

IN THE SUPREME COURT OF NEW ZEALAND

SC 41/2015
[2015] NZSC 96

BETWEEN MALCOLM EDWARD RABSON
Applicant

AND JUDICIAL CONDUCT
COMMISSIONER
First Respondent

AILSA DUFFY
Second Respondent

Court: William Young, Arnold and O'Regan JJ

Counsel: Applicant in person
L Theron and C P A Cross for First Respondent

Judgment: 1 July 2015

JUDGMENT OF THE COURT

- A The application for leave to appeal is dismissed.**
- B The applicant is to pay the first respondent costs of \$2,500.**
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REASONS

[1] The applicant seeks leave to appeal against a judgment of Brown J in the High Court¹ dismissing as an abuse of process judicial review proceedings challenging the conduct of the first respondent in relation to a complaint made by a third party against the second respondent. The third party – a declared vexatious litigant – had previously unsuccessfully sought leave to commence very similar

¹ *Rabson v Judicial Conduct Commissioner* [2015] NZHC 714.

judicial review proceedings.² This application was declined on the basis that the proposed proceedings would be an abuse of process.

[2] As well as applying for leave to appeal to this Court, the applicant also appealed to the Court of Appeal. He has, however, been required to pay security for costs. In support of the contention that we should grant leave to appeal direct to this Court, he asserted in his leave application that the “oppressive security for costs regime” will prevent him appealing to the Court of Appeal.³ We assume therefore that he does not propose to provide security.

[3] The application does not meet the criteria specified in s 14 of the Supreme Court Act 2003. The proposed appeal does not involve a matter of general or public importance and there is no appearance of a miscarriage of justice. We are not satisfied that it is in the interests of justice for this Court to hear and determine the proposed appeal. As well, there are no exceptional circumstances that would justify an appeal to this Court.

Solicitors:
Meredith Connell, Wellington for First Respondent

² *Re Judicial Conduct Commissioner* [2014] NZHC 2712.

³ The argument that leave should be granted for direct appeal from the High Court because of the requirement to pay security for costs in the Court of Appeal was rejected in *Siemer v Brown* [2015] NZSC 41 at [4]–[6].