

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 53/2025  
SC UR 54/2025  
SC UR 55/2025  
[2025] NZSC 167

RE

ANGUS EDWARD MCKENZIE  
Applicant

Counsel: Applicant in person

Judgment: 21 November 2025

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**JUDGMENT OF ELLEN FRANCE J**

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**The applications for review of the decision of the Registrar  
declining to waive filing fees are dismissed.**

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**REASONS**

**Introduction**

[1] The applicant, Angus McKenzie, wishes to file three applications for leave to appeal to this Court from three decisions of the Court of Appeal.<sup>1</sup> In each of the three decisions, the Court dismissed the applicant's appeals from decisions of the High Court striking out proceedings under r 5.35B of the High Court Rules 2016.<sup>2</sup>

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<sup>1</sup> SC UR 53/2025 — *McKenzie v ASB Bank Ltd* [2025] NZCA 493 (Thomas, Brewer and Isac JJ) [CA judgment – ASB Bank]; SC UR 54/2025 — *McKenzie v Sidhu* [2025] NZCA 492 (Thomas, Brewer and Isac JJ) [CA judgment – Sidhu]; SC UR 55/2025 — *McKenzie v The Co-operative Bank Ltd* [2025] NZCA 318 (Thomas, Fitzgerald and Eaton JJ) [CA judgment – Co-operative Bank]; and application for recall declined: *McKenzie v The Co-operative Bank Ltd* [2025] NZCA 427 (Thomas and Eaton JJ) [Recall judgment].

<sup>2</sup> SC UR 53/2025 — *McKenzie v ASB Bank Ltd* [2025] NZHC 1074 (Wilkinson-Smith J); SC UR 54/2025 — *McKenzie v Sidhu* [2025] NZHC 957 (McHerron J) [HC judgment – Sidhu]; and SC UR 55/2025 — *McKenzie v The Co-operative Bank Ltd* [2024] NZHC 3573 (Gwyn J).

[2] With each application for leave to appeal in this Court, the applicant filed an application for fee waiver. The applications for fee waiver were determined by the Registrar. She declined the applications and advised the applicant that the filing fee of \$1,482 was required to be paid for each of the applications. The applicant then applied for review of the Registrar's decisions under s 160 of the Senior Courts Act 2016. Those applications have been referred to me for decision.

### **Background**

[3] The applicant based his applications for waiver of the filing fees on reg 5(2)(a) and (b) of the Supreme Court Fees Regulations 2003. Regulation 5(2)(a) provides that the Registrar may waive the filing fee if satisfied an applicant is unable to pay the fee. Under reg 5(2)(b), the Registrar may, alternatively, waive the application fee if satisfied that the appeal concerns a matter of genuine public interest and is unlikely to be commenced or continued unless the fee is waived.

[4] The Registrar was satisfied that the applicant was unable to pay the filing fees. That meant the discretion to grant a fee waiver under reg 5(2)(a) was engaged. The Registrar then considered whether waiving the filing fees promoted access to justice. The Registrar also addressed whether the proposed appeals concerned a matter of genuine public interest in terms of reg 5(2)(b).

[5] In relation to all three proceedings, the Registrar did not consider waiver would promote access to justice because the proposed appeals had no prospects of success and were not ones that a reasonable solvent litigant would pursue.<sup>3</sup> The Registrar noted Mr McKenzie's applications did not address any of the specified criteria in reg 5(4), and the applicant had indicated he would continue with the proceedings if the waivers were declined. The Registrar did not therefore consider the terms of reg 5(2)(b) had been satisfied.

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<sup>3</sup> Referring to *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [26].

## **The applications for review**

[6] The applications for review are brought on the basis the fee waivers “were declined without any reasonable or lawful manifestation”. To put the applications in context it is necessary to say a little about each of the proceedings and the Court of Appeal decisions.

*SC UR 53/2025 McKenzie v ASB Bank Ltd*

[7] By the time the appeal from the strike-out decision was before the Court of Appeal, the then current version of the statement of claim was described by the Court of Appeal in this way:<sup>4</sup>

[11] Mr McKenzie has filed a number of versions of a statement of claim. The latest version contains four purported causes of action as follows:

- (a) Mr McKenzie seeks \$5 million, citing breaches by the respondent of the Consumer Guarantees Act 1993 and the Fair Trading Act 1986. This claim alleges deceitful and misleading conduct on the basis the branch number of his bank account is associated with an address which is not in fact an ASB Bank branch.
- (b) Mr McKenzie seeks \$5 million, citing breaches by the respondent of the Consumer Guarantees Act and the Fair Trading Act. This claim relates to difficulties experienced by Mr McKenzie in opening his bank account, consequential delays said to have caused hardship to Mr McKenzie, and the respondent’s requirements in connection with proof of identity.
- (c) Mr McKenzie seeks \$5 million, citing the Consumer Guarantees Act, the Fair Trading Act and the Banking (Prudential Supervision) Act 1989. This claim relates to alleged discrepancies with his bank account.
- (d) Mr McKenzie seeks \$5 million, citing the Consumer Guarantees Act, the Fair Trading Act and the Banking (Prudential Supervision) Act. This claim relies on Mr McKenzie’s assertion that the respondent’s banking app has been unreliable and misrepresented his account history, resulting in loss. He identifies a discrepancy of \$18.01.

