

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
[2015] NZSC 31**

BETWEEN LFDB
Appellant

AND SM
Respondent

Hearing: 5 December 2014

Court: Elias CJ, McGrath, William Young, Glazebrook and Arnold JJ

Counsel: M S Smith for Appellant
P B Friedlander for Respondent

Judgment: 31 March 2015

JUDGMENT OF THE COURT

A The appellant must pay costs of \$52,245.63 and disbursements of \$1,511.12 in respect of the appeal.

B The appellant must also pay in addition to costs previously ordered, disbursements of \$437.30 in respect of the stay application determined by the Court.¹

REASONS

[1] The Court revoked its grant of leave to appeal in this matter on 5 December 2014 giving reasons on 22 December 2014.² Costs were reserved.

¹ *LFDB v SM* [2014] NZSC 168.

[2] The respondent has applied for costs to be fixed on an indemnity basis. The schedule to counsel's memorandum lists items totalling \$52,245.63 for costs and \$1,511.12 for disbursements.³ The respondent has also applied for an order that the appellant pay disbursements of \$437.30 on the earlier stay application to this Court.

[3] There is no issue as to the reasonableness of any of the amounts claimed, but the appellant seeks a reduction in the costs award to recognise when leave to appeal was granted he had identified issues which the Court had accepted warranted a grant of leave. We do not accept that submission. The Court revoked leave having come to the conclusion that the appeal was an abuse of process. In those circumstances we are satisfied that an award of full indemnity costs, and disbursements, as set out above, is appropriate, as is an order in relation to the disbursements on the stay application.

[4] The respondent also sought ancillary orders as to dates by which payment of costs was to be made and for payment to be made out of identified bank accounts. We do not consider such orders appropriate.

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

² *LFDB v SM* [2014] NZSC 197.

³ We have corrected an arithmetical error in the schedule and treated the claim as being for the total of items listed.