

IN THE SUPREME COURT OF NEW ZEALAND

**SC 39/2010
[2010] NZSC 70**

BETWEEN	GREGORY CAMPBELL OLIVER NIELSEN Applicant
AND	BODY CORPORATE NO 199348 First Respondent
AND	PROBIOTICS (NZ) LTD & ORS Second Respondent
AND	AUCKLAND CITY COUNCIL Third Respondent

Court: Elias CJ, Blanchard and Tipping JJ

Counsel: Applicant in person
C R Goode for Respondents

Judgment: 29 June 2010

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed with costs of \$2,500 to the respondents.

REASONS

[1] The Court of Appeal was fully justified in its decision that Mr Nielsen's proposed appeal to that Court be treated as abandoned in circumstances where not only had he failed to pay security for costs but also he had failed to pursue with reasonable promptitude an application for legal aid for his appeal. As a consequence, he fell foul of the rule requiring an application for a fixture and filing

of the Case on Appeal within six months. The Court was not prepared to grant him relief against the deemed abandonment of his appeal.

[2] Most of Mr Nielsen's present complaints are against the Legal Services Agency but it is not shown that he had anyone to blame for his current predicament other than himself. No question of general principle arises nor is there any appearance of a miscarriage of justice.

Solicitors:
Heaney & Co, Auckland for Respondents