

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 36/2025  
[2025] NZSC 71

BETWEEN PETER MALCOLM FULLER  
Applicant

AND GRANT ALISTAIR FRASER  
Respondent

Court: Ellen France, Williams and Miller JJ

Counsel: Applicant in person  
No appearance for Respondent

Judgment: 2 July 2025

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JUDGMENT OF THE COURT

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

[1] Mr Fuller's proceeding against Grant Fraser, a District Court Judge, was struck out on filing in the High Court on the ground that it was plainly an abuse of process.<sup>1</sup> The decision was made on the papers under r 5.35B of the High Court Rules 2016.

[2] Mr Fuller appealed. The Court of Appeal dismissed the appeal after an oral hearing at which Mr Fuller appeared, but the Judge did not.<sup>2</sup>

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<sup>1</sup> *Fuller v Fraser* HC Auckland CIV-2024-404-1609, 10 July 2024 (Minute of Becroft J).

<sup>2</sup> *Fuller v Fraser* [2025] NZCA 81 (Katz, Grice and Powell JJ).

[3] The Court described the claim as a collateral attack on the Judge personally and held that the Judge's pleaded actions were protected by absolute immunity under s 23 of the District Court Act 2016.<sup>3</sup> The allegations concerned the conduct of a hearing before the Judge. Mr Fuller's attempts to evade immunity by repleading his claim, for example in contract and under the New Zealand Bill of Rights Act 1990, all rested on the plainly incorrect proposition that the Judge was acting "ultra vires" and so had lost his immunity.<sup>4</sup>

[4] In this Court he contends that judicial immunity does not extend to malicious, coercive or deceptive conduct. The argument that immunity does not extend to Mr Fuller's claim has no prospect of success. The Judge was undoubtedly acting in his judicial capacity and was accordingly immune from liability.

[5] Mr Fuller attempted to meet this difficulty by intituling his amended application for leave to appeal as if this were a proceeding brought against the Attorney-General in respect of the Judge's actions. There has been no application to substitute a party and we would not entertain one at this juncture in this case. The application for leave to amend the leave application is dismissed.

[6] The application for leave to appeal is also dismissed.<sup>5</sup> As there was no appearance for the respondent, there is no order as to costs.

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<sup>3</sup> At [21]–[23] citing *Nakhla v McCarthy* [1978] 1 NZLR 291 (CA) at 294.

<sup>4</sup> At [24]–[25].

<sup>5</sup> See Senior Courts Act 2016, s 74(1).