

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 37/2025
[2025] NZSC 125

BETWEEN

PHILLIP RAYMOND NOTTINGHAM,
ROBERT EARLE MCKINNEY AND
GEORGE BULLOCK
Applicants

AND

ATTORNEY-GENERAL
First Respondent

PATTERSON HOPKINS LAW, WILLIAM
PATTERSON AND ROBYN HOPKINS
Second Respondents

WARREN ERNEST BEERE
Third Respondent

Counsel: Applicants in person

Judgment: 26 September 2025

JUDGMENT OF KÓS J

**The application for review of the decision of the Deputy Registrar
declining to waive the filing fee is dismissed.**

REASONS

[1] The applicants have filed an application for leave to appeal against a decision of Courtney J in the Court of Appeal declining their application for review of a decision of the Registrar of that Court refusing to dispense with security for costs.¹ They sought waiver of the filing fee of \$1,482, which was declined by a Deputy Registrar of the Supreme Court. The applicants now seek my review of that decision, under s 160(1) of the Senior Courts Act 2016.

¹ *Nottingham v Attorney-General* [2025] NZCA 403 [CA judgment].

[2] As Courtney J’s judgment explains, the applicants issued proceedings against the first respondent (on behalf of the Registrar-General of Land) relating to registered caveats searchable on the Land Information New Zealand (LINZ) website, which they contend contain defamatory material to the effect that they had committed fraud. In the High Court, Associate Judge Paulsen granted summary judgment for the defence on the basis the first respondent had absolute immunity from suit under s 235 of the Land Transfer Act 2017, as well as a clear defence of qualified privilege.²

[3] The applicants filed an appeal in the Court of Appeal. Courtney J noted it did not challenge the Associate Judge’s conclusions on the two defences.³ Security for costs was set; the appellants sought a waiver, which was opposed by the first respondent. The Deputy Registrar declined dispensation. On review, Courtney J reached the same conclusion.

[4] In seeking leave to appeal that decision in this Court, the applicants applied to the Registrar for a fee waiver on the basis that the proposed appeals raise an important question of public interest. The Deputy Registrar recorded that question, and responded to it, in these terms:

The fee waiver application states that the public interest lies in public confidence in the rule of law, with specific reference to “maintaining confidence in the Torrens system of property ownership in New Zealand”. I do not see how that issue can be raised by a proposed appeal against a review decision relating to security for costs.

Discussion

[5] I am not persuaded that the Deputy Registrar has erred. The applicants do not assert impecuniosity, and so must rely on reg 5(2)(b) of the Supreme Court Fees Regulations 2003. That requires two criteria be met: first, a matter of genuine public interest is raised by the proceeding and, secondly, the proceeding is unlikely to be commenced or continued unless the fee is waived. I entirely doubt, in the absence of a realistic challenge available to the Associate Judge’s conclusions on the defences of absolute immunity and qualified privilege, that a qualifying matter of genuine public interest is engaged. However, and in any event, I am also not satisfied that the

² *Nottingham v Attorney-General* [2024] NZHC 3644.

³ CA judgment, above n 1, at [2].

applicants have established that their application for leave is unlikely to be commenced or continued unless the fee is waived. To the contrary, the applicants stated in their waiver application that, if declined, they would continue with the proceeding anyway. I therefore agree with the Deputy Registrar's assessment that the threshold for a fee waiver under reg 5(2)(b) is not met.

Result

[6] The application for review of the decision of the Deputy Registrar declining to waive the filing fee is dismissed.