

IN THE SUPREME COURT OF NEW ZEALAND

SC 93/2013  
[2013] NZSC 113

BETWEEN                      VINCENT ROSS SIEMER  
   Applicant

AND                              JUDICIAL CONDUCT  
   COMMISSIONER  
   First Respondent

   HELEN DIANA WINKELMANN  
   Second Respondent

Court:                          McGrath, William Young and Glazebrook JJ

Counsel:                      Applicant in person  
   P J Gunn for First Respondent

Judgment:                      14 November 2013

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**JUDGMENT OF THE COURT**

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- A    The application for leave to appeal is dismissed.**
- B    The applicant is to pay costs of \$2,500 plus all reasonable disbursements (to be fixed, if necessary, by the Registrar) to the first respondent.**

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**REASONS**

[1] Mr Siemer seeks leave to appeal against a minute of French J, of 19 August 2013, directing the Court of Appeal Registrar to refuse to accept an application made by Mr Siemer on 12 August 2013. That application sought review, under s 61A(2) of the Judicature Act 1908, of a judgment given by French J on

30 July 2013.<sup>1</sup> In the 30 July judgment, French J had dismissed an earlier application of Mr Siemer seeking review of a decision of the Court of Appeal Registrar refusing to dispense with the payment of security for costs.

[2] The application is opposed by the first respondent.

### **More Background**

[3] In 2012, Mr Siemer filed proceedings in the High Court applying for judicial review of the Commissioner's dismissal of complaints made by Mr Siemer about the second respondent. On 16 October 2012 Peters J held that the statement of claim disclosed no reasonably arguable cause of action and struck it out.<sup>2</sup>

[4] On 30 October 2012 Mr Siemer appealed against that decision.<sup>3</sup> On 8 November 2012 the Registrar of the Court of Appeal set security for costs at \$5,880. On 18 June 2013 the Registrar declined an application by Mr Siemer to have security dispensed with. Mr Siemer sought a review of that decision. As noted above, on 30 July 2013, French J upheld the Registrar's decision.<sup>4</sup>

[5] As also noted above, in her minute of 19 August 2013, French J declined Mr Siemer's application for a review of her 30 July 2013 judgment. She said that Mr Siemer should have been aware from a previous ruling in another proceeding in which he was also involved,<sup>5</sup> that s 61A(2) of the Judicature Act does not apply in such circumstances. Because her judgment of 30 July 2013 reviewed a decision of the Court of Appeal Registrar, the relevant provision was s 61A(3). This meant that there was no right to seek a review by the Court of Appeal of her judgment. The Court of Appeal's role in relation to Mr Siemer's original review application was complete. French J therefore directed the Registrar to refuse to accept Mr Siemer's application of 12 August 2013 for want of jurisdiction.

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<sup>1</sup> *Siemer v Judicial Conduct Commissioner* [2013] NZCA 334 [30 July 2013 decision].

<sup>2</sup> *Siemer v Judicial Conduct Commissioner* [2012] NZHC 2710.

<sup>3</sup> CA712/2012.

<sup>4</sup> 30 July 2013 decision, above n 1, at [9]–[12].

<sup>5</sup> *Siemer v Heron* CA713/2012, 18 June 2013.

## **Our assessment**

[6] The decision of French J is clearly correct<sup>6</sup> and, as pointed out by the first respondent, is in line with the decision of this Court in *Siemer v Stiassny*.<sup>7</sup>

## **Result**

[7] The application for leave to appeal is dismissed.

[8] The applicant is to pay costs of \$2,500 plus all reasonable disbursements (to be fixed, if necessary, by the Registrar) to the first respondent.

Solicitors:  
Crown Law Office for the First Respondent

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<sup>6</sup> Mr Siemer, with regard to French J's minute also submitted that French J "had a conflict of interest in directing the Registry not to accept an application for a statutory review of her own incidental order". This submission is misconceived. French J was making a decision on the proper procedural route for challenging the decision on review.

<sup>7</sup> *Siemer v Stiassny* [2013] NZSC 11 at [4]; and *Rabson v Chapman* [2013] NZSC 65 at [4].