

IN THE SUPREME COURT OF NEW ZEALAND

SC 135/2014  
[2015] NZSC 8

BETWEEN                      EVGENY ORLOV  
   Applicant

AND                              NEW ZEALAND LAW SOCIETY  
   First Respondent

AUCKLAND LAWYERS STANDARDS  
COMMITTEE (APPOINTED UNDER  
SECTION 356 OF LAWYERS AND  
CONVEYANCERS ACT 2006)  
Second Respondent

AUCKLAND LAWYERS STANDARDS  
COMMITTEE NO 1  
Third Respondent

NATIONAL STANDARDS  
COMMITTEE  
Fourth Respondent

Court:                              William Young, Arnold and O'Regan JJ

Counsel:                          Applicant in person  
   T G H Smith and R S May for Respondents

Judgment:                        18 February 2015

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**JUDGMENT OF THE COURT**

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- A        The application for leave to appeal is dismissed.**
- B        The applicant must pay the respondents costs of \$2,500  
          plus reasonable disbursements.**
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**REASONS**

[1]        The applicant seeks leave to appeal against a decision of Ellen France P refusing his applications to review the decision of the Registrar of the Court of

Appeal to decline his application to dispense with the requirement that he pay security for costs of \$5,880, or lower the amount required.<sup>1</sup>

[2] The background is that Mr Orlov has brought proceedings against the respondents (we will refer to them together as “the Law Society interests”) arising out of disciplinary charges brought against him. Some aspects of the proceedings have been determined but others have not. The Law Society interests applied for costs in respect of aspects of the proceedings that have been resolved and sought security for costs in relation to the remainder. Mr Orlov asked Heath J, who has been dealing with the litigation both substantively and procedurally and was to determine these applications, to recuse himself. Mr Orlov’s application for recusal was made on the basis of the Judge’s association with counsel for the Law Society interests, Mr Morgan QC.<sup>2</sup> Mr Orlov also sought an adjournment of the hearing.

[3] Having considered this Court’s decision in *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd*<sup>3</sup> and set out the nature of his relationship with Mr Morgan, Heath J declined to recuse himself.<sup>4</sup> He also refused to grant an adjournment. Mr Orlov then filed an appeal against these determinations. The Registrar of the Court of Appeal fixed security for costs at \$5,880, which led to Mr Orlov’s application for review.

[4] We are not satisfied that it is necessary in the interests of justice that we hear and determine this appeal. First, there is no point of general or public importance involved:

- (a) The Court has already determined the principles to be applied in relation to the fixing of security for costs in *Reekie v Attorney-General*.<sup>5</sup> Those principles were applied by Ellen France P.

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<sup>1</sup> *Orlov v New Zealand Law Society* [2014] NZCA 569.

<sup>2</sup> Mr Orlov also raised the question of the Heath J’s association with Ms Christine Grice, the Executive Director of the New Zealand Law Society.

<sup>3</sup> *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2009] NZSC 72, [2010] 1 NZLR 35.

<sup>4</sup> *Orlov v New Zealand Law Society* [2014] NZHC 1766 at [15]–[17].

<sup>5</sup> *Reekie v Attorney-General* [2014] NZSC 63, [2014] 1 NZLR 737.

- (b) The Court has also determined the principles applicable to recusal in the *Saxmere* litigation, which will be relevant to Mr Orlov's intended appeal to the Court of Appeal.

[5] Second, we see no risk of a substantial miscarriage of justice:

- (a) In relation to the Registrar's refusal to waive or reduce security, Mr Orlov declined to provide her with any financial information to support his claim of impecuniosity. In those circumstances, Mr Orlov's position on appeal is hopeless.
- (b) In relation to recusal, on the material available to us, the association between Heath J and Mr Morgan is not arguably of a type that should lead to recusal, so that Mr Orlov's intended appeal against the Judge's refusal to recuse himself does not appear to raise any seriously arguable point.

[6] The application for leave to appeal is dismissed. The applicant must pay the respondents costs of \$2,500 plus reasonable disbursements.

Solicitors:  
Luke Cunningham Clere, Wellington for Respondents