

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC UR 31/2026
[2026] NZSC 133

RE

ANNA CATHERINE BAKER
Applicant

Counsel: Applicant in person

Judgment: 15 September 2026

JUDGMENT OF COOKE J

The application for review of the decision of the Deputy Registrar declining to waive the filing fee is dismissed.

REASONS

[1] The applicant seeks a review of a decision of the Deputy Registrar declining to waive the filing fee required for her application for leave to appeal to this Court.

[2] By decision dated 17 July 2026, the Deputy Registrar concluded that the applicant had not provided information that she was unable to pay the fee in accordance with reg 5(2)(a) of the Supreme Court Fees Regulations 2003 (the Regulations), and that the proposed appeal did not involve a matter of genuine public interest under reg 5(2)(b). Further, the Deputy Registrar concluded that, even had the criteria been satisfied, he would not have exercised his discretion to waive the fee. The applicant now seeks a review pursuant to s 160 of the Senior Courts Act 2016.

Background

[3] The relevant background is set out in the decision of the Court of Appeal from which the applicant seeks leave to appeal.¹ She has been involved in a longstanding relationship property dispute in the Family Court. She then filed a judicial review proceeding in the High Court naming the Manager of the Family Court at Queenstown as the respondent, alleging that the Registry staff at the Family Court had systematically failed to deal with various documents she had filed. The High Court Registrar referred the proceeding to a High Court Judge under r 5.35A of the High Court Rules 2016 for the purpose of considering whether it should be struck out as an abuse of process under r 5.35B. Osborne J identified a number of deficiencies with the proceeding, and directed that an amended statement of claim be filed addressing these issues within five working days. If it was not, the proceedings would be struck out.² The applicant did not file an amended statement of claim and the proceedings were accordingly struck out. In the underlying proceedings in the Family Court, that Court also made an order that the applicant not file any further documents in the Queenstown Family Court electronically to prevent ongoing harassment of Registry staff.

[4] The applicant applied to the Court of Appeal for an extension of time to appeal against Osborne J's decision, having not filed the appeal within the required timeframe. The application was declined by the Court of Appeal, including because the applicant's prospects of success on the proposed appeal were "hopeless", such that the extension of time to pursue an appeal served no purpose.³

[5] The applicant then sought leave to appeal to this Court, and at the same time sought a fee waiver. This was declined by the Deputy Registrar for the abovementioned reasons.

¹ *Baker v Manager of the Family Court at Queenstown* [2026] NZCA 295 (Katz and Edwards JJ) [CA judgment] at [2]–[7].

² *Baker v The Manager of the Family Court at Queenstown* [2025] NZHC 1695.

³ CA judgment, above n 1, at [20].

Assessment

[6] In her application for review, the applicant refers to the fact that she has been made bankrupt, claiming that she is not able to access her assets for the purposes of paying the filing fee. She says that the Deputy Registrar was accordingly wrong to find that she had not proved, for the purposes of reg 5(2)(a) and (3)(b)(iii), that she would “suffer undue financial hardship if he or she paid the fee”.

[7] The difficulty with this submission is, whilst the applicant has referred to her alleged bankruptcy in the material she has filed, she has not provided any detailed information about her current financial position, such as a statement of income and expenses. While her affidavit sworn on 16 July 2026 in support of her application for leave alleges ongoing financial hardship, a simple assertion that an applicant cannot pay is not enough to satisfy reg 5(3)(b)(iii). The key conclusion of the Deputy Registrar was that inadequate information had been supplied to satisfy the requirements. I am likewise not satisfied from the information first provided, nor from the further information provided in support of the application for review, that the Deputy Registrar erred in reaching that conclusion.

[8] As noted above, the Deputy Registrar further concluded that, even if the criteria had been satisfied, he would exercise his residual discretion to decline the fee waiver.⁴ The applicant’s attempted High Court proceeding appears to have been a collateral attack on the management of proceedings by the Family Court Registry staff. That proceeding was struck out as an abuse of process in the High Court, and the Court of Appeal then found that the applicant’s proposed appeal was hopeless. It may be that, in these circumstances, the Deputy Registrar was correct to decline the application for fee waiver as a matter of discretion. But no final decision on that question is required given the conclusion reached above at [7].

[9] For these reasons, the application for review of the decision of the Deputy Registrar declining to waive the filing fee is dismissed.

⁴ Citing *Duncan v The Royal New Zealand Society for the Prevention of Cruelty to Animals Inc* [2024] NZCA 628 at [26].