the proceeding would be rendered nugatory if security was ordered, previous costs orders had not been paid,	Review of Registrar's decision (application for review declined).

		the appeal was not genuinely arguable and the purpose of the application appeared to be to relitigate Mr Faloon's disputes with the Council and the Crown, which meant the present application was not only not in the public interest but bordered on an abuse of process.	
19. *Faloon v Commissioner of Inland Revenue* [2010] NZCA 242, (2010) 24 NZTC 24,329 CA680/2009	Mr and Mrs Faloon applied to recall the Court of Appeal judgment declining their application for review of the Registrar's decision (see 18). The basis of the application was that the Court gave insufficient factual background.	The Court considered that the application, being an attempt to relitigate matters or to challenge the Court's substantive findings, was not a proper basis on which to apply for recall.	Recall (application declined).
Proceeding 10: tax issues relating to filing of statement of position			
20. *Faloon v Commissioner of Inland Revenue* HC Rotorua CIV-2009-470-319, 21 August 2009	Mr and Mrs Faloon applied jointly for an extension of time under s 89M(11) of the Tax Administration Act 1994 to file his statement of position in response to a statement of position filed on Mr Faloon, with the ultimate aim of proving a much higher income based on interest from compensation Mr Faloon believed he should have been given by the government. Mr Faloon's primary argument was that the Commissioner should be prepared to discuss the issues that arise from the statement of position with him and his wife before he should be obliged to respond to it, relying on s 89A of the Tax Administration Act.	Asher J considered that the test for an extension of time (that it is unreasonable for the disputant to reply to the Commissioner's statement of position within the response period, because the issues in dispute have not previously been discussed between the Commissioner and the disputant) had not been met, as the issues had been traversed and argued "to almost unimaginable lengths" between the parties, over a long succession of court cases initiated by Mr Faloon, such that two months was not an unreasonable time in which to respond. Additionally, Asher J considered that Mr Faloon's position in relation to his tax matters was tactical, in order to keep his underlying disputes alive, and there was every indication that Mr Faloon had premised his tax position on the misconception that he was entitled to compensation personally, when the claim (if valid) should have been by Trade Lines Ltd.	Interlocutory (application for extension of time to file statement of position declined).
21. *Faloon v Commissioner of Inland Revenue* HC Tauranga CIV-2009-	Mr and Mrs Faloon sought an order recalling Asher J's judgment (see 20) on the grounds that the judgment contradicted statements and "official information" supplied by public authority in 1998,	Asher J declined the application for recall on the basis that none of the categories in *Horowhenua County v Nash (No 2)* [1968] NZLR 632 at 633 were made out — Mr Faloon appeared instead to be putting forward	Recall (application declined).

	470-319, 9 September 2009	and derogated from the provisions of the Public Works Act 1981.	"the same old arguments".	
22.	*Faloon v Commissioner of Inland Revenue* HC Tauranga CIV-2009-470-319, 12 October 2009	Mr and Mrs Faloon sought to recall the recall judgment of Asher J (see 21).	Asher J declined the application for recall on the papers on the basis that the request was on its face without merit — no grounds had been put forward which met the recall principles in *Horowhenua County*.	Recall (application declined).
23.	*Faloon v Commissioner of Inland Revenue (No 3)* [2010] NZCA 393, (2010) 24 NZTC 24,456 CA680/2009	Mr and Mrs Faloon sought an extension of time to apply for the allocation of a hearing date and file the case on appeal in respect of their appeal against the decision of Asher J dismissing the application to recall his previous recall decision (see 22). Mr Faloon also sought permission to apply for two orders of "certiorari", one relating to four titles to land and one relating to seven patents.	In respect of the extension of time, the Court considered the appeal to be a continuation of the line of cases in which the applicants sought to relitigate their ongoing dispute with the Crown and other parties. The resort to the tactic of multiple applications for recall was concerning and the Court did not see any prospect of the appeal succeeding. There was, in any case, no appeal before the Court against the substantive judgment. The proposed appeal would not put in issue the matters dealt with in the substantive judgment. In those circumstances it was a pointless exercise. The Court also declined the request for permission to seek orders of certiorari on the basis that it was unclear what those applications would entail, and in any event the Court did not have an originating jurisdiction.	Interlocutory (application for extension of time declined; request to seek two orders of certiorari declined).
Proceeding 11: tax issues relating to income assessment, notice of proposed adjustment and patent rights				
24.	*Faloon v Commissioner of Inland Revenue* (2010) 24 NZTC 24,230 (HC) CIV-2009-470-885	Mr Faloon brought three causes of action. The first sought to challenge assessments of trustee income returned to the Commissioner which were rejected by the Commissioner (therefore seeking an increase of the amount of the assessment of trustee income) and related declarations. In the second cause of action the plaintiffs claimed to be entitled to challenge six "disputable decisions" made by the Commissioner. Those decisions were the	Associate Judge Christiansen declined the application to set aside the Commissioner's submissions on the basis that Mr Faloon had misconceived the purpose of r 7.39. Turning to the strike out application, Associate Judge Christiansen noted that it was clear from the many previous cases involving Mr Faloon that any of the interests in the land in question affected by the works	Strike out (application granted).

