

IN THE SUPREME COURT OF NEW ZEALAND

SC 31/2015  
[2015] NZSC 62

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: William Young, Arnold and O'Regan JJ

Counsel: V R Siemer in person  
A M Powell and E J Devine for First to Fourteenth Respondents  
V E Casey for Fifteenth Respondent

Judgment: 15 May 2015

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**JUDGMENT OF THE COURT**

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**A The application for leave to appeal is dismissed.**

**B The applicants must pay costs to the first to fourteenth respondents (collectively) of \$1,500 and costs of \$1,500 to the fifteenth respondent. Their liability is joint and several.**

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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

KERWIN STEWART  
Thirteenth Respondent

THE ATTORNEY-GENERAL OF NEW  
ZEALAND  
Fourteenth Respondent

B J REID  
Fifteenth Respondent

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## REASONS

[1] The applicants appealed to the Court of Appeal against a decision of Toogood J in the High Court in which Toogood J dismissed the applicants' claims against the respondents relating to a search of the applicants' home.<sup>1</sup> The subject of the proposed appeal is the refusal by Toogood J to recuse himself from the proceeding. An application for leave to appeal directly to this Court against the decision was dismissed.<sup>2</sup> An application for recall was also dismissed.<sup>3</sup>

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<sup>1</sup> *Siemer v Brown* [2014] NZHC 3175.

<sup>2</sup> *Siemer v Brown* [2015] NZSC 41.

<sup>3</sup> *Siemer v Brown* [2015] NZSC 50.

[2] The applicants applied for dispensation from the requirement to pay security for costs and their application was declined by the Registrar. The Registrar's decision was the subject of an unsuccessful review to a Judge of the Court of Appeal, Wild J.<sup>4</sup> The applicants now seek leave to appeal against the decision of Wild J.

[3] The application for review failed because Wild J determined that the proposed appeal to the Court of Appeal was not an appeal which a solvent appellant would wish to pursue.<sup>5</sup> That was an orthodox application of the criteria set out in this Court's decision in *Reekie v Attorney-General*.<sup>6</sup>

[4] The applicants argue that the requirement to pay security for costs is a barrier to access to the Court of Appeal. This Court has already rejected that argument in *Siemer v Brown*.<sup>7</sup> As stated in that judgment, if there were a proper basis for dispensation from that requirement, applying the *Reekie* test, dispensation would be allowed.

[5] There is nothing in the material submitted by the applicants that indicates any error on the part of Wild J. There is no appearance of any miscarriage of justice.

[6] In those circumstances the application for leave to appeal is dismissed.

[7] The applicants must pay costs to the first to fourteenth respondents (collectively) of \$1,500 and costs of \$1,500 to the fifteenth respondent. Their liability is joint and several.

Solicitors:  
Crown Law Office, Wellington for Respondents

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<sup>4</sup> *Siemer v Brown* [2015] NZCA 69 (Wild J).

<sup>5</sup> At [11].

<sup>6</sup> *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737.

<sup>7</sup> *Siemer v Brown*, above n 2, at [6].