

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 92/2025
[2025] NZSC 151

BETWEEN	JULIE FAM Applicant
AND	NGUYEN THI THANH HA First Respondent
	DANG SON DINH Second Respondent
	MAI THI PHUONG PHAM Third Respondent
	MINH NGUYEN Fourth Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person
F E Geiringer and S J Price for First Respondent
No appearance for Second, Third and Fourth Respondents

Judgment: 7 November 2025

JUDGMENT OF THE COURT

- A** The application for leave to appeal is dismissed.
- B** The applicant must pay the first respondent costs of \$2,500.

REASONS

Introduction

[1] The applicant, Julie Fam, along with the second to fourth respondents, was found liable in defamation proceedings brought by Nguyen Thi Thanh Ha, the first

respondent in the present application.¹ An award of \$100,000 damages was made against the applicant.

[2] The applicant filed a notice of appeal from the High Court decision in the Court of Appeal on 23 September 2024. On 23 December 2024 the applicant sought, and was granted, an extension of time to 22 January 2025 to file the case on appeal. The applicant took no steps. The appeal was deemed abandoned on 23 January 2025. Subsequently, on 3 February 2025, she sought a further extension of time. The Court of Appeal declined to grant an extension of time.² The applicant now seeks leave to appeal to this Court from the decision of the Court of Appeal declining to grant an extension of time.

Background

[3] The facts are set out in the High Court judgment. Relevantly, the Court said this:³

[1] The plaintiff, Nguyen Thi Thanh Ha (known as Ha Nguyen), is a 45-year-old married woman living in Wellington. The parties are members of the New Zealand Vietnamese community. ...

...

[3] Ms Nguyen says the defendants wrongly accused her of hiring hackers to deactivate Facebook pages and Facebook groups of members of the New Zealand Vietnamese community and other criminal misconduct such as embezzlement and fraud. The accusations, which included purported proof in the form of screenshots of conversations allegedly between Ms Nguyen and the hackers, were published as Facebook posts which were widely read and shared throughout the Vietnamese community. Ms Nguyen was not contacted by the defendants before any of these posts were published.

[4] The accusations are without foundation. There is expert evidence that the accusations are based on falsified digital documents. The defendants eventually accepted the documents were fabricated and have all published belated retractions.

¹ *Nguyen v Dang* [2024] NZHC 2358 (Gordon J) [HC judgment].

² *Fam v Nguyen* [2025] NZCA 352 (Courtney and Palmer JJ) [CA judgment].

³ HC judgment, above n 1 (footnote omitted).

[4] It is also relevant to note that, as the High Court explained, although the defendants in that Court were served with the claim, none took any steps to defend the proceedings. The matter accordingly proceeded by way of formal proof.

[5] The applicant's conduct in terms of the defamation is described by the Court of Appeal as follows:⁴

[1] On 4 May 2022, Ms Julie Fam republished a social media post accusing Ms Nguyen Thi Thanh Ha ... of being responsible for cyberattacks against Facebook pages and groups belonging to New Zealand's Vietnamese Community in 2021 and 2022. She also accused Ms Nguyen of flirting with a teenage hacker, questioning whether it was appropriate for her to be teaching children. The accusations were based on falsified documents which Ms Fam and others eventually accepted were fabricated.

[6] As the Court of Appeal noted, the applicant had not sought to have the judgment set aside under r 15.10 of the High Court Rules 2016.

[7] In declining the application for an extension of time, the Court of Appeal applied the principles in *Almond v Read*.⁵ First, the Court noted that the delays altogether were relatively significant and the applicant had "already received indulgences".⁶ The Court made the point that the applicant had not provided any indication of when any extended deadline could be met and that the reasons for delay were "unpersuasive".⁷ The applicant's affidavit referred to a health issue, but the Court considered that the affidavit was "substantially less compelling than her assertions in submission".⁸

[8] Secondly, the Court considered that the merits of the proposed appeal appeared to be hopeless.

[9] The Court concluded:

[11] The High Court judgment was issued almost a year ago. Ms Nguyen has a strong interest in finality. She would be prejudiced by yet another delay to allow Ms Fam to appeal a judgment in a proceeding she did not defend.

⁴ CA judgment, above n 2.

⁵ *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [38].

⁶ CA judgment, above n 2, at [9].

⁷ At [9].

⁸ At [9].

The proposed appeal

[10] On the proposed appeal the applicant seeks a reversal of the defamation judgment and wants the damages award quashed. The applicant raises a number of issues about the finding of defamation. Amongst other matters, the submission is that the finding is unjust and that the opinions expressed were honest. On the damages award, the applicant says that this award lacks transparent calculation and has led to an erroneous charging order over various properties.

[11] There is no challenge to the settled principles applied by the Court of Appeal in declining the extension of time. Rather, the applicant wishes to argue that the Court of Appeal was wrong to say that her case was hopeless. No question of general or public importance accordingly arises.⁹ Nor does anything raised by the applicant suggest it is in the interests of justice for this Court to hear and determine this matter. Nor is there an appearance of a substantial miscarriage of justice as that term is used in the civil context.¹⁰

[12] In terms of the challenge the applicant now wishes to make to the finding the statements were defamatory, the Court of Appeal noted that the applicant did not contest the meaning of the defamatory statements nor claim that they were true. Neither the scope of publication nor the nature of the audience were challenged. No other affirmative defence was advanced.

[13] The Court of Appeal did not address damages. The High Court however analysed the appropriate level of damages for each of the defendants carefully and with reference to awards in other comparable cases. The awards ranged from \$60,000 to \$365,000. The Judge provided an explanation for the difference between the lowest of these awards and the award made against the applicant, as follows:¹¹

[186] I do not consider that Minh Nguyen's conduct justifies an award of \$100,000 in damages. He faces the same claim as Julie Fam of republishing the hypocrite post, but his Facebook page only has 400 friends whereas Julie Fam's page has 2,400 friends. There is no evidence that his republication of the hypocrite post generated any reactions, shares, or comments. The only

⁹ Senior Courts Act 2016, s 74(2)(a).

¹⁰ Section 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

¹¹ HC judgment, above n 1.

evidence that Minh Nguyen wrote any other negative comments comes from the affidavit of Red River Nguyen (and the comments are not attached as exhibits). Minh Nguyen was the only defendant who accepted service of proceedings and he did genuinely apologise, albeit privately and after proceedings were served. I consider damages of \$60,000 are appropriate.

[14] Nothing raised by the applicant suggests this Court should reconsider the assessment of the Court of Appeal as to the merits of the proposed appeal on either ground. The claim that the award of damages was not transparent is plainly unsustainable.

Result

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

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

Solicitors:
Bennion Law, Wellington for First Respondent