

**NOTE: NON-PUBLICATION ORDER IN [2024] NZLCDT 45 PROHIBITING
PUBLICATION OF THE COMPLAINANT'S NAME, HIS FIRM'S NAME
AND ANY OTHER DETAILS WHICH MIGHT LEAD TO HIS
IDENTIFICATION PURSUANT TO S 240 OF THE LAWYERS AND
CONVEYANCERS ACT 2006 REMAINS IN FORCE.**

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

**SC 62/2026
[2026] NZSC 156**

BETWEEN	GAUTAM JINDAL Applicant
AND	AUCKLAND STANDARDS COMMITTEE 1 Respondent

Court:	Kós, Cooke and Campbell JJ
Counsel:	S A Keall and M S Timmins for Applicant S S McMullan and K D J Robinson for Respondent
Judgment:	22 October 2026

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal the High Court decision is granted.**
 - B The application for leave to appeal the High Court and Court of Appeal decisions is dismissed.**
 - C The applicant must pay the respondent costs of \$4,850.**
 - D The order suspending the applicant from practice is further stayed until 6 pm on 30 October 2026.**
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REASONS

Introduction

[1] The Lawyers and Conveyancers Disciplinary Tribunal found Mr Jindal guilty of misconduct under s 7 of the Lawyers and Conveyancers Act 2006 (LCA).¹ The Tribunal censured him, imposed a six-month suspension, and ordered him to pay compensation and costs.²

[2] Mr Jindal unsuccessfully appealed to the High Court against both liability and penalty.³ He was declined leave to bring a second appeal by both the High Court and Court of Appeal.⁴ He now seeks leave to appeal against the substantive High Court decision and the Court of Appeal leave decision.

[3] This Court has no jurisdiction to hear an appeal against the Court of Appeal decision.⁵ Mr Jindal is out of time to apply for leave to appeal against the substantive High Court decision.⁶ To obtain leave to appeal against that decision, he must be granted an extension of time,⁷ satisfy the usual leave criteria,⁸ and demonstrate “exceptional circumstances” justifying a leapfrog appeal.⁹

Background

[4] In February 2020, Mr Jindal—while a law student—sought legal advice from Mr Y, a partner of a law firm. Mr Y agreed to meet with Mr Jindal but advised him, during a phone call, that he would be charged in accordance with the firm’s usual terms of engagement. The meeting occurred, and Mr Jindal was sent a bill for \$999.81. He did not pay, and the firm brought a debt proceeding against him.

¹ *Auckland Standards Committee 1 v Jindal* [2024] NZLCDT 45 [LCDT liability decision].

² *Auckland Standards Committee 1 v Jindal* [2025] NZLCDT 26 [LCDT penalty decision].

³ *Jindal v Auckland Standards Committee 1* [2025] NZHC 4107 (Powell J) [HC substantive judgment].

⁴ *Jindal v Auckland Standards Committee 1* [2026] NZHC 454 (MacGillivray J) [HC leave judgment]; and *Jindal v Auckland Standards Committee 1* [2026] NZCA 192 (Whata, Grice and Walker JJ) [CA judgment].

⁵ See Senior Courts Act 2016, s 68(b). Mr Jindal implicitly acknowledges this, as his submissions focus only on the proposed leapfrog appeal against the substantive High Court decision.

⁶ See Supreme Court Rules 2004, r 11(1).

⁷ Rule 11(4). See also *Almond v Read* [2017] NZSC 80, [2017] 1 NZLR 801 at [38]–[39].

⁸ Senior Courts Act, ss 74 and 75(a).

⁹ Section 75(b). See also *Burke v Western Bay of Plenty District Council* [2005] NZSC 46, (2005) 18 PRNZ 560 at [4]; and *Cook v Housing New Zealand Corp* [2018] NZSC 42 at [9].

