

IN THE SUPREME COURT OF NEW ZEALAND

SC 21/2017  
[2017] NZSC 100

BETWEEN MALCOLM EDWARD RABSON  
Applicant

AND JUDICIAL CONDUCT  
COMMISSIONER  
First Respondent

JUSTICES ELIAS, YOUNG,  
GLAZEBROOK, ARNOLD AND  
O'REGAN  
Second Respondents

Court: Elias CJ, William Young and Ellen France JJ

Counsel: Applicant in person  
C P A Cross for First Respondent  
H M Carrad for Second Respondents

Judgment: 29 June 2017

Reissued: 7 July 2017

Effective date  
of Judgment: 29 June 2017

---

**JUDGMENT OF THE COURT**

---

- A** The judgment delivered on 29 June 2017 is recalled and re-issued.
- B** The application for review is dismissed.
- C** The Registrar is directed not to accept for filing any further applications in relation to this matter.
-

## REASONS

[1] On 16 May 2017, this Court dismissed Mr Rabson’s application for leave to appeal against the decision of a single Judge in the Court of Appeal in relation to security for costs.<sup>1</sup> On 23 June 2017, this Court dismissed an application for recall of that decision.<sup>2</sup>

[2] The judgment in this matter delivered on 29 June 2017 dealt first with what appeared to be another application for recall and secondly with what was styled “an application for review” under s 28(2) of the Supreme Court Act 2003.<sup>3</sup> Subsequent to delivery of the judgment, Mr Rabson contends that the document filed was not intended to be a further application for recall but, rather, to complete the record in relation to his first recall application. We are prepared to accept that explanation. Our judgment of 29 June is accordingly recalled. This judgment replaces it, and save for what we have just said, is confined to consideration of the application for review.

[3] The background to this application need only be briefly summarised. Essentially, Mr Rabson took issue with the intituling used by the Registrar in the reference line in a letter relating to the application for leave. Mr Rabson objected. The matter was referred to a Judge. Ellen France J directed the Registrar he should allow the applicant to use the intituling he sought to use (which reflected that used in the Court of Appeal judgment in this matter).<sup>4</sup> Mr Rabson was advised of this direction. Further correspondence between Mr Rabson and the Registrar followed. Then, on 11 May 2017, Mr Rabson filed the application for review referred to above. The application sought a copy of the Judge’s ruling “overturning the Registrar’s refusal to properly name the proposed respondents”.

[4] Assuming for these purposes that a review was available under s 28(2), it is apparent from this summary that the application of 11 May is an abuse of process. The initial action of the Registrar was inconsequential. Mr Rabson was advised of the Judge’s direction. Moreover, the outcome was exactly as Mr Rabson had sought. The application for review is dismissed.

---

<sup>1</sup> *Rabson v Judicial Conduct Commissioner* [2017] NZSC 74.

<sup>2</sup> *Rabson v Judicial Conduct Commissioner* [2017] NZSC 96.

<sup>3</sup> Section 82(3) of the Senior Courts Act 2016 is to the same effect.

<sup>4</sup> *Rabson v Judicial Conduct Commissioner* [2017] NZCA 44.

[5] Our direction contained in the 29 June judgment that the Registrar not accept for filing any further applications in relation to this matter stands.

Solicitors:  
Meredith Connell, Wellington for First Respondent  
Crown Law Office, Wellington for Second Respondents