	subject of a notice of proposed adjustment, rejected by the Commissioner, filed by the plaintiffs in response to the Commissioner's rejection of the income assessment, on the basis of the joint "special power" held by Mr Faloon and his father in respect of the Palmerston North land arising from a letter dated 18 August 1975. The third cause of action dealt with Mr Faloon's patent rights, which Mr Faloon claimed were unresolved and sought an order determining the correct means of payment for the use of these patents. The Commissioner had responded to this in the letter rejecting the notice of proposed adjustment. The Commissioner applied to strike out the plaintiffs' proceeding. The plaintiffs opposed the application and applied to set aside the Commissioner's submissions upon the strike out application on the grounds they did not contain the material required by r 7.39 of the High Court Rules.	were not owned personally by Mr or Mrs Faloon. Mr Faloon appeared to be trying to compel the Commissioner to accept assessments of income based on claims which had been conclusively rejected in both the High Court and Court of Appeal. It was clear that the first cause of action was not reasonably arguable. Mr Faloon seemed to be saying that, notwithstanding all of those earlier decisions, the Commissioner was bound to accept what Mr Faloon said in the statement of position. Mr Faloon had failed to comply with the relevant requirements of the Tax Administration Act and had not explained in his pleading or any of the related documents how he and his wife were somehow entitled to benefit in respect of interests allegedly owned by the companies. In respect of the second cause of action, Associate Judge Christiansen found that the clear evidence was that Trade Lines Ltd not Mr Faloon owned the land in question, part of which had been taken for the Palmerston North airport and the remainder having been sold by the liquidators of Trade Lines Ltd, and the easement in gross affecting the land was purportedly created in favour of CEC, and had since been extinguished by court order. Mr Faloon could not therefore assert that those land interests continued to exist or that he was entitled to them. In any case the matter had previously been adjudicated and decided adverse to Mr Faloon's interests, so this was an abuse of process. The third cause of action was struck out on the basis that there had been other cases in which Mr Faloon's claim in respect of profits from patent rights had been	

		dismissed, one of which dealt directly with the alleged infringement of patent rights by the Commissioner (which was struck out). Each decision was adverse to Mr Faloon, and therefore res judicata clearly applied.	
25. *Faloon v Commissioner of Inland Revenue* HC Tauranga CIV-2009-470-885, 11 June 2010	Mr Faloon filed two interlocutory applications relating to the decision of Associate Judge Christiansen (see 24): the first, seeking orders setting aside the judgment for non-compliance with the High Court Rules, and the second, seeking to review the orders or decisions made by Associate Judge Christiansen.	Woodhouse J noted that the first application had been responded to by a minute of Associate Judge Christiansen, wherein the Associate Judge stated that if the application was intended to be a recall application, he refused to do so. The appropriate means of addressing Mr Faloon's concerns was an appeal, and no reasons had been provided to support a recall application. In addition, he was satisfied that the application did not raise any issue distinct from an issue that might be raised on an application for review of, or an appeal against, Associate Judge Christiansen's decision. The second application had not been served within the relevant time limit. No application for an extension of time had been filed prior to the conference although the plaintiffs had ample notice that the defendants objected. There was no adequate explanation for the delay. Although Mr Faloon was a lay litigant, it was abundantly clear that he was very familiar with the Rules. Woodhouse J also considered that there was no merit in the application, the judgment providing compelling reasons for the proceeding to be struck out. Finally, Woodhouse J noted that this was a further attempt to relitigate matters that had been before the High Court and Court of Appeal in different forms over a number of years.	Interlocutory (applications for recall and review declined).
Proceeding 12: tax issues relating to notice of proposed adjustment			
26. *Faloon v Commissioner of Inland Revenue (No 4)* HC Tauranga CIV-	Mr Faloon sought to reverse an order by Brewer J that he pay indemnity costs in respect of a judgment declining three interlocutory applications filed by	Brewer J declined to reverse, discharge or vary the indemnity costs order, noting that Mr Faloon was incorrect in his view that he had an indemnity against	Costs (application to reverse indemnity costs order declined).

2010-470-922, 5 July 2011	Mr Faloon. Mr Faloon indicated in a memorandum that as a trustee he had a statutory indemnity against costs being awarded against him in civil proceedings. Mr Faloon also submitted that no award of costs should be made against him unless access to requested official information was provided, and that his complaint to the Ombudsman was a "special circumstance" in the proceeding.	costs in civil proceedings generally as a trustee. Even if Mr Faloon was a trustee and had a "duty under tax law" to bring the underlying proceeding, this would not amount to special reasons requiring an adjustment in indemnity costs. The three interlocutory applications (to try and prevent the defendant's strike out application from being heard) were without foundation or merit. More generally, nothing in Mr Faloon's memorandum required the order for indemnity costs to be reconsidered, and indeed a submission requesting the order to be reversed and an "increased costs" order be made against the defendant verged on the vexatious.	
27. *Faloon v Commissioner of Inland Revenue* (2011) 25 NZTC 20-097 (HC) CIV-2010-470-922	Following the judgment of Associate Judge Christiansen (see 24) striking out Mr Faloon's proceeding, Mr Faloon contacted the IRD's Complaints Management Service and enquired whether a disclosure notice was to issue in relation to the notice of proposed adjustment. Mr Faloon claimed that the response, from a Mr Rodgers, contained three "disputable" decisions: it was incorrect that the notice of proposed adjustment was the basis of the proceeding considered by Associate Judge Christiansen; and the Commissioner had, in a letter from a Mr Rodgers, stated he would not be taking any further action in respect of the notice which implicitly indicated a "disclosure notice" would not be issued, contrary to the requirements of the Tax Administration Act 1994. This also linked to a claim that titles to the land needed to be considered and responded to by the Commissioner, which had not been achieved by Mr Rodgers' letter. The Commissioner sought to strike out Mr Faloon's	Associate Judge Christiansen struck out Mr Faloon's claim for two reasons. First, the response by the Commissioner to Mr Faloon's notice of proposed adjustment was statute compliant and in reality the end of any challenge to the notice. Mr Rodgers' letter was not a disputable decision in terms of the Tax Administration Act. Furthermore, given that the matter had already been adjudicated on by Associate Judge Christiansen, having been clearly before him in the earlier proceeding, there would have been no point in the Commissioner issuing a disclosure notice (and the Commissioner probably had no power to do so). The proceeding was an attempt to relitigate previous decisions decided against Mr Faloon in order to get around the effect of those decisions. This was clearly an abuse of process.	Strike out (application for strike out granted).

	claims and generally dismiss the proceeding.		
28. *Faloon v Commissioner of Inland Revenue* [2012] NZHC 307, (2012) 25 NZTC 20-124 CIV-2010-470-922	Mr Faloon sought to review the decision of Associate Judge Christiansen striking out his proceeding (see 27), on the grounds that the Associate Judge made his decision on the basis of the statement of claim filed and served by Mr Faloon at the outset, rather than the amended statement of claim; that the Associate Judge erred in holding that it was not reasonably arguable that the statement in Mr Rodgers' letter was a disputable decision; that there was a real controversy; that different matters were in issue in this proceeding; and that the earlier decisions of the Court were not in fact as the Associate Judge considered them to be.	Peters J accepted that Associate Judge Christiansen was required to determine the strike out application on the basis of the amended statement of claim, but was satisfied that he did in fact do this. Peters J did not address whether it was reasonably arguable that the statement in Mr Rodgers' letter was a disputable decision because she was satisfied that the Associate Judge was correct to strike out the proceeding on the (independent) ground that the pleading was frivolous, vexatious or otherwise an abuse of process. Even if Mr Faloon was correct that there was a real controversy, on an application to strike out the Court may have regard to wider considerations (in this case, the fact that the issue had already been decided in the earlier decision of Associate Judge Christiansen). Different matters were not at issue in these proceedings, the desired end being the same (that the trust was required to return income deriving from a claim regarding the land subject to the Planning Tribunal orders). Having reviewed the bundle of authorities provided to the Associate Judge, Peters J was satisfied that the Court's previous findings were as the Associate Judge described them (in that there was no prospect of Trade Lines Ltd now bringing a claim for compensation as it had been wound up; and Mr Faloon did not have an interest in the affected land), and that in bringing the proceeding, Mr Faloon was seeking to circumvent those findings in a manner that amounted to an abuse of process. The Judge also discussed various additional grounds in Mr Faloon's application for review, all of which she rejected.	Review of Associate Judge's decision (application for review declined).

29.	*Faloon v Commissioner of Inland Revenue* [2012] NZHC 1154 CIV-2011-470-878	Mr Faloon sought an order pursuant to pt 30 of the High Court Rules prohibiting any further hearing of a proceeding which he had commenced against the Commissioner in 2010 and which had been struck out (see 27). Peters J had declined Mr Faloon's application to review the Associate Judge's strike out decision (see 28). The Commissioner sought an order striking out the statement of claim and dismissing the proceeding.	Peters J granted the strike out application primarily on the basis that the order sought by Mr Faloon had been overtaken by the decisions at 27–28. However, she also noted that the basis on which Mr Faloon sought the order prohibiting any further hearing, that the Commissioner had not filed a statement of defence to an amended pleading filed by Mr Faloon, was based on a misapprehension as there was no requirement that a party who seeks to strike out a pleading must first file a statement of defence. Accordingly, the proceeding never had any prospect of success.	Strike out (application granted).
30.	*Faloon v Commissioner of Inland Revenue* [2013] NZHC 1296 CIV-2011-470-878	The Commissioner sought costs on a 2B basis in respect of its strike out application (see 27) and the subsequent review application by Mr Faloon (see 28).	Associate Judge Christiansen noted that the fact Mr Faloon may have had another application before the Court did not prevent the Court from fixing costs in relation to a proceeding which had been concluded, and indemnity costs usually significantly exceed costs awarded on a 2B basis. The Associate Judge fixed costs against Mr Faloon on a 2B basis in respect of both the review application and the strike out application.	Costs (application for costs to be awarded against Mr Faloon by Commissioner granted).
31.	*Faloon v Commissioner of Inland Revenue* [2013] NZHC 1736, (2013) 21 PRNZ 454 CIV-2010-470-922	Mr Faloon sought to review the costs judgment of Associate Judge Christiansen (see 30). Mr Faloon also sought an order that his application for review operate as a stay of the proceedings. The Commissioner applied for an order that the application be dismissed on the grounds that there is no jurisdiction to review a costs judgment and the only recourse for Mr Faloon would have been an appeal to the Court of Appeal.	Woodhouse J declined the Commissioner's application to dismiss the application on jurisdictional grounds and made directions for submissions to be filed in relation to the application for review. In respect of the stay application, Woodhouse J noted that Mr Faloon's application was much the same as an application for a stay pending appeal, and therefore applied the same criteria. Mr Faloon's appeal rights would not be rendered nugatory if there was no stay, and Mr Faloon had no realistic prospect of succeeding in his application for review, such that the Judge encouraged Mr Faloon to withdraw his application lest indemnity costs be awarded against him. The Judge also noted that there was very little scope to	Review of Associate Judge's decision (application to review costs decision accepted). Stay (application deemed declined unless total sum of costs paid by Mr Faloon to the Court).

		challenge the aspect of the decision relating to the judgment of Peters J (merely the Associate Judge's quantification of the costs awarded by Peters J). The Judge concluded that the application would be deemed to be dismissed unless the total sum of costs was paid into the Court on or before Friday 19 July 2013.	
32. *Faloon v Commissioner of Inland Revenue* [2013] NZHC 2142 CIV-2010-470-922	Mr Faloon had three stay applications before the Court related to the costs judgment of Associate Judge Christiansen (see 30). The first application sought a stay of the costs judgment pending the hearing of an application for review (see 31). Woolford J subsequently extended the time for payment by minute, in large part due to the fact that there were two other stay applications before the Court relating to the costs judgment. The second application sought a stay of the costs judgment pending Mr Faloon's separate appeal to the Court of Appeal, and the third sought a stay of Woodhouse J's judgment (see 31) insofar as it related to the first stay application, pending an appeal to the Court of Appeal. In respect of the second and third stay applications, Mr Faloon submitted that the Commissioner's notices of opposition had been filed outside the 10 working days period provided for in the High Court Rules.	Katz J adjourned the application to review the costs judgment pending determination of appeals filed by Mr Faloon in respect of the costs judgment and the judgment of Woodhouse J, it being inappropriate for there to be both an extant appeal and an application for review in relation to the costs judgment. Although both the first and third applications were arguably moot, relating to the review not the appeal, the review application remained on foot albeit adjourned pending the outcome of the appeal. Consequently, and in order to ensure the applications were dealt with consistently, it was appropriate for the stay applications relating to those two appeals to be determined on the same basis as the first stay application, namely that they would be deemed to have been declined unless the total sum fixed by Associate Judge Christiansen was paid into Court on or before 9 August 2013. If the sum was paid into Court by that time enforcement of the costs judgment would be stayed pending the outcome of the two appeals.	Stay (applications for stay deemed to be declined unless total sum of costs paid by Mr Faloon to the Court).
33. *Faloon v Commissioner of Inland Revenue* [2013] NZHC 2912 CIV-2010-470-922	Following the stay judgment of Katz J (see 32), the Commissioner sought indemnity costs against Mr Faloon pursuant to r 14.6(4)(a) of the High Court Rules, Mr Faloon having failed to make payment of the total sum of costs to the Court by the required date (such that the stay applications were declined).	Katz J noted that the Commissioner succeeded in her opposition to the second and third stay applications, so was entitled to at least 2B costs. The question was whether indemnity costs should be awarded. Mr Faloon proceeded with the second and third stay	Costs (application for indemnity costs granted).