[5] The proceeding went to trial. By then, Mr Jindal was admitted as a barrister and solicitor. He represented himself. Mr Y gave evidence of the phone call between himself and Mr Jindal. Mr Jindal was adamant that no such phone call took place. In evidence and submissions, he described Mr Y as a liar. The District Court preferred the evidence of Mr Y and found in favour of the firm.

[6] Mr Jindal filed an appeal but settled with the firm. Before doing so, however, he delivered a document to the firm, stating that Mr Y lied under oath; had a similar document placed in Mr Y's letterbox and the letterboxes of his neighbours; published his allegations to a website he created; and attempted to prosecute Mr Y for perjury. Mr Y complained to the Law Society. An Auckland Standards Committee charged Mr Jindal with misconduct.

The meaning of misconduct under the LCA

[7] The definition of "misconduct" in s 7 of the LCA draws a distinction between professional conduct (defined in s 7(1)(a) as conduct "that occurs at a time when [the lawyer] is providing regulated services") and personal conduct (defined in s 7(1)(b)(ii) as conduct "unconnected with the provision of regulated services"). For personal conduct, there is a heightened threshold for a finding of misconduct: the conduct must be such as would justify a finding that the lawyer "is not a fit and proper person or is otherwise unsuited to engage in practice as a lawyer".

Tribunal decisions

[8] The Tribunal characterised Mr Jindal's conduct as professional and found it constituted misconduct, both because it was disgraceful or dishonourable and because it could be viewed as a wilful or reckless breach of applicable practice rules.¹⁰ In the alternative, if his conduct were personal, it would justify a finding that he "is not a fit and proper person or is otherwise unsuited to engage in practice as a lawyer" and therefore satisfy the heightened threshold for personal misconduct.¹¹ In deciding

¹⁰ LCDT liability decision, above n 1, at [22]–[23] and [30]–[32].

¹¹ At [35].

penalty, the Tribunal found multiple aggravating features of the misconduct and criticised Mr Jindal for displaying little insight into his wrongdoing.¹²

High Court decisions

[9] In the High Court, Mr Jindal submitted his conduct was outside the scope of the Tribunal's jurisdiction as it was neither professional nor personal. Powell J disagreed, finding that the conduct was professional and that there was no doubt it met the threshold for misconduct.¹³ He also found that the Tribunal did not err in concluding, in the alternative, that if Mr Jindal's conduct were personal it met the heightened standard for misconduct.¹⁴

[10] Mr Jindal also argued that his six-month suspension was excessive; the Tribunal erred by failing to recognise that his conduct was an exercise of free speech; and the compensation and costs orders were too high.¹⁵ The Judge did not accept that the conduct could be regarded as "any form of legitimate exercise of free speech, such that [it] could provide any sort of mitigating circumstance", holding that "[f]reedom of expression cannot excuse Mr Jindal's conduct, particularly when the Tribunal considered it amounted to harassment".¹⁶ Nor could the Judge find fault in the Tribunal's suspension, compensation, or costs analyses.¹⁷

[11] MacGillivray J refused leave to appeal against Powell J's judgment.¹⁸

Court of Appeal decision

[12] In seeking leave to appeal from the Court of Appeal, Mr Jindal said he proposed to advance arguments under the New Zealand Bill of Rights Act 1990. He submitted that s 7(1)(a) of the LCA should have been interpreted narrowly to protect his right to freedom of expression.¹⁹ He argued that this error also infected the alternative finding that his conduct would have met the standard for personal

¹² LCDT penalty decision, above n 2, at [12]–[16], [21]–[22] and [24].

¹³ HC substantive judgment, above n 3, at [34] and [36].

¹⁴ At [39]–[42].

¹⁵ At [44]–[49].

¹⁶ At [50].

¹⁷ At [51]–[60].

¹⁸ HC leave judgment, above n 4.