[8] In dismissing the appeal, the Court of Appeal noted this version of the claim had removed the reliance on criminal legislation which was a feature of the claim filed

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<sup>4</sup> CA judgment – ASB Bank, above n 1.

in the High Court. But, the Court agreed with the High Court, it was not possible for the claim to be repleaded to identify an appropriate cause of action. The Court also agreed with the High Court the proceeding was an abuse of process.

*SC UR 54/2025 McKenzie v Sidhu*

[9] This claim arises out of the applicant's purchase of the supplement creatine from Xplosiv Supplements in September 2023. Dissatisfied with the quality of the creatine, the applicant brought a claim for \$20,000 in damages in the Disputes Tribunal against Sandeep Sidhu who he says is "the sole trader who owns the franchise".<sup>5</sup> The claim was dismissed by the Disputes Tribunal Referee, and an award of costs of \$500 was made against the applicant on the basis the claim was frivolous or vexatious. The Referee refused to transfer the proceeding to the District Court. The applicant's appeal to the District Court against the Disputes Tribunal's decision was unsuccessful.<sup>6</sup> The applicant's appeal to the High Court from the decision of the District Court was dismissed for lack of jurisdiction.<sup>7</sup>

[10] The applicant then filed a claim in the High Court claiming \$100,000 from Mr Sidhu "based on the Sentencing Act 2002".<sup>8</sup> In the appeal to the Court of Appeal from the decision of the High Court striking out this claim, the applicant filed an amended statement of claim. The Court of Appeal in dismissing the appeal noted that, while the applicant said the amended claim no longer relied on criminal legislation, that was not in fact the case. For example, reliance on the Sentencing Act was retained in respect of one cause of action. The Court of Appeal continued:<sup>9</sup>

[25] In any event, the issue is that McKenzie's complaint has already been dealt with. Despite Mr McKenzie's attempts to replead his case, the essence of his claim remains the same. It concerns the same transaction. It concerns the same complaint. The Disputes Tribunal found Mr McKenzie provided no evidence to substantiate his claims and that Mr McKenzie's claim was frivolous or vexatious. Those conclusions were affirmed by the District Court on their merits. Mr McKenzie has exhausted his appeal rights.

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<sup>5</sup> HC judgment – Sidhu, above n 2, at [2].

<sup>6</sup> *McKenzie v Sidhu* [2025] NZDC 1362 (Judge Rowe).

<sup>7</sup> *McKenzie v Sidhu* [2025] NZHC 654 (Grau J).

<sup>8</sup> HC judgment – Sidhu, above n 2, at [6].

<sup>9</sup> CA judgment – Sidhu, above n 1 (footnotes omitted).

[11] The initial statement of claim struck out by the High Court advanced four causes of action.<sup>10</sup> As the Court of Appeal noted:<sup>11</sup>

[7] For each of the four causes of action, Mr McKenzie seeks relief in the sum of \$466 million with reliance on either “the basis of The Sentencing Act 2002 Part 2” (for the first, third and fourth causes of action) or the Consumer Guarantees Act (for the second cause of action). The relief sought is seemingly quantified as “roughly \$1000 compensation for every \$1” in respect of which Mr McKenzie has been “ripped off and gaslit”.

[12] An amended statement of claim was provided to the Court of Appeal. The Court of Appeal did not consider the amendments addressed the concerns identified by the High Court as to the absence of any viable claim. In upholding the decision of the High Court, the Court said:

[25] The fundamental problem with Mr McKenzie’s statement of claim is that it alleges various criminal offences against the [Co-operative] Bank and relies on proof of criminal offending to secure an order of reparation in the sum of \$466 million.

[13] The applicant sought a recall of the judgment of the Court of Appeal on the basis all references to criminal legislation would be removed from a proposed amended statement of claim to be submitted to the High Court. The recall application was dismissed. The Court of Appeal considered it was “simply an attempt to continue with a misconceived” and abusive claim.<sup>12</sup>

### *The proposed appeals*

[14] The issue that would be before this Court if the applications for leave were filed would be whether the Court of Appeal erred in upholding the strike-out decisions on the basis each of the proceedings was an abuse of process. There is no challenge to the principles applied by the Court of Appeal which has treated the threshold for strike-out as a high one. The proposed appeals would turn on the application of these principles to the particular facts.

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<sup>10</sup> The causes of action alleged deceitful and misleading conduct, that the applicant was scammed and the Co-operative Bank did not provide the necessary care and skill, misrepresentations, and deceit in the provision of transaction logs.

<sup>11</sup> CA judgment – Co-operative Bank, above n 1.

<sup>12</sup> Recall judgment, above n 1, at [4].

[15] Having considered the material filed by the applicant, including the documents described as statements of claim provided to the Registry on 19 November 2025, I agree with the Registrar's assessment that the underlying appeals have insufficient prospects of success. Waiver of fees would not promote access to justice. For similar reasons I also agree with the Registrar that the proposed appeals do not raise issues of genuine public interest.<sup>13</sup>

[16] I consider the decision of the Registrar not to waive the filing fees was correct and I dismiss the applications for review.

### **Result**

[17] The applications for review of the decision of the Registrar declining to waive filing fees are dismissed.

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<sup>13</sup> Supreme Court Fees Regulations 2003, reg 5(2).