	In the alternative the Commissioner sought 2B costs and disbursements.	applications despite a clear warning from Woodhouse J that he was risking an award of indemnity costs if he continued. They were, in effect, a collateral attack on Woodhouse J's judgment, with the aim of avoiding having to pay the costs that had been awarded in the Commissioner's favour into court. Mr Faloon ought to have known that the second and third applications were unmeritorious in light of this judgment, and therefore their pursuit was unreasonable in the circumstances. This caused the Commissioner to incur costs unnecessarily and therefore satisfied r 14.6(4)(a).	
Proceeding 13: tax issues related to statement of position			
34. *Faloon v Commissioner of Inland Revenue* [2013] NZHC 2643, (2013) 26 NZTC 21-061 CIV-2013-485-783	Mr Faloon filed an interlocutory application for leave to bring an originating application pursuant to s 89M(11) of the Tax Administration Act 1994 for an extension of time to reply to a Commissioner's statement of position under the tax dispute process. Mr Faloon also filed an application to set aside the notice of opposition filed by the Commissioner for non-compliance with r 5.44 of the High Court Rules and an affidavit filed in support of this for containing inadmissible hearsay statements.	Ronald Young J declined the application to set aside the notice of opposition. The original application was non-compliant with r 5.44 of the High Court Rules, but when a further notice was filed that was corrected. The technical failure was of no prejudice to Mr Faloon and the notice of opposition was amended to provide for compliance. The application to set aside the affidavit was also declined as the statements in the affidavit were not inadmissible hearsay as they were not adduced to prove the truth of them. The application for leave to bring the originating application was declined, as s 89M(11) only applied where the dispute procedure has been instituted by the Commissioner. Where it is the taxpayer that issued the notice of proposed adjustment, there is no right of reply to the Commissioner's statement of position. Mr Faloon also complained that the Commissioner's statement of position was not truly a statement of position, but this was not an appropriate or relevant matter for the Judge to rule on. It would be nonsense to consider any application under s	Interlocutory (application for leave to bring originating application declined; application to set aside notice of opposition and affidavit declined).

		89M(11) seeking an extension of time given there was no right of reply to the Commissioner's statement, and there could be no justification for allowing Mr Faloon to be given leave to file the originating application.	
35. *Faloon v Commissioner of Inland Revenue* [2013] NZHC 3090 CIV-2013-485-783	The Commissioner sought indemnity costs in relation to Mr Faloon's interlocutory application for leave to bring an originating application (see 34) pursuant to r 14.6(4) of the High Court Rules.	Ronald Young J granted the application for indemnity costs on the basis that the Commissioner had, by a letter, made an offer which effectively would have provided Mr Faloon with the opportunity he sought by virtue of his originating application, which Mr Faloon did not respond to. Further, the application could never have succeeded, the proceeding being "misconceived hopeless and unsuccessful". Mr Faloon was distracted by his unmeritorious objection to documents filed by the Commissioner and timetabling orders rather than focusing on his application, and the primary purpose in bringing these proceedings was to attempt to relitigate issues previously determined.	Costs (application for indemnity costs granted).
Applications relating to proceedings 12 and 13			
36. *Faloon v Commissioner of Inland Revenue* [2013] NZCA 425 CA417/2013 CA462/2013	Mr Faloon sought an extension of time to review a Registrar's decision that he lodge security for costs in respect of two appeals (see 33 and 34).	Miller J declined the application for an extension of time on the basis that no sufficient explanation had been advanced for the delay, the original application to dispense with security did not establish that it was in the interests of justice to waive or reduce security, and the merits were weak.	Review of Registrar's decision (application for extension of time to review declined).
37. *Faloon v Commissioner of Inland Revenue* [2014] NZCA 292, (2014) 26 NZTC 21-078 CA748/2013 CA811/2013	Mr Faloon applied for an extension of time to apply for the allocation of a hearing date and to file the cases on appeal in respect of two appeals (see 33 and 34). As Mr Faloon had failed to pay security for costs, the Commissioner applied for an order striking out the appeals on the basis that the appeals were hopeless.	The Court considered that Mr Faloon's failure to pay security for costs was particularly relevant because it prohibited him from applying for the allocation of a fixture and allowed the Commissioner to apply for an order striking out the appeals, which the Commissioner duly did. The Court found that Mr Faloon had no statutory right to reply to the Commissioner's statement of position, and therefore no prospect of successfully appealing	Interlocutory (application for extension of time declined). Strike out (application granted).

