

IN THE SUPREME COURT OF NEW ZEALAND

SC 76/2015
[2015] NZSC 173

BETWEEN VINCENT ROSS SIEMER AND JANE
DINSDALE SIEMER
Applicants

AND KEVIN STANLEY BROWN
First Respondent

M PALMA
Second Respondent

A LOVELOCK
Third Respondent

JANE THEW
Fourth Respondent

REECE SIRL
Fifth Respondent

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Court: Glazebrook, Arnold and O'Regan JJ

Counsel: Applicants in person
A M Powell for the First to Fourteenth Respondents
V Casey for the Fifteenth Respondent

Judgment: 13 November 2015

JUDGMENT OF THE COURT

The application for recall is dismissed.

JULIE FOSTER
Sixth Respondent

JOHN MILLER
Seventh Respondent

DAVID THOMAS
Eighth Respondent

BRETT OTTO
Ninth Respondent

TREVOR FRANKLIN
Tenth Respondent

JOHN TAYLOR
Eleventh Respondent

JUERGEN ARNDT
Twelfth Respondent

THE ATTORNEY-GENERAL OF NEW
ZEALAND
Fourteenth Respondent

B J REID
Fifteenth Respondent

REASONS

[1] On 28 October 2015, this Court dismissed¹ the applicants' application for leave to appeal against a judgment of Wild J in which he dealt with three procedural applications under s 61A(3) of the Judicature Act 1908.² One of the applications was for recall of his earlier decision upholding the Registrar's decision to refuse to dispense with security for costs.

[2] On 2 November 2015, Mr Siemer applied for recall of this Court's decision. Mr Siemer contends the Court's judgment should be recalled for two reasons: first, that this Court failed to cite a Court of Appeal case which Mr Siemer says supports

¹ *Siemer v Brown* [2015] NZSC 157.

² *Siemer v Brown* [2015] NZCA 276.

his original application for leave to appeal; and secondly, that costs were awarded against the applicants collectively.

[3] As to the first ground for recall, this Court is not required to respond to every proposition or case cited by an applicant or appellant. The applicants' substantive argument on appeal was properly addressed, considered, and duly rejected.

[4] As to the second purported ground for recall, this Court awarded costs to the respondents (collectively) and made both applicants (Mr and Mrs Siemer) jointly and severally liable for the costs.³

[5] Mr and Mrs Siemer are joint appellants in the Court of Appeal and the order for the payment of security for costs applies to them both. The intitling of the application to this Court and the submissions reflected this, showing both Mr Siemer and Mrs Siemer as "appellants"⁴ in this Court. While the body of the application for leave to appeal and the accompanying submissions stated that it was "the first named applicant", Mr Siemer, who was applying for leave to appeal, it is not possible to split applicants in this way, given that both are liable for security for costs in that Court.

[6] Accordingly, the application for recall is dismissed.

Solicitors:
Crown Law Office, Wellington for Respondents

³ *Siemer v Brown*, above n 1, at [8].

⁴ They are in fact only applicants for leave to appeal and not appellants.