

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 77/2025  
[2025] NZSC 177

BETWEEN	FRANCISC CATALIN DELIU Applicant
AND	THE NEW ZEALAND LAWYERS AND CONVEYANCERS DISCIPLINARY TRIBUNAL First Respondent
	THE NATIONAL STANDARDS COMMITTEE 1 AND STANDARDS COMMITTEE OF THE NEW ZEALAND LAW SOCIETY Second Respondent

Court: Glazebrook, Ellen France and Kós JJ

Counsel: Applicant in person  
G M Taylor for First Respondent  
M J Hodge for Second Respondent and New Zealand Law  
Society | Te Kāhui Ture o Aotearoa as Intervener

Judgment: 25 November 2025

JUDGMENT OF THE COURT

- A      The application for leave to appeal is dismissed.**
- B      There is no order as to costs.**

REASONS

Introduction

[1]      The applicant, Francisc Deliu, seeks leave to appeal from a decision of the

Court of Appeal.<sup>1</sup> The Court of Appeal dismissed his appeal from a decision of the High Court in which that Court concluded his application for judicial review was an abuse of process.<sup>2</sup>

## Background

[2] To put the application for leave in context, it is helpful to set out a brief chronology. The Court of Appeal sets out the background in more detail.<sup>3</sup>

2010–2015	Three sets of professional disciplinary charges were filed against the applicant in the New Zealand Lawyers and Conveyancers Disciplinary Tribunal (the Tribunal).
2015	The applicant appealed unsuccessfully against some procedural steps and decisions taken by the Tribunal. The High Court said it had no jurisdiction to consider these matters. <sup>4</sup>
2016	The disciplinary charges were heard, found proved and a period of suspension imposed on the applicant. <sup>5</sup>
2017	The applicant appealed and brought fresh judicial review proceedings. The appeal and judicial review were heard over seven days in High Court. The appeal and the application for judicial review were dismissed. <sup>6</sup>
2018	The applicant's application for leave to appeal against the decision dismissing his appeal was declined. <sup>7</sup> His appeal against the judicial review decision was deemed

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<sup>1</sup> *Deliu v New Zealand Lawyers and Conveyancers Disciplinary Tribunal* [2025] NZCA 273 (Goddard, Mallon and Cooke JJ) [CA judgment].

<sup>2</sup> *Deliu v The New Zealand Lawyers and Conveyancers Disciplinary Tribunal* [2023] NZHC 160 (Peters J) [HC judgment].

<sup>3</sup> CA judgment, above n 1, at [3]–[19].

<sup>4</sup> *Deliu v The Auckland Standards Committee I* [2015] NZHC 1023.

<sup>5</sup> *National Standards Committee No 1 v Deliu* [2016] NZLCDT 41.

<sup>6</sup> *Deliu v The National Standards Committee* [2017] NZHC 2318.

<sup>7</sup> *Deliu v National Standards Committee* [2018] NZHC 2873.

abandoned because he did not pay security for costs on the appeal.<sup>8</sup>

2021            The applicant filed a further judicial review application. He told the High Court he brought the proceeding because his application for admission to practise law in Florida will fail due to his earlier suspension from legal practice.

2023            The judicial review application was dismissed by the High Court.<sup>9</sup>

2025            The Court of Appeal dismissed the applicant's appeal from the High Court decision.<sup>10</sup>

[3]      Broadly speaking, in the second, 2021, judicial review proceeding, the applicant raised a number of matters about the constitution of the Tribunal and its method of deciding the case. In particular, he said the Tribunal's decisions were invalid for reasons concerning the following matters, as described by the Court of Appeal:<sup>11</sup>

- (a)      the manner in which the Tribunal's members were or were not appointed or assigned and the way in which the Deputy Chairperson was replaced;
- (b)      the way in which the Chairperson was designated, the Chairperson's alleged lack of independence, and the actions of the Chairperson after her recusal;
- (c)      whether there was a lawful quorum;
- (d)      the absence of a record of a "vote" for the decisions that required unanimity or a majority; and
- (e)      the way in which the three sets of charges were heard separately.

