



Westlaw New Zealand

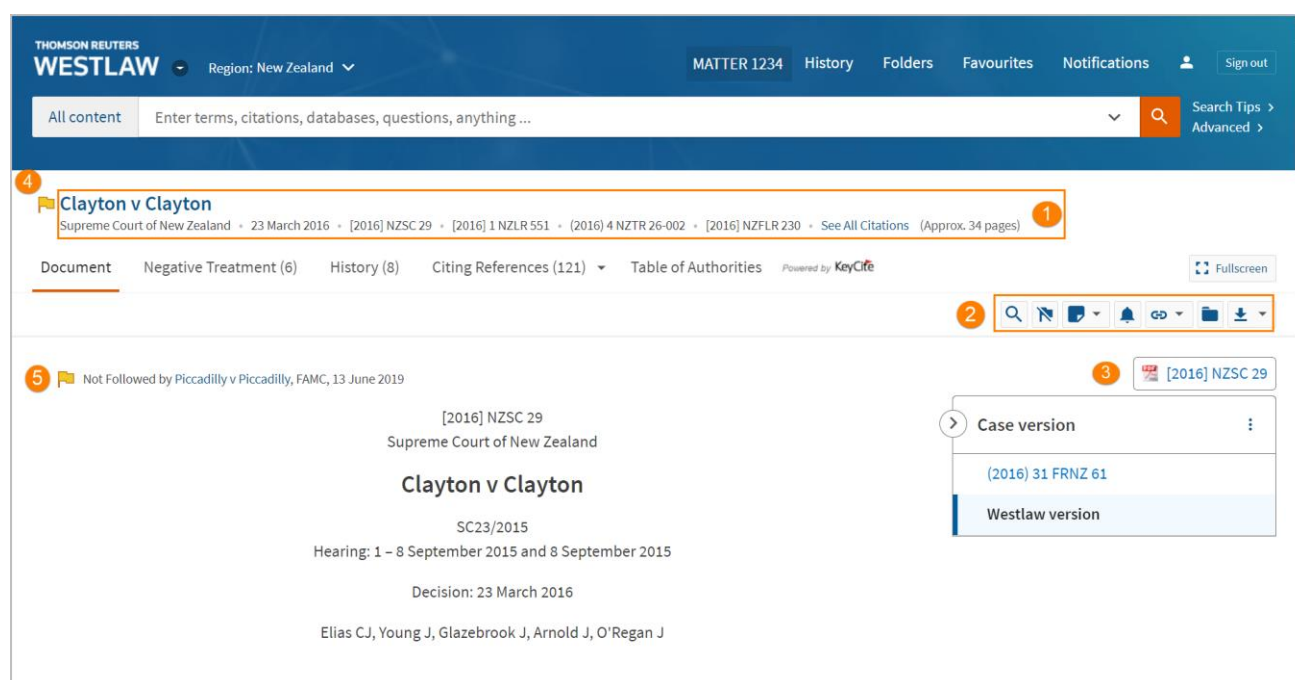
Case Law Guide

The following guide outlines the case document features and provides an overview of the case analysis information.

- [Case Document Display](#)
- [KeyCite Tabs](#)
- [KeyCite Alert](#)

Case Document Display

1. **Case Information:** Includes party names, case title, court, date, and parallel citations.
2. **Functional tools and delivery options:** Includes document search, KeyCite flag toggle, annotations tools, alert, copy, save, print, download.
3. **The PDF imaged judgment:** Provides reported and unreported court ready versions.
4. **KeyCite Flags:** Alert you to negative references or litigation history that may impact the document's validity. When applicable, a description and a link for the most negative treatment is available at the top left beside the case title.
5. **Most Negative Treatment:** If a case or administrative decision has a **red** or **yellow** flag, the most negative treatment is displayed next to the flag at the top of the document.
 -  A yellow flag warns that the decision has some negative history but has not been reversed or overruled.
 -  A red flag warns that the case may not be good law, indicating that the decision has been reversed or overruled.



The screenshot shows the Westlaw New Zealand interface for the case **Clayton v Clayton**. The top navigation bar includes the Westlaw logo, region selection (New Zealand), and user options like 'MATTER 1234', 'History', 'Folders', 'Favourites', 'Notifications', and 'Sign out'. A search bar is present with the text 'Enter terms, citations, databases, questions, anything ...'. The case title 'Clayton v Clayton' is displayed with a yellow flag icon (1) and a list of parallel citations: 'Supreme Court of New Zealand • 23 March 2016 • [2016] NZSC 29 • [2016] 1 NZLR 551 • (2016) 4 NZTR 26-002 • [2016] NZFLR 230 • See All Citations (Approx. 34 pages)'. Below the title, there are tabs for 'Document', 'Negative Treatment (6)', 'History (8)', 'Citing References (121)', and 'Table of Authorities'. A toolbar (2) contains icons for search, print, download, and other functions. A 'Case version' dropdown menu (3) is open, showing '(2016) 31 FRNZ 61' and 'Westlaw version'. A yellow flag icon (5) is visible next to the text 'Not Followed by Piccadilly v Piccadilly, FAMC, 13 June 2019'. The main content area displays the case details: '[2016] NZSC 29', 'Supreme Court of New Zealand', 'Clayton v Clayton', 'SC23/2015', 'Hearing: 1 – 8 September 2015 and 8 September 2015', 'Decision: 23 March 2016', and 'Elias CJ, Young J, Glazebrook J, Arnold J, O'Regan J'.

