

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC CIV 9/2004**

BETWEEN      RICHARD PREBBLE  
                    First Applicant

AND             KEN SHIRLEY  
                    Second Applicant

AND             RODNEY HIDE  
                    Third Applicant

AND             MURIEL NEWMAN  
                    Fourth Applicant

AND             DONNA AWATERE HUATA  
                    Respondent

Coram:           Gault J  
                    Blanchard J

Appearances:   J E Hodder and B A Davies for Applicants  
                    P J K Spring and A J Lloyd for Respondent

Date of Minute:  25 August 2004

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**MINUTE OF THE COURT**

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[1]      On the application of the respondent, by consent, Rodney Hide, Member of Parliament and Leader of Act New Zealand and Muriel Newman, Member of Parliament and Deputy Leader of Act New Zealand are added as parties to the proceeding as defendants and respectively third and fourth applicants and proposed appellants on the appeal.

[2]      The Court having been satisfied that the proposed appeal involves a matter of general or public importance such that it is necessary in the interests of justice to do

so, gives leave to appeal. The following grounds of appeal are approved pursuant to r 29(1) of the Supreme Court Rules 2004:

1. whether or not the concept of distortion of the “proportionality of political party representation in Parliament as determined at the last general election” in s55D of the Electoral Act 1993 relates to the relative size of the caucus team determined by the previous general election and includes constructive defection from that team, and is not to be interpreted as limited to “a persistent pattern of voting in the House by a member against the position of the party for which that member was elected at the previous general election”; and
2. whether or not, in the circumstances specified in the letters of 10 and 13 November 2003, it was open to the appellants as parliamentary leaders of the Act Party to form and maintain a reasonable belief that the respondent had acted so as to distort the proportionality of Parliament in terms of s55D of the Act, and
3. whether or not, following the respondent’s acquisition of the status of an independent Member of Parliament, the proportionality referred to in s55D has been distorted.

[3] Security of costs must be given by the appellants in the sum of \$6,000 to be paid to, or secured to the satisfaction of, the Registrar within 10 working days of the date of this Order.

[4] The case on appeal is to be filed within 10 working days of the date of this Order.

[5] The Registrar has allocated hearing dates for the appeal of 5 and 6 October 2004. Written submissions and a bundle of authorities are to be filed in accordance with the requirements of rr36 and 37 respectively.

Solicitors:  
Chapman Tripp, Wellington, for Applicants  
Keegan Alexander, Auckland, for Respondent