

**NOTE: THE ORDER MADE BY THE HIGH COURT ON 28 MAY 2012 PROHIBITING PUBLICATION OF THE PARTIES' NAMES AND ANY PARTICULARS THAT WOULD IDENTIFY THE RESPONDENT (INCLUDING HER NAME, OCCUPATION, EMPLOYMENT HISTORY AND HEALTH) REMAINS IN FORCE PENDING FURTHER ORDER OF THE HIGH COURT.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 78/2014  
[2014] NZSC 168**

BETWEEN                      LFDB  
    Appellant

AND                                SM  
    Respondent

Court:                          McGrath, William Young, Glazebrook, Arnold and O'Regan JJ

Counsel:                      M S Smith for Appellant  
    A E Hinton QC for Respondent

Judgment:                      20 November 2014

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**JUDGMENT OF THE COURT**

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- A     The application for a stay of the Court of Appeal's judgment (*SM v LFDB* [2014] NZCA 326) and for a further direction that copies of documents be provided to the appellant is dismissed.**
- B     The appellant is to pay the respondent costs of \$2,500 and reasonable disbursements to be fixed by the Registrar.**
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**REASONS**

[1]    The appellant has been given leave to appeal against a judgment of the Court of Appeal debarring him from taking further part in relationship property proceedings in the High Court between him and the respondent.<sup>1</sup> The appeal will be

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<sup>1</sup>    *LFDB v SM* [2014] NZSC 131.

heard by this Court on 5 December 2014. As a consequence of the Court of Appeal's judgment, the High Court has set down the proceeding for a formal proof hearing which is to commence on 12 March 2015. We expect that we will be able to deliver judgment before then.

[2] The appellant has applied for a stay of the Court of Appeal's judgment, pending the outcome of the appeal to this Court. He also seeks a direction that the respondent provide him with copies of all documents filed by the respondent in both the High Court and Court of Appeal, and any judicial determinations made on them, since delivery of the Court of Appeal's judgment. The respondent opposes both aspects of the application.

[3] Unless a stay is granted, the respondent will continue to take steps in anticipation of the formal proof hearing. The appellant's contention is that there is a risk that, if he is successful in his appeal, steps taken by the respondent, and perhaps by the courts, which are based on the Court of Appeal's judgment, will have to be undone at cost to the appellant and to the judicial system. Court orders may also be made against him, in his absence, that may cause him prejudice.

[4] This is not, however, a case in which the appeal will be made nugatory if a stay is refused. Nor, in our view, will the appellant's position be significantly prejudiced in those circumstances if this appeal succeeds. Overall, the reasons given for taking steps to protect the appellant's position, in case he is successful in the appeal, do not outweigh the respondent's right to act in accordance with the judgment of the Court of Appeal unless and until it is set aside.

[5] Nor do we see any reason in this case for us to intervene in the processes of the High Court in relation to service of documents on the appellant. That is a matter for the High Court.

[6] The application is dismissed. The appellant is to pay to the respondent costs of \$2,500 together with any disbursements to be approved by the Registrar.

Solicitors:  
Holland Beckett, Tauranga for Appellant  
Friedlander & Co Ltd, Auckland for Respondent