

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 1/2025  
[2025] NZSC 22**

IN THE MATTER OF      TANYA FELICITY DUNSTAN  
Applicant

Court:                      Glazebrook, Ellen France and Williams JJ

Counsel:                  Applicant in person  
D J Perkins and O Kiel for Attorney-General as Applicant to Intervene

Judgment:                27 March 2025

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**JUDGMENT OF THE COURT**

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- A      The application by the Attorney-General for leave to intervene is granted.**
  - B      The Registrar is to set a timetable for submissions.**
  - C      Ms Dunstan’s application for the orders set out below at [5] is dismissed.**
  - D      The application for recusal is dismissed.**
  - E      Costs are reserved.**
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**REASONS**

**Background**

[1]      On 6 January 2025, Ms Dunstan applied for leave to appeal against the Court of Appeal’s judgment in *Re Dunstan*, which dismissed her appeal against

orders made under s 166 of the Senior Courts Act 2016 restricting her from commencing or continuing civil proceedings.<sup>1</sup>

*Application for leave to intervene by the Attorney-General*

[2] The Attorney-General applies for leave to intervene on the following grounds:

- (a) The general order made against Ms Dunstan restrains her from commencing or continuing civil proceedings against any party in a senior court, another court or a tribunal. The Attorney-General is well-placed to assist the Court by acting as contradictor, given:
  - (i) the Attorney-General's statutory role in relation to applications for general orders; and
  - (ii) the Attorney-General represents the public interest;
- (b) Crown parties were respondents to many of the proceedings relied upon by the High Court when making the general order; and
- (c) Ms Dunstan is a litigant in person. The Attorney-General would be able to assist the Court with matters of law.

[3] The Attorney-General was an intervener in the Court of Appeal.

[4] Ms Dunstan opposes the application for leave to intervene. She says that the Attorney-General is not a party to the proceeding and alleges that there have been various failures in the past with regard to Crown counsel that mean the application should not be granted.

*Application by Ms Dunstan for orders*

[5] Ms Dunstan applies for orders:

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<sup>1</sup> *Re Dunstan* [2024] NZCA 683 (Courtney, Mander and Osborne JJ).

- (a) adding as parties two other persons who are subject to orders under s 166;
- (b) adding the Attorney-General as the respondent;
- (c) appointing Mr Ellis as intervener; and
- (d) appointing Mr Clee as amicus curiae.

[6] It is not clear whether or not the persons referred to in [5(a), (c) and (d)] have been informed of Ms Dunstan's application.

#### *Recusal*

[7] Ms Dunstan has also asked for Glazebrook, Ellen France and Miller JJ to recuse themselves.

#### **Decision on intervention of the Attorney-General**

[8] It is appropriate to grant the application for leave to intervene for the reasons set out by the Attorney-General. We note in particular that, without the Attorney-General's intervention, there would be no contradictor.

#### **Decision on application for other orders**

[9] It is not appropriate that the persons referred to at [5(a)] be added as parties. They were not parties to the appeal in the Court of Appeal. In any event, the fact that they too are subject to s 166 orders does not give them a proper interest in Ms Dunstan's appeal.

[10] The Attorney-General was not the respondent in the Court of Appeal. It is not appropriate that the Attorney-General be made the respondent in this Court.

[11] If Mr Ellis wishes to intervene then he will need to file an application for leave to do so.

[12] We do not consider the Court will be assisted at the leave stage by the appointment of amicus curiae. Ms Dunstan may renew her application if leave is granted.

### **Decision on recusal**

[13] There is no proper basis for the judges to recuse themselves.

### **Result**

[14] The application by the Attorney-General for leave to intervene is granted.

[15] The Registrar is to set a timetable for submissions.

[16] Ms Dunstan's application for the orders set out above at [5] is dismissed.

[17] The application for recusal is dismissed.

[18] Costs are reserved.

Solicitors:

Te Tari Ture o te Karauna | Crown Law Office, Wellington for Attorney-General as Applicant to Intervene