		Ronald Young J's decision. The second appeal was similarly hopeless. Furthermore, Mr Faloon had ample time in which to pay security for costs, and had given no reasons for his failure to do so other than an assertion that his wallet was then empty. Given Mr Faloon's failure to give security for both appeals, his applications for extension of time would be automatically barred: this factor in itself would operate as an absolute barrier to the Court exercising its discretion in Mr Faloon's favour.	
Proceeding 14: issues around trustees of trusts created by the late Mr Faloon's will			
38. *Faloon v Public Trust* HC Auckland CIV-2010-470-52, 30 September 2010	Mr Faloon's statement of claim gave rise to three causes of action. The first cause of action sought the appointment of a new trustee for trusts established by the late Mr Faloon's will on the grounds that the Public Trust had renounced probate, as the Public Trust did not take "the fee" to four "improved" lands, pursuant to s 31 of the Wills Act 1837. The second cause of action sought to apply for the appointment of a "new trustee" to the trusts, as well as focusing on the position of the Public Trust as executor under the late Mr Faloon's will, claiming that the plaintiffs were aggrieved by an act or omission of the "trustee in renouncing probate of the will", seeking relief in the form of a series of declarations under the Administration Act 1969 including granting Mr Faloon the administration of the estate. The third cause of action sought to have the Court review acts and omissions or decisions of the Public Trust, essentially repeating the complaint that the Public Trust failed to "take the fee" under the Wills Act, as well as that the Public Trust failed to assert a purported interest in the copyright to engineering plans which were used as the basis for the stream.	Associate Judge Doogue struck out the first cause of action as the section of the Wills Act did not apply in the circumstances, there having been no devise to a trustee. It was apparent that the plaintiffs did not rely on a specific devise of land but rather sought to imply that the equivalent of such a devise occurred when the late Mr Faloon carried out improvements to land which was not his. Section 129 of the Land Transfer Act 1952 also had nothing to do with the management of the late Mr Faloon's estate and could not give rise to any entitlements for the late Mr Faloon or his successor. Furthermore, the pleading was likely to cause prejudice and delay and may have been vexatious as it was largely unintelligible. The second cause of action was also confused and unclear. The plaintiffs asserted that the trustee had misconducted itself in the administration of the estate. However, as the omission complained of was renouncing probate of the will under s 31 of the Wills Act, which had no application to the circumstances of the case, there were no grounds for removal of the trustee and its replacement.	Strike out (application granted).

	The Public Trust applied to strike out the statement of claim pursuant to r 15.1 of the High Court Rules.	In respect of the third cause of action, the alleged omission was not concerned with anything the Public Trust was required to do, as the plans were likely to have been brought into existence by Trade Lines Ltd and not the late Mr Faloon, and more importantly, the late Mr Faloon and Trade Lines Ltd clearly consented to works being carried out on the basis of the plans. The time at which those two parties could have held out for compensation was before the works which the plans provided for were to be carried out. Additionally, any claim was likely to be subject to the statute of limitations.	
39. *Faloon v Public Trust* HC Tauranga CIV-2010-470-52, 15 August 2011	Mr Faloon sought to review the decision of Associate Judge Doogue striking out his claim against the Public Trust (see 40). Mr Faloon submitted at the hearing that everything turned on the existence of a joint "special power" held by the late Mr Faloon, arising from a letter dated 18 August 1975.	Duffy J agreed with Associate Judge Doge that, looked at objectively, the statement of claim did not disclose a reasonable cause of action. The Judge considered whether the statement of claim could, however, be refashioned into a coherent and intelligible pleading. Having regard to the 18 August 1975 letter, the Judge considered that the letter could not be construed as the source of the special power for which Mr Faloon contended, and neither Mr Faloon nor his father could have any legal claim to a pipeline in circumstances where the pipeline ran through land that was never owned by them. Any claim that might once have been made to the pipeline lay with the owner of the land, Trade Lines Ltd, and had been lost once the company was liquidated. As there was no basis for the special power, there could be no basis for a claim against the Public Trustee for failing to enforce this alleged power (by making the landowners through whose property the pipeline passes pay a fee to the holders of the special power relating to the pipeline). Further difficulties arose as the special power was unregistered and the delay in attempting to	Review of Associate Judge's decision (application for review declined).

		enforce it would in itself preclude any proceeding then being taken to do so. In addition, the Public Trustee completed his administration of the estate of the late Mr Faloon in the 1990s so it was too late to obtain directions from the Court requiring the Public Trustee to take any further step in administering the estate. All other allegations in the statement of claim hinged on the special power, so they were also without foundation. Consequently, the statement of claim was not capable of being refashioned into something on which a tenable claim could be based.	
40. *Faloon v Public Trust* HC Tauranga CIV-2010-470-52, 6 December 2011	Mr Faloon sought leave to cross-examine a senior trust officer for the Public Trust who swore affidavits on behalf of the Public Trust in support of the strike out application under r 7.28 of the High Court Rules in respect of an application for leave to appeal the decision of Duffy J (see 41).	Asher J declined the application for cross-examination, noting that there appeared to be no conceivable basis upon which, if leave to appeal were granted, leave to cross-examine the officer would be granted by the Court of Appeal in the course of hearing the substantive appeal (as the evidence would not be fresh nor cogent), and therefore there was no good reason to order the attendance of the officer for cross-examination in the leave application.	Interlocutory (application for leave to cross-examine declined).
41. *Faloon v Public Trust* [2012] NZHC 1307 CIV-2010-470-52	Mr Faloon sought to review a costs judgment of Duffy J fixing costs against Mr Faloon on a scale 2B basis following the decision declining Mr Faloon's review application (see 39) on the basis that the costs order presented for sealing by the Public Trust was incorrectly dated. Mr Faloon sought to raise other issues before the Court including revisiting the issue of costs, submitting that none of the parties were heard in relation to the order for costs in breach of r 7.43 of the High Court, and arguing that the heading of the order did not comply with r 5.12 as it differed from the heading of the statement of claim.	Venning J ordered that the costs order be resealed and dated correctly, thereby granting the application. The Judge considered that there was nothing in any of the points Mr Faloon sought to make about the costs order. Rule 7.43 had no substantive application to the case, applying only to interlocutory orders made during the course of substantive proceedings, and the heading of the order followed the summarised form of intituling used by Duffy J in delivering both the substantive judgment and the costs judgment. In any event there was no basis to review costs as the costs award was to scale, and the Public Trust was entitled to costs as Mr Faloon had failed in his application to review the Associate Judge's decision (see 39).	Costs (application for order that costs judgment be corrected granted).

