

Patients to appeal ruling

A GROUP of **Good Health Wanganui** patients left untreated because they were mistakenly diagnosed as not having cancer intended to appeal a High Court ruling barring them from suing for \$2 million compensation, their lawyer said yesterday.

Grant Cameron is acting for 18 former patients taking legal action against **Good Health Wanganui**, pathologist James Burkinshaw and the residual health management unit.

Ten were told they had cancer and treated for it, many with surgery, and are suing for exemplary (punitive) damages. Their unnecessary surgery constitutes medical misadventure under ACC law and they are not seeking compensatory damages. They were likely to go for \$250,000 each in exemplary damages, Mr Cameron said.

The second group comprises patients told they did not have cancer when they did. The misdiagnosis meant treatment was delayed, sometimes for lengthy periods, Mr Cameron said.

This group wanted to sue for both compensatory damages of \$150,000 each and exemplary damages of \$250,000 each, but a ruling last week from Master Thompson said they could not seek compensation through the courts.

"Our view is that these people have not suffered a personal injury by accident, which is the basis for ACC coverage," Mr Cameron said. "Their case is simply one of negligence and misdiagnosis and therefore the act does not apply and they should be able to sue for common law damages. We will be proceeding on that basis."

He said Master Thompson's ruling followed an attempt by those sued to strike out the claims and was a useful first step in clarifying the law.

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