

**Rutherford Family Trust v O'Gorman 10/4/02, Panckhurst J, HC Christchurch
CP165/96**

Successful application to strike out proceedings - RFT denied the existence of a binding settlement - RFT claimed correspondence that conveyed terms and an acceptance by G are inadmissible as evidence - RFT claimed there was evidence to point towards the fact that G's solicitor did not have authority to enter into settlement on his behalf - RFT claimed negotiations continued after correspondence therefore there cannot have been a finalised settlement - G claimed the dispute had been settled and any continuance of the matter would be an abuse of process - G claimed it was no fault of his the settlement had not been implemented because RFT was still in dispute with a third party about compensation - G argued his solicitor had authority to act on his behalf.

Held, correspondence of the nature RFT alleges can be held to be inadmissible on public policy grounds - however, G claims there is a binding settlement and it would be impossible for the court to make a ruling upon that submission without this evidence - the fact that negotiations have continued does not prove a binding settlement is not in existence - the correspondence included terms of settlement and these were accepted by G thus the agreement is binding - proceedings struck out - application granted.