		The Judge also noted that the attempt by Mr Faloon to revisit the substantive merits of the proceedings in submissions was entirely inappropriate as the proceedings had been struck out.	
Proceeding 15: appeal against Taxation Review Authority decision			
42. *Faloon v Commissioner of Inland Revenue* [2015] NZHC 1529 CIV-2015-485-289	Mr Faloon sought to appeal a decision of the Taxation Review Authority holding that the Authority had jurisdiction to hear a strike out application by the Commissioner in respect of a "challenge" filed by Mr Faloon. The Commissioner opposed the appeal on the basis that the High Court had no jurisdiction to entertain an appeal from an interlocutory decision of the Authority.	Brown J accepted the Commissioner's argument that no appeal to the High Court could lie from the Authority's decision, as it was plainly an interlocutory decision and not a final determination of Mr Faloon's challenge proceeding. Consequently, the appeal was dismissed.	Appeal (dismissed on jurisdictional grounds).
Proceeding 16: declarations relating to stream diversion			
43. *Faloon v Palmerston North Airport Ltd* [2012] NZEnvC 105 ENV-2012-WLG-40	Mr Faloon applied for declarations pursuant to s 311 of the Resource Management Act 1991 (RMA) that Palmerston North Airport Ltd (the Airport company) had diverted water contrary to the provisions of the RMA; that Mr Faloon and his father were entitled to divert a stream in accordance with a land improvement agreement; that no duplicate of the land improvement agreement had been provided to Mr Faloon to enable registration against the title to the land; that an Airport Crash Map No 4 was altered without Mr Faloon's consent; and that the Airport company had made no payment to Mr Faloon for occupation of a diversion of the Kawau stream. Mr Faloon also raised the issue of rehearing an appeal under the Town and Country Planning Act, which he alleged had been ordered by the Planning Tribunal.	Judge Dwyer did not consider that the declarations other than the first fitted within the ambit of s 310 of the RMA. The Judge therefore struck out those applications on the basis they disclosed no reasonable or relevant case in respect of the proceedings. In respect of the first declaration, the Airport company had indicated it sought to strike out Mr Faloon's application in total, and therefore the Judge directed that it file and serve submissions to that effect. In respect of rehearing the previous appeal, the Judge indicated that it was highly unlikely the Court would undertake a rehearing at such a belated stage. However, the Judge was having the file investigated and would address that matter as part of the application for strike out proceedings.	Strike out (application granted in part).

44. *Faloon v Palmerston North Airport Ltd* [2012] NZEnvC 222 ENV-2012-WLG-40	Palmerston North Airport Ltd applied to strike out the remaining declaration sought by Mr Faloon under s 311 of the RMA (see 44) — that is, that the Airport company had diverted water contrary to the provisions of the RMA. In the event the application was not struck out, the Airport company sought security for costs.	Judge Dwyer considered it was apparent from Mr Faloon's own documentation that the proceedings were not brought to achieve any discernible resource management outcome, but rather as part of Mr Faloon's ongoing grievances about acquisition of the Trade Lines Ltd land in 1993. The Judge therefore determined that the application for declaration had been brought vexatiously. The Judge also considered that nothing in the material provided to the Court disclosed any breach of s 14 of the RMA on the part of the Airport company, and therefore Mr Faloon's case disclosed no reasonable or relevant case in respect of the declaration sought. The combination of these two factors also meant it would be an abuse of process to allow Mr Faloon's case to be taken further. Consequently the Judge struck out the proceedings.	Strike out (application granted).
45. *Faloon v Palmerston North Airport Ltd* [2013] NZHC 2124 CIV-2012-485-2265	Mr Faloon appealed the strike out decision of Judge Dywer (see 44), on the basis he should have been heard, his case was arguable, and he had no ulterior motive beyond ensuring compliance with s 14 of the RMA. Mr Faloon also filed two interlocutory applications in relation to the proceedings, the first to set aside an affidavit and supporting memorandum filed by the respondent in response to Williams J's request for more information about the runway diversion, and the second an application under r 7.9 of the High Court Rules.	Williams J noted that the arguments on appeal were somewhat overtaken by events, as it became clear during the hearing that Mr Faloon's case was not, as the Environment Court had interpreted it, a challenge to the lawfulness of the Faloon diversion, but rather a challenge to the legality of the runway diversion *into* the Faloon diversion. The Judge therefore proceeded to consider afresh whether it was appropriate to strike out Mr Faloon's allegation on the papers. First, Williams J concluded that there was no factual basis upon which Mr Faloon could establish that the airport company was in breach of s 14 of the RMA. To succeed he would have had to establish that the runway diversion was built after 1967 and without a permit under the Water Soil and Conservation Act 1967, which he simply could not do (it having been	Appeal (dismissed). Interlocutory (applications to set aside affidavit and memorandum and for directions under r 7.9 of the High Court Rules declined).

		built in 1958 under the predecessor Act, at which time stream diversion was considered to be an incident of private ownership). Secondly, Williams J considered that despite the general principle that the party most affected by a strike out application is entitled to be heard in person except in the most exceptional cases, the principle that a hearing must have a point counted decisively against Mr Faloon — there was simply nothing he could have said at such a hearing that stood any chance of changing the results. Williams J declined both interlocutory applications.	
46. *Faloon v Palmerston North Airport Ltd* [2014] NZCA 291 CA49/2014	Mr Faloon applied for special leave to appeal to the Court of Appeal against the judgment of Williams J (see 45), on the basis that the lower courts had made three errors of fact which separately or collectively constituted an error or errors of law, and which satisfied the criteria for special leave to appeal: the first, in relation to a reference to certain evidence in the Environment Court decision; the second in relation a finding by Williams J in his substantive judgment that a portion of the Faloon diversion was acquired by the Airport company under the Public Works Act 1981; and the third from Williams J's leave judgment (declining leave to appeal).	The Court declined the application for special leave to appeal, noting that the first alleged error related to the Environment Court decision and therefore was not the subject of the proposed appeal; the second alleged error was clearly not an error of fact (there was no doubt that the Airport company acquired a portion of the land, and it was not material whether this was under the Public Works Act or not); and the third alleged error was made in the leave judgment and therefore could not possibly constitute a question of law requiring the Court's determination.	Application for special leave to appeal (application declined).
47. *Faloon v Palmerston North Airport Ltd* [2014] NZCA 372 CA49/2014	Mr Faloon applied to recall the Court's judgment declining his application for special leave to appeal (see 46).	The Court declined the application for recall on the basis that Mr Faloon sought to challenge substantive findings of fact made in earlier judgments and his application was irrelevant to whether his appeal raised a question of law justifying special leave being granted.	Recall (application declined).