6. **Case Synopsis:** To access the case synopsis scroll down the page. The synopses state the outcome of the decision, the pertinent facts, and arguments of the case.

Elias C.J., Young J., Glazebrook J., Arnold J., O'Regan J.

[2016] NZSC 29

Synopsis 6

Partially successful appeal by Mr C against Court of Appeal ('CA') decision; partially successful cross-appeal by Mrs C; CA decision dealt with issues relating to trusts that were established during Mr C and Mrs C's marriage and after the parties separated; appeal and cross-appeal related to one of those trusts, the Vaughan Road Property Trust ('VRPT'); CA held that cl 7.1 of the VRPT trust deed was a general power of appointment; CA also held that the power was both property and relationship property, having a value equal to that of the net assets of the VRPT; CA found that VRPT was not an illusory trust or a sham trust; following issues raised by parties, (a) the rights of Mr and Mrs C under the VRPT deed relationship property, (b) the power of appointment under cl 7.1 of the VRPT deed relationship property and (c) the correct valuation of the VRPT powers; cross-appeal related to whether the VRPT was a sham trust or illusory trust

Held, CA erred in determining that cl 7.1 of the VRPT deed was a general power of appointment and that power was relationship property; VRPT powers were relationship property, the value of which was equal to the value of the net assets of the VRPT; upheld CA finding that the VRPT was not a sham; set aside CA finding that the VRPT was not an illusory trust; appeal granted in part; cross-appeal granted in part; This case contains publication restrictions: in accordance with s 169 Family Proceedings Act 1980 and s 35A Property (Relationships) Act 1976 any report of this proceeding must comply with ss 11B to 11D Family Courts Act 1980

Case version: (2016) 31 FRNZ 61, Westlaw version

Back to top

7. **Key Number Classifications:** Further down the page the Key Number Classifications outline the key legal concepts or principles of the case. Key Number Classifications can be displayed in either a linear or tabular view by selecting the list or grid icons on the right-hand side.

Classifications (4) 7

1 Civil procedure	13	Civil procedure
	13k1-k19	Appeals
	13k6	Determination
2 Family law	28	Family law
	28k497-k617	Relationship property
	28k607-k611	Trusts
	28k607	Beneficial interest
3 Family law	28	Family law
	28k497-k617	Relationship property
	28k613-k617	Valuation

Case version: (2016) 31 FRNZ 61, Westlaw version

Back to top

8. Case information such as party names and legal representatives, words and phrases judicially consider are located further down in the case.

Property Law Act 1952 (NZ) 8

Property Law Act 2007 (NZ) s 4

Social Security Act 1964 (NZ) s 147A

High Court Rules (NZ)

Legal Services Regulations 2011 (NZ) r 8(4), r 8(5)

Social Security (Long-term Residential Care) Regulations 2005 (NZ) r 9B

Party Names

Mark Arnold Clayton (*First Appellant*), Mark Arnold Clayton as Trustee of the Vaughan Road Property Trust (*Second Appellant*), Melanie Ann Clayton (*Respondent*)

Legal Representatives

M J McCartney QC and K E Sullivan for First Appellant; C R Carruthers QC and A S Butler for Second Appellant; D A T Chambers QC and J R Hosking for Respondent; Tompkins Wake, Hamilton for First Appellant; Quigo Partners - Wellington for Second Appellant; Anderson Creagh Lai - Auckland for

Back to top

KeyCite Tabs

1. The **Negative Treatment** tab displays negative direct litigation history and citing references for the case.
 - a. The **Negative Citing References** are listed by most negative treatment, indicated by the bars in the Depth column.
 - b. To view where the citing references discuss this case, set the display information to **most** and click on the highlighted hyperlink to read further.

Clayton v Clayton
Supreme Court of New Zealand · 23 March 2016 · [2016] NZSC 29 · [2016] 1 NZLR 551 · (2016) 4 NZTR 26-002 · [2016] NZFLR 230 · See All Citations (Approx. 34 pages)

Document Negative Treatment (6) History (8) Citing References (121) Table of Authorities Powered by KeyCite

KeyCite Negative Treatment 1

Negative Direct History
The KeyCited document has been negatively impacted in the following ways by events or decisions in the same litigation or proceedings:
There is no negative direct history.

