

Judge strikes out 'puzzling' Environinvest pleadings

Leonie Wood The Sydney Morning Herald, *July 20, 2011*

A CASE initiated by the liquidator of Environinvest seeking millions of dollars from two directors of the failed tree plantations group has been dealt a hefty blow after the Victorian Supreme Court struck out large sections of the pleadings.

Justice James Judd said yesterday the liquidator, **Jim Downey**, should not be permitted to bring an action against the directors, Grant Robertson and Clive Dossetor, alleging certain breaches of the Corporations Act, "unless and until he can demonstrate that he has a proper basis to make such allegations".

Justice Judd described the allegations against the directors as "confusing, often circular and sometimes inconsistent" and said the pleadings did not form "a coherent narrative".

Mr Downey has accused the directors of breaching their fiduciary duties because they allowed Environinvest, a company founded by Roger Pescott, to enter into certain transactions involving various members of the Pescott family, allegedly causing loss and damage to the company.

Mr Pescott, a former Liberal state minister, was bankrupted in September over a debt owed to St George Bank. A separate case against him has been stayed.

Justice Judd said the pleadings implied certain things but did not specifically plead them, contained unstated assumptions and had structural and conceptual problems that made it "virtually impossible" for someone without background knowledge to gain "a clear understanding - or at times any understanding at all - of the essential elements of each cause".

"Pleadings are not, however, intended as a puzzle," he said.

The case is due to return to court on October 7.