ORDER PROHIBITING PUBLICATION OF APPLICANT'S NAME, ADDRESS, OCCUPATION OR IDENTIFYING PARTICULARS UNTIL 2 PM ON 11 NOVEMBER 2026. SUPPRESSION WILL LAPSE AT THAT TIME.

NOTE: HEALTH PRACTITIONERS DISCIPLINARY TRIBUNAL ORDER PROHIBITING PUBLICATION OF EVIDENCE RELATING TO APPLICANT'S FAMILY PURSUANT TO S 95 OF THE HEALTH PRACTITIONERS COMPETENCE ASSURANCE ