

Former patients to sue hospital

Eight women left untreated after a **Good Health Wanganui** pathologist misdiagnosed their cancer have been told by the Court of Appeal that their claim for compensation was barred by accident compensation laws.

But in a rare move the court's judgment said in dismissing the appeal it was doing so without prejudice to the women's right to seek compensatory damages for mental injury arising from the uncertainty of not knowing whether they had been misdiagnosed.

The women were appealing last year's High Court decision by Master Thomson ruling out their claim for \$1.2 million compensation for personal injury. Master Thomson ruled that the eight women could sue the hospital for \$2 million -- \$250,000 each -- in exemplary damages, but they were not able to go ahead with that action until yesterday's compensation appeal result was known.

The women's lawyer, **Grant Cameron**, said it could be "taken as read" that the eight would now sue for damages under the limited window of opportunity detailed by the court, as well as for exemplary damages.

"It is a very good result for our clients. The Court of Appeal has established what we asked them to -- that there is a cause of action that we can proceed with.

"The fact that the appeal was dismissed is a mere technicality, because the Court of Appeal made it clear that on an amended statement of claim, the full group that we represent can proceed." He said the women might still seek leave to appeal the court's main ruling to the Privy Council.

The court's judgment, delivered on behalf of the five judges by Justice Henry, said the appeal raised "yet again questions concerning the extent to which the accident compensation legislation has impacted on the common law right to seek damages for personal injury resulting from a breach of the duty of care". -- NZPA

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