[4]      The High Court considered all of these issues could and should have been raised in the applicant's earlier proceedings. On a "broad, merits-based judgment",

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<sup>8</sup>      See *Deliu v The New Zealand Lawyers and Conveyancers Disciplinary Tribunal* [2018] NZCA 145.

<sup>9</sup>      HC judgment, above n 2.

<sup>10</sup>     CA judgment, above n 1.

<sup>11</sup>     At [17].

the Court concluded it was not in the interests of justice for the matter to proceed.<sup>12</sup> The Judge did address whether there was sufficient evidence that the lawyer and lay members concerned were properly appointed to the Tribunal and concluded they were.

[5] The Court of Appeal agreed with the High Court that the matters raised in the 2021 judicial review proceeding could and ought to have been pursued in the 2017 proceedings. The Court also agreed with the High Court “that the comprehensive nature of the earlier proceeding, the resources involved in that proceeding, and delay are significant reasons that support the public interest in the finality of litigation”.<sup>13</sup>

[6] Further, the Court of Appeal said it was relevant that the 2021 proceeding effectively challenged the earlier 2017 decision of the High Court upholding the Tribunal’s decision and penalty. That meant the current proceeding was effectively seeking to undermine an appeal regime. In addition, the Court stated that if the Tribunal members had been invalidly appointed, the de facto officer doctrine would apply to prevent collateral challenges made “on the basis of unknown flaws or defects” in the appointment process.<sup>14</sup>

[7] The Court declined to consider the applicant’s submissions as to the merits. This was on the basis it was “not in the public interest to devote more judicial resource” to doing that when satisfied the 2021 judicial review proceeding was an abuse of process.<sup>15</sup>

### **The proposed appeal**

[8] The applicant says the Court of Appeal should have addressed the merits as part of the all over broadbrush exercise envisaged by *Henderson v Henderson*.<sup>16</sup> The submission is that there is a broader question arising as to what is required of the Court in assessing a claim in terms of *Henderson v Henderson*. The failure to undertake this exercise means he is put in a bad light without having had the

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<sup>12</sup> HC judgment, above n 2, at [38], referring at [34]–[36] to *Henderson v Henderson* (1843) 3 Hare 100, 67 ER 313 (Ch).

<sup>13</sup> CA judgment, above n 1, at [28].

<sup>14</sup> At [32].

<sup>15</sup> At [33].

<sup>16</sup> *Henderson v Henderson*, above n 12.

decision-maker address his side of the story. This is a breach of natural justice and it is highly prejudicial to him. The applicant also says his failure to file earlier is just a factor, not the be all and end all as the Court of Appeal found.

[9] We consider the proposed appeal has insufficient prospects of success. Nothing raised by the applicant convinces us that the Court of Appeal had to conduct a full merits examination in this case to decide this was an abuse of process. No question of general or public importance accordingly arises.<sup>17</sup> The combination of the earlier opportunities to raise these matters, having had his day in Court, and the delays, mean it would be abusive for the respondents to have to face further litigation. There is no appearance of a miscarriage of justice as that term is used in the civil context.<sup>18</sup>

## **Result**

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

[11] There is no order as to costs.<sup>19</sup>

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for First Respondent  
K A Pludthura, New Zealand Law Society | Te Kāhui Ture o Aotearoa, Auckland for Second Respondent and New Zealand Law Society | Te Kāhui Ture o Aotearoa as Intervener

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<sup>17</sup> Senior Courts Act 2016, s 74(2)(a).

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

<sup>19</sup> In a joint memorandum relating to the New Zealand Law Society's application to intervene, the applicant and the Law Society recorded their agreement each would bear their own costs against each other irrespective of the outcome.