Negative Citing References (6)
The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth
Not Followed by	1. Piccadilly v Piccadilly <i>Most Negative</i> [2019] NZFC 3695, [2019] NZFLR 393, [2019] 32 FRNZ 244, 2019 WL 7904691, FAMC	13 June 2019	Cases	1

The parties to these proceedings are Mr and Ms [Piccadilly], who were once married, and the trustees of their family trust, the [Piccadilly] Family Trust. They have been unable to...

...from recent decisions of the Supreme Court, particularly Clayton v Clayton (Vaughan Road Trust) and Scott v Williams.19 Clayton v Clayton (Vaughan Road Trust) [2016] NZSC 29, [2016] NZFLR 230 Scott v Williams [2017] NZSC 185, [2018] 1 NZLR 507 In Clayton, the Supreme Court had addressed the concept of...

2. The **History** tab displays the **direct history** of the case and related proceedings.
 - a. **Direct History:** Displays the litigation history in list format on the left and as a graphic on the right.
 - b. Select hide to remove the graphical display and use the – and + icons to zoom in and out.

Clayton v Clayton
Supreme Court of New Zealand · 23 March 2016 · [2016] NZSC 29 · [2016] 1 NZLR 551 · (2016) 4 NZTR 26-002 · [2016] NZFLR 230 · See All Citations (Approx. 34 pages)

Document Negative Treatment (6) History (8) Citing References (121) Table of Authorities Powered by KeyCite

KeyCite History (8) Graphic: Hide Reset - +

Direct History (8)

Select All

1. Clayton v Clayton [2013] NZHC 309, HC, 22 Feb. 2013
Leave to appeal granted by.....

2. Clayton v Clayton [2013] NZHC 1529, HC, 24 June 2013
Special leave to appeal granted by.....

3. Clayton v Clayton [2013] NZCA 633, CA, 10 Dec. 2013

4. Clayton v Clayton [2013] NZHC 309, HC, 22 Feb. 2013
Reversed in Part by.....

5. Clayton v Clayton [2015] NZCA 30, CA, 26 Feb. 2015

The graphical display shows a flowchart of the case's history, with nodes labeled A through F, representing different stages of the litigation and appeals.

3. The **Citing References** tab displays a list of cases, administrative materials, secondary sources, briefs, and other court documents that cite the case.
 - a. **Sort By:** Options include depth of treatment, date, or court.
 - b. **Content types:** Filter by content (e.g., cases or secondary sources).

- c. **Filter:** Filter by jurisdiction, treatment or reported status, or date.
- d. **Display:** Select most to display where the case is mentioned in the citing references. Click the highlighted link to view the case.

Clayton v Clayton
Supreme Court of New Zealand · 23 March 2016 · [2016] NZSC 29 · [2016] 1 NZLR 551 · [2016] 4 NZTR 26-002 · [2016] NZFLR 230 · See All Citations (Approx. 34 pages)

Document Negative Treatment (6) History (3) **Citing References (121)** Table of Authorities Powered by KeyCite

KeyCite **Citing References (65)** 1-65 Sort By: Depth: Highest First

Content types

- Cases 65
- Secondary Sources 56
- All Results 121

Filter

Select multiple

Apply

Search within results

Jurisdiction +

Date +

Treatment	Title	Date	Type	Depth
Applied by	1. Findlay v Findlay [2017] NZHC 2797, 2017 WL 6368151, HC Ability Ltd Ability Builders Limited ASOC Amended Statement of Claim Chateau Drive 34 Chateau Drive DCF Discounted Cash Flow EQC Earthquake Commission FCL Findlay Construction... ...to Mrs Findlay, as the personal powers vested in Mr Findlay are not reviewable. This position accords with the Supreme Court judgment in Clayton.1 Clayton v Clayton [2016] NZSC 29 However, Mrs Findlay's rights as a residuary beneficiary came to the Court's notice only at the end of the hearing...	15 Nov. 2017	Cases	■■■■
Considered by	2. Goldie v Campbell [2017] NZHC 1692, (2017) 4 NZTR 27-020, [2017] NZFLR 529, (2017) 31 FRNZ 643, 2017 WL 3130337, HC, (NO. CIV-2016-404-2601) The parties are embroiled in a dispute under the Property Relationships Act 1975 ("the PRA"). The appellant, Ms Goldie, claims that the respondent, Mr Campbell, has property... ...own purposes or to his own ultimate benefit.[5]In advancing their respective cases, both parties rely on the judgment of the Supreme Court in Clayton v Clayton.1 Clayton v Clayton [2016] NZSC 29, [2016] 1 NZLR 551 (6)At first instance the Family Court held that the provisions of...	21 July 2017	Cases	■■■■

KeyCite Depth of Treatment bars indicate the extent to which a citing case, administrative decision, or brief discusses the cited case.