¹⁹ CA judgment, above n 4, at [26]–[27].

misconduct in s 7(1)(b)(ii).²⁰ In respect of penalty, Mr Jindal submitted that the Tribunal and High Court adopted an “unorthodox approach to penalty determination”, failed to justify suspension over less restrictive measures, and violated his right not to be subjected to disproportionately severe treatment or punishment.²¹

[13] The Court of Appeal would have declined leave on the basis that Mr Jindal’s argument that the delineation between s 7(1)(a) and (b)(ii) is informed by freedom of expression was not raised in the Tribunal or High Court.²² Further, the Bill of Rights arguments were not strong;²³ Mr Jindal’s arguments were limited to the facts of his case;²⁴ the Tribunal and High Court’s approach to penalty was “orthodox”; and “there was no appropriate lesser penalty” than suspension.²⁵

Proposed appeal

[14] Mr Jindal submits there were four errors in the High Court decision. First, he says the Judge failed to engage with the effect of the Bill of Rights on the sanction that was imposed. Secondly, when interpreting s 7 of the LCA, he says the Judge failed to apply s 6 of the Bill of Rights and the principle of legality. Thirdly, he says the Judge erred in classifying Mr Jindal’s conduct as professional. He again contends that his conduct fell into a residual category “that is neither professional nor personal ... and which therefore falls outside the jurisdiction of [the Tribunal] altogether”. Fourthly, he says the Judge erred in upholding the Tribunal’s penalty without considering Mr Jindal’s rights in ss 9 and 14 of the Bill of Rights.

[15] In terms of the usual leave criteria in s 74 of the Senior Courts Act 2016, Mr Jindal says his appeal would raise a matter of “systemic constitutional importance”, namely the standard of compliance expected of judicial decision makers when their orders have a direct, rights-limiting effect, and where they have “completely bypassed” the mandatory analytical framework in ss 5 and 6 of the Bill of Rights. He also says that the case law addressing the distinction in s 7 of

²⁰ At [27].

²¹ At [29]–[30].

²² At [32].

²³ At [33].

²⁴ At [33]–[34].

²⁵ At [35].

the LCA between professional and personal misconduct is itself divided and calls for this Court's guidance.

[16] As to the need in s 75 to show exceptional circumstances, Mr Jindal submits that the uncorrected failure of the Tribunal and High Court to apply the Bill of Rights represents an "extraordinary departure" from judicial process. He also submits that the six-month suspension from practice for his extra-professional expression of beliefs would shock the conscience of a properly informed public.

A jurisdictional point

[17] Mr Jindal seeks to appeal directly to this Court against the High Court's decision. Section 69 of the Senior Courts Act confers jurisdiction on this Court to hear appeals from the High Court in civil proceedings. However, s 69(a) provides there is no such jurisdiction if an enactment "makes provision to the effect that there is no right of appeal against the decision". It is at least arguable that the effect of provisions in the LCA is that there is no right of appeal to this Court against the High Court's decision.²⁶

[18] We note this jurisdictional issue but need not determine it.²⁷ The respondent did not raise it. For the reasons that follow, even if this Court has jurisdiction, Mr Jindal has failed to persuade us that we should grant leave to appeal under ss 74 and 75 of the Senior Courts Act.

Leave to appeal

[19] We accept that the correct interpretation of s 7 of the LCA, and the approach to the distinction between professional and personal conduct, may be matters of general or public importance.²⁸ However, we do not consider it is appropriate to grant leave in this case to address those matters.

²⁶ Section 254 of the Lawyers and Conveyancers Act 2006 [LCA] limits any appeal to the Court of Appeal to a question of law. In contrast, a direct appeal to this Court would proceed by way of rehearing: Senior Courts Act, s 78. See also ss 120(3) and 256 of the LCA.

²⁷ The point has been noted but not decided in several earlier decisions: *Skagen v Wellington Standards Committee of the New Zealand Law Society* [2022] NZSC 145 at [4]; *Taia v Auckland Standards Committee 5* [2023] NZSC 16 at [8]; and *Reid v New Zealand Law Society* [2025] NZSC 3 at [11].

