

**IN THE SUPREME COURT OF NEW ZEALAND**

**SC 58/2007  
[2007] NZSC 83**

BETWEEN	NEIL MARTIN CLARKE Applicant
AND	NEW ZEALAND POLICE First Respondent
AND	COREY WATTS Second Respondent
AND	CHUBB SECURITY LIMITED Third Respondent

Court: Blanchard, Tipping and McGrath JJ

Counsel: J J McGuire for Applicant  
M A Robertson for Second Respondent

Judgment: 9 October 2007

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**JUDGMENT OF THE COURT**

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**The application for leave to appeal is dismissed with costs of \$1,500 to the second respondent.**

**REASONS**

[1] Mr Clarke filed an application for leave to appeal from the High Court to the Court of Appeal. That application was dismissed for want of jurisdiction.

[2] The Court of Appeal made an award of costs of \$750.00 against Mr Clarke in respect of his failed application. The present application to this Court relates solely to Mr Clarke's wish to challenge that costs award.

[3] His first proposed ground is that the costs were awarded to all three respondents, not just to the second respondent. That, it seems to us, could theoretically be an issue between the respondents but it cannot prejudice Mr Clarke. There is nothing to indicate that the Court of Appeal increased the award because it was made in favour of the three respondents.

[4] The second proposed ground is that because the second respondent is being funded by the Police Association he should not have received any costs. That is an insupportable proposition. Costs are routinely awarded to successful litigants whose expenses are being met by a third party, such as an insurer or, as in this case, a trade or professional association with an interest in its members' welfare. And, contrary to the third argument of Mr Clarke, the arrangements between the second respondent and the association in no way make the costs order an award in the nature of damages.

[5] The criteria for leave have not been met.

Solicitors:

J J McGuire, Wellington for Applicant

Thomas Dewar Sziranyi Letts, Lower Hutt for Second Respondent