48. *Faloon v Palmerston North Airport Ltd* [2015] NZEnvC 144 ENV-2012-WLG-40	The Airport company sought indemnity costs in respect of the strike out decision of Judge Dwyer in the Environment Court (see 44). The issue of costs was reserved until the determination of the High Court and Court of Appeal proceedings.	Judge Dwyer considered that indemnity costs were appropriate due to the following factors: arguments were advanced without substance; the process of the Court was abused; and the case was poorly pleaded or presented.	Costs (application for indemnity costs granted).
49. *Faloon v Palmerston North Airport Ltd* [2015] NZHC 2610 CIV-2015-485-734	Mr Faloon applied for an extension of time in which to file an appeal against the costs decision of Judge Dwyer (see 48).	Brown J considered that the majority of Mr Faloon's ground revisited substantive issues rather than costs concerns, and there was no requirement for the Court to convene an oral hearing for the determination of costs in the absence of any request to do so (which there was no evidence of). None of the additional matters raised by Mr Faloon at the hearing identified any question of law relevant to the question of costs. Brown J therefore declined the application for leave to appeal out of time on the basis that it would be a fruitless exercise to grant leave when no question of law was engaged by the proposed appeal.	Appeal (application for leave to appeal out of time declined).
Proceeding 17: patent issues			
50. *Faloon v Commissioner of Patents, Trade Marks, and Designs* [2015] NZHC 853 CIV-2015-485-1	Mr Faloon sought to appeal "all the decisions of the Commissioner of Patents" in an examination report following a patent application made by Mr Faloon. Mr Faloon also sought an order declaring that the Commissioner of Patents, Trade Marks, and Designs had made an error of law in a letter from 1987 relating to an earlier patent granted to Mr Faloon, for which he made an application for leave to appeal out of time and an application for joinder of various parties to that appeal. In respect of the examination report, the Commissioner of Patents, Trade Marks, and Designs applied for the appeal to be struck out on the basis that it disclosed no reasonably arguable grounds as the jurisdiction of the High Court was not engaged (there having been no decision in terms of	In respect of the strike out application, Brown J found that "decision" in the relevant sections of the Patents Act could not encompass an examination report as this was a preliminary step in the processing of patent applications and therefore the appeal was struck out. Brown J declined the application for leave to appeal out of time the decision of the Commissioner of Patents as the relevant provision of the Patents Act contained no right of appeal, and in any case the person who may exercise the power described in the section was the Attorney-General not the Commissioner of Patents, Trade Marks, and Designs. In light of the decision not to grant the extension of time, Brown J also declined the request for joinder.	Strike out (application granted). Appeal (application for leave to appeal out of time declined). Interlocutory (application for joinder declined).

	either the Patents Act 1953 or the High Court Rules).		
51. *Faloon v Commissioner of Patents, Trade Marks and Designs* [2015] NZCA 425 CA304/2015	Mr Faloon applied for leave to appeal the decision of Brown J striking out his appeal (see 50).	The Court declined Mr Faloon's application on the basis there was no evidence whatsoever to support his submission that the examiner's second report was in law the Commissioner's decision on his patent application. Rather, Mr Faloon's argument confused the function of the examiner with the Commissioner's decision making power, and in fact the second report unequivocally outlined the further action open to the Commissioner before determining the application. Mr Faloon's application for leave to appeal did not identify a question of law for determination, let alone one capable of bona fide and serious argument involving a question of public interest.	Application for leave to appeal (application declined).
Proceeding 18: bankruptcy adjudication			
52. *Commissioner of Inland Revenue v Faloon* [2016] NZHC 760, (2016) 27 NZTC 22-076 CIV-2015-470-95	The Commissioner applied for Mr Faloon to be adjudicated bankrupt for non-compliance with four bankruptcy notices, the debt in each notice being an order for costs made in proceedings between Mr Faloon and the Commissioner. Mr Faloon filed a notice of intention to oppose the applications, as a part of which he proposed that the proceeding be halted under s 38 of the Insolvency Act 2006, as well as making several technical objections and raising various arguments to suggest that an order adjudicating him bankrupt could not be made. Mr Faloon also took issue with the standard pleading in the bankruptcy application that the Commissioner had no security for debt and contended that the Commissioner was acting oppressively in bringing the bankruptcy application against him to prevent further litigation.	Associate Judge Bell considered that, subject to Mr Faloon's grounds in opposition, the Commissioner had brought herself within the requirements of s 13 of the Insolvency Act. The Associate Judge considered that none of the technical aspects raised by Mr Faloon stood in the way of such a finding. Furthermore, Mr Faloon did not enjoy any immunity from bankruptcy. The security that Mr Faloon was offering (based on the Palmerston North Airport water diversion) was entirely speculative and therefore could not be taken into account in the exercise of the discretion under ss 36 and 37 of the Insolvency Act. Mr Faloon's arguments relating to his expectation that he may be able to bring proceedings against the Crown that would give him relief more extensive than the orders for costs made against him (essentially an argument for insolvency set-off) were rejected on the basis that Mr Faloon could not have any prospect of success in trying to relitigate matters on which he had failed so many	Substantive (application for adjudication of bankruptcy granted).