²⁸ Senior Courts Act, s 74(2)(a).

[20] First, Mr Jindal’s proposed interpretative arguments rest largely on the Bill of Rights. He did not advance those arguments in the Tribunal or High Court. We would therefore not have the benefit of decisions below assessing the merits of the arguments.²⁹

[21] Secondly, there is insufficient prospect of success on this part of the proposed appeal. Mr Jindal’s argument that his conduct falls into a residual category outside of both s 7(1)(a) and (b)(ii) is untenable. To exclude Mr Jindal’s conduct from s 7 would undermine the regulatory regime established by the LCA and run counter to the Act’s purpose of maintaining public confidence in the provision of legal services and protecting consumers of those services.³⁰ His conduct fell within one of s 7(1)(a) or (b)(ii). And, even if it were properly characterised as personal, we see no error in the concurrent findings below (in the alternative) that the heightened threshold for personal misconduct was met.³¹

[22] To the extent that the proposed appeal would challenge the penalty imposed by the Tribunal and upheld by the High Court, it may be that the application of the Bill of Rights to the imposition of a penalty under the LCA would give rise to a matter of general or public importance. But again, we do not consider it is appropriate to grant leave to appeal to address this. Mr Jindal did not advance those Bill of Rights arguments in the Tribunal or High Court, and so once again we would not have the benefit of decisions below assessing the merits of the arguments. Further, he is challenging the fact-specific penalty assessment undertaken by the Tribunal and High Court. Although the Tribunal considered that a suspension of 12 months would not have been unreasonable, it decided to impose a six-month suspension, recognising that Mr Jindal “has stable employment, and a young family, and is at an early stage in his legal career”.³² As the High Court observed, the Tribunal may order suspension of up to 36 months, so six months is towards the lower end of the available range.³³ And in any event, both the Tribunal and the High Court took into account his right to

²⁹ See *Zhou v Commissioner of Police* [2023] NZSC 124 at [9].

³⁰ LCA, s 3(1)(a)–(b) and (2)(b).

³¹ LCDT liability decision, above n 1, at [35]; and HC substantive judgment, above n 3, at [39]–[42].

³² LCDT penalty decision, above n 2, at [33] and [35].

³³ LCA, s 242(1)(e); and HC substantive judgment, above n 3, at [55].

freedom of expression.³⁴ Given Mr Jindal's conduct, we see no prospect of a finding that the penalty imposed was disproportionately severe, and there is no appearance of a miscarriage of justice.³⁵

[23] For all of these reasons, there also are no exceptional circumstances justifying the grant of leave to appeal directly from the High Court.

Extension of time

[24] Because Mr Jindal's application for leave to appeal to this Court was filed timeously following delivery of the Court of Appeal's decision, we grant an extension of time in relation to the application for leave to appeal the High Court decision.

Stay of suspension

[25] Orders were granted by the High Court and Court of Appeal staying Mr Jindal's suspension while he exercised his appeal rights. The stay was in place until 2 June 2026.³⁶ On 24 June 2026, this Court granted a further stay of the suspension order pending a decision on the application for leave to appeal.³⁷ To give Mr Jindal time to make appropriate practice arrangements, we grant a further stay of the suspension until 6 pm on 30 October 2026.

Result

[26] The application for an extension of time to apply for leave to appeal the High Court decision is granted.

[27] The application for leave to appeal the High Court and Court of Appeal decisions is dismissed.

[28] The applicant must pay the respondent costs of \$4,850.

³⁴ LCDT penalty decision, above n 2, at [26]–[27]; and HC substantive judgment, above n 3, at [50]. See also CA judgment, above n 4, at [33].

³⁵ See Senior Courts Act, s 74(2)(b); and *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

³⁶ See CA judgment, above n 4, at [37].

³⁷ *Jindal v Auckland Standards Committee 1* [2026] NZSC 83 (Cooke J).

[29] The order suspending the applicant from practice is further stayed until 6 pm on 30 October 2026.

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