

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 95/2022  
[2022] NZSC 145

BETWEEN CHRISTOPHER KNUTE SKAGEN  
Applicant

AND WELLINGTON STANDARDS  
COMMITTEE OF THE NEW ZEALAND  
LAW SOCIETY  
Respondent

Court: Glazebrook, Williams and Kós JJ

Counsel: Applicant in person  
J L S Shaw and T J McGuigan for Respondent

Judgment: 14 December 2022

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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 respondent costs of \$2,500.**
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REASONS

[1] Mr Skagen was a barrister admitted in New Zealand and an attorney admitted in Oregon. In December 2014 the New Zealand Lawyers and Conveyancers Disciplinary Tribunal found him guilty of 12 charges of misconduct and made an order striking him from the Roll of Barristers and Solicitors.<sup>1</sup>

[2] Mallon J dismissed Mr Skagen's appeal against that order in April 2016.<sup>2</sup>

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<sup>1</sup> *Wellington Standards Committee of the New Zealand Law Society v Skagen* [2014] NZLCDT 82.

<sup>2</sup> *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2016] NZHC 1772.

[3] Mr Skagen then sought leave of the Court of Appeal to appeal four judgments:

- (a) the substantive High Court decision dismissing his appeal;
- (b) an interlocutory judgment relating to evidence and discovery;<sup>3</sup>
- (c) a recall judgment;<sup>4</sup> and
- (d) a second recall judgment.<sup>5</sup>

In October 2021 the Court of Appeal declined leave to appeal.<sup>6</sup> Mr Skagen now seeks leave to appeal all judgments above, together with an array of interlocutory decisions made in both courts.

[4] By s 254(4) of the Lawyers and Conveyancers Act 2006, the decision of the Court of Appeal on any appeal under that provision is final. However the respondent accepts that as the Court of Appeal decision is a denial of leave only, s 254(4) does not apply and the application may proceed jurisdictionally as one for leave to bring a leapfrog appeal against the four decisions of the High Court.<sup>7</sup> Necessarily that must relate to a distinct question of law.<sup>8</sup>

[5] Because this is an application to bring a leapfrog appeal, leave must be refused unless both exceptional circumstances justify that course and it is necessary in the interests of justice to do so.<sup>9</sup> Only in an extremely compelling case will a leapfrog appeal be permitted where an appeal to this Court is otherwise precluded by statute (as is the case under s 254).<sup>10</sup>

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<sup>3</sup> *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2015] NZHC 2634 (Collins J).

<sup>4</sup> *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2016] NZHC 2799 (Mallon J).

<sup>5</sup> *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2020] NZHC 762 (Mallon J).

<sup>6</sup> *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2021] NZCA 566 (Gilbert, Courtney and Goddard JJ) [CA judgment].

<sup>7</sup> Because the proceeding in the High Court commenced prior to the Senior Courts Act 2016 coming into force, s 8 of the Supreme Court Act 2003 applies.

<sup>8</sup> Lawyers and Conveyancers Act 2006, s 254(1).

<sup>9</sup> Supreme Court Act 2003, s 14.

<sup>10</sup> *Burke v Western Bay of Plenty District Council* [2005] NZSC 46, (2005) 18 PRNZ 560 at [4].

[6] The background circumstances are set out in some detail in the judgment of the Court of Appeal, and we need not repeat them here. The present application for leave is substantially an intended re-run of the arguments made unsuccessfully in that forum. We consider the prerequisites for leapfrog leave described at [5] above are not made out.

[7] Additional evidence sought to be admitted on appeal is neither fresh nor compelling, as the Court of Appeal found.<sup>11</sup> Nor does it demonstrate a distinct question of law.<sup>12</sup> The allegation of procurement of judgment by fraud depends on that evidence, was rejected by both the High Court and Court of Appeal as lacking foundation, and again raises no distinct question of law.<sup>13</sup> The claim of unlawful lien by non-renewal of the applicant's practising certificate is extraneous to the appeal.<sup>14</sup> The issue of discovery by the respondent involves appeal against an interlocutory judgment of the High Court, and is beyond jurisdiction under s 8(c) of the Supreme Court Act. In any event the prospects of success in demonstrating materiality of the documents are insufficient to meet the standard for leave.<sup>15</sup> The same may be said of the issue as to asserted privilege in the applicant's bank statements, rejected by both Courts below.<sup>16</sup> The applicant's remaining grounds (concerning statutory interpretation, allegedly unaddressed pleadings and rights under contract) neither individually nor collectively meet the standard required for leave in this application.

## **Result**

[8] The application for leave to appeal is dismissed.

[9] The applicant must pay the respondent costs of \$2,500.

Solicitors:  
Wynn Williams, Christchurch for Respondent

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<sup>11</sup> CA judgment, above n 6, at [22]–[24] and [29]–[32].

<sup>12</sup> At [31].

<sup>13</sup> At [28]–[33].

<sup>14</sup> At [26(d)] and [29], n 42.

<sup>15</sup> At [33].

<sup>16</sup> At [35]–[36].