		times before. Furthermore, the Associate Judge dismissed the submission of oppression, there being no evidence that the Commissioner was acting in any way improperly. Having regard to factors in the general exercise of the discretion under ss 36 and 37 of the Insolvency Act, including the lack of any realistic alternatives to adjudication, the need for accountability, the fact that Mr Faloon had been adjudicated bankrupt once before and the ultimate outcome that the debts would be lifted off after the bankruptcy, Associate Judge Bell was satisfied in all the circumstances that an adjudication in bankruptcy was appropriate and duly make an adjudication order.	
53. *Commissioner of Inland Revenue v Faloon* [2016] NZHC 990 CIV-2015-470-92-95	Mr Faloon applied to review the order made by Associate Judge Bell adjudicating him bankrupt (see 52). He also applied to review decisions made by two Deputy Registrars of the High Court not to accept "appeal" documents for filing.	Heath J held that there was no jurisdiction under s 414(1) of the Insolvency Act for the High Court to review the decision to adjudicate Mr Faloon bankrupt. Rather, the decision needed to be appealed to the Court of Appeal.	Review of Associate Judge's decision (application for review declined). Review of Deputy Registrars' decisions (application for review declined).
54. *Faloon v Commissioner of Inland Revenue* [2016] NZCA 344 CA208/2016	Mr Faloon applied to review the Deputy Registrar's decision to decline his application to dispense with, reduce or defer payment of security for costs in respect of his appeal against the decision of Associate Judge Bell (see 53).	Kós J declined the application for review, agreeing with the Deputy Registrar that there was inadequate information to ascertain whether Mr Faloon was impecunious, and in any case the proposed grounds of appeal lacked merit (therefore the appeal was not one which a reasonable and solvent litigant would prosecute). Furthermore there was no public interest warranting dispensation of security.	Review of Deputy Registrar's decision (application for review declined).
55. *Faloon v Commissioner of Inland Revenue* [2016] NZHC 2063 CIV-2015-470-92	Mr Faloon applied to have his bankruptcy adjudication suspended until the Court of Appeal decided his appeal. He sought five orders — the first two were suspending orders, and then the remainder	Associate Judge Bell considered the essential basis for Mr Faloon's suspension application to be that he wanted everything to be put on hold, including his appeal against the adjudication, while he continued	Interlocutory (application for suspension of bankruptcy pending appeal declined).

	CIV-2015-470-93 CIV-2015-470-94 CIV-2015-470-95	were to be conditions of any such order. The third was an order directing the Commissioner to make certain findings under s HR6 of the Income Tax Act 2007, the fourth was for declaratory orders under s 25(3) of the Property (Relationships) Act 1976 and the fifth was an order directing that alleged errors in a survey office plan be corrected under s 52(2)(c) of the Cadastral Survey Act 2002.	with his other proceedings that were on foot when he was adjudicated bankrupt. This did not provide a sound reason to suspend his adjudication pending hearing of the appeal, as the arrangements to put the litigation on hold were unlikely to cause Mr Faloon to suffer undue prejudice if the proceedings were to await the outcome of his appeal, and the contrary position was likely to result in further unnecessary litigation, particularly given Mr Faloon's litigiousness. This was further supported by the factors to be taken into account in determining a stay application (an analogous procedure).	
56.	*Faloon v Commissioner of Inland Revenue* [2016] NZCA 537, (2016) 27 NZTC 22-077 CA208/2016	Mr Faloon sought an extension of time to allocate a hearing and file the case of appeal in respect of his appeal against Associate Judge Bell's decision adjudicating him bankrupt (see 52). Mr Faloon sought to defer the hearing of the appeal against the orders adjudicating him bankrupt to enable the bankruptcy suspension appeal to be heard first.	The Court noted that in reality, Mr Faloon was seeking to indefinitely delay the hearing of the appeal while he continued with his proceedings in the High Court — and therefore his reasons for the extension of time were illegitimate. In addition, the Court considered the merits of the proposed appeal to be equally fatal to the application as the Court was satisfied his appeal was hopeless, being based primarily on arguments that had already been heard and rejected on multiple occasions. A new argument, that various entries on the land register in respect of the land connected to the compulsory acquisition process were invalid because they were "disallowable instruments", was untenable.	Appeal (application for extension of time declined).
57.	*Faloon v Commissioner of Inland Revenue* [2016] NZCA 588, (2016) 27 NZTC 22-083 CA208/2016	Mr Faloon applied to recall the Court of Appeal's judgment declining to grant an extension of time (see 56).	The Court declined the application for recall on the basis that the grounds set out by Mr Faloon were simply an attempt to re-run arguments already raised at the hearing of the appeal and addressed in the judgment.	Recall (application declined).
58.	*Faloon v Commissioner of Inland Revenue* [2017] NZCA 5, (2017) 28 NZTC 23-003 CA208/2016	Mr Faloon filed a second application for recall of the Court of Appeal's judgment declining to grant an extension of time (see 56).	The Court declined the application on the basis that Mr Faloon was again seeking to advance arguments already raised and determined in those proceedings and in others.	Recall (application declined).

59. *Faloon v Commissioner of Inland Revenue* [2017] NZSC 65, (2017) 28 NZTC 23-014 SC25/2017	Mr Faloon sought leave to appeal the Court of Appeal decision declining to grant an extension of time (see 56).	The Court declined Mr Faloon's application for leave to appeal, upholding the Court of Appeal's finding that the basis upon which Mr Faloon sought an extension of time was illegitimate. Furthermore, given Mr Faloon had not provided a credible argument for challenging the view of the Court of Appeal as to his reasons for an extension, the Court did not consider it necessary to go into that aspect of the case, although noting that it was inclined to the view that, for the reasons given by the Court of Appeal, the adjudication appeal could be regarded as truly hopeless.	Appeal (application for leave to appeal declined).
Proceeding 19: patent issues			
60. *Faloon v Commissioner of Patents, Trademarks and Designs* [2017] NZHC 2344 CIV-2016-485-129 CIV-2016-485-189	Mr Faloon applied under r 7.49 of the High Court Rules to vary or rescind a decision of the High Court noting in a minute the dismissal of Mr Faloon's proceedings due to the filing of notices of discontinuance by the Official Assignee and recording that applications by Mr Faloon to set aside both of the certificates was declined.	Churchman J noted that Mr Faloon's submissions did not engage with the relatively limited circumstances in which r 7.49 can be invoked to vary or rescind an order or judgment and accepted that if Mr Faloon wished to challenge any decision or action taken by the Official Assignee in relation to his bankruptcy, he could not do so in these proceedings, but only in the context of the bankruptcy. Churchman J also noted that in filing applications where he had given no thought to the legal basis of the application Mr Faloon was wasting the Court's time and that of the respondents, and if he persisted in such activity he risked being declared a vexatious litigant.	Application to vary or rescind decision (application declined).