■■■■■ Examined	Examined – the citing case, administrative decision, or brief contains an extended discussion of the cited case, usually more than a printed page of text.
■■■■ Discussed	Discussed – the citing case, administrative decision, or brief contains a substantial discussion of the cited case, usually more than a paragraph but less than a printed page.
■■■■ Cited	Cited – the citing case, administrative decision, or brief contains some discussion of the cited case, usually less than a paragraph.
■■■ Mentioned	Mentioned – the citing case, administrative decision, or brief contains a brief reference to the cited case, usually in a string citation.

- 4. The **Table of Authorities** tab displays a list of cases determined as authoritative by the case.
 - a. **Sort By:** Options include alphabetical or depth of treatment.
 - b. A direct quotation is denoted by **green quotation marks**.
 - c. Cases that are not included in your subscription will show as 'Out of Plan' and will incur a fee to view.

Clayton v Clayton
Supreme Court of New Zealand · 23 March 2016 · [2016] NZSC 29 · [2016] 1 NZLR 551 · [2016] 4 NZTR 26-002 · [2016] NZFLR 230 · See All Citations (Approx. 34 pages)

Document Negative Treatment (6) History (8) **Table of Authorities (12)** Powered by KeyCite

KeyCite **Table of Authorities (25)** 1-25 Sort By: Depth: Highest First

Filter

Search within results

Treatment	Referenced Title	Type	Depth	Quoted	Page Number
Considered	1. Kennon v Spry [2008] HCA 56, (2008) 238 CLR 366, (2008) 1 ASTLR 271, (2008) 83 ALJR 145, (2008) 251 ALR 257, (2008) 40 Fam LR 1, [2008] FLC 93-388, 2008 WL 5063832, HCA, 2008, (NO. M25/2008, M26/2008) Ian Charles Fowell Spry is a retired barrister and Queen's Counsel in the State of Victoria. He was born on 17 January 1940. In 1968 he created by parol a trust called the ICF Spry...	Out of plan Case	■■■■	''	1+
Considered	2. Whaley v Whaley 2011 WL 1151890, CA (Civ Div), 2011 The appellant husband (H) appealed against an ancillary relief order in favour of the respondent wife (W).	Case	■■■■		1+

KeyCite Alert

KeyCite Alerts can be used to notify you of any subsequent citing references or changes to the litigation history of the case e.g. case is referenced in journal or commentary, case status changes.

To create a KeyCite Alert

1. From the case document select the **alert bell**.
2. Name your alert and click **continue**.

THOMSON REUTERS
WESTLAW Region: New Zealand

MATTER 1234 History Folders Favourites Notifications Sign out

All content Enter terms, citations, databases, questions, anything ... Search Tips > Advanced >

[2016] NZSC 29 > Create alert

KeyCite Alert

1 Basics

Administrator | Change owner

2 Name of alert
clayton v clayton
Client ID: MATTER 1234 Change

Description (optional)

Notify me of changes to this alert

Citation
[2016] NZSC 29

KeyCite Alert Jurisdictions: New Zealand, Australia, Canada, United States
Assign to alert group
Add categories

Continue

3. Tick the checkboxes to be notified to **Citing References**, **History References**, or both. There is also an option to tick the checkboxes below, to limit results to **Negative Treatment only**.
4. Select **Narrow by Content Type and Other Filters** to narrow the citing references by content type or a specific publication. Once you have filtered, click **Save**, and then click **Continue**.

THOMSON REUTERS
WESTLAW Region: New Zealand

MATTER 1234 History Folders Favourites Notifications Sign out

All content Enter terms, citations, databases, questions, anything ... Search Tips > Advanced >

[2016] NZSC 29 > Create alert

KeyCite Alert

1 Basics Edit

Name of alert: clayton v clayton
Owner: Administrator
Client ID: MATTER 1234
Description:
Cite: [2016] NZSC 29
Categories:
Alert group: Unassigned

2 Select Content

Include Citing References Include History References
 Limit Citing References to Negative Treatment Limit History References to Negative Treatment

Detail Level Detail Level

4 Narrow by Content Type and Other Filters

Continue

3 Customize delivery

5. **Customize delivery:** Enter the email address you would like the Alert to be emailed to. You can tick the checkbox to include full text of new documents, and change the format, i.e., Word, RTF, PDF, or HTML, and then click **Continue**.

6. **Schedule alert:** Change the frequency of the alert and the time to be emailed. It is recommended to change the time zone to your own area. **Save the alert.**

For further information on customising your alerts, please see Westlaw New Zealand Guide – [Managing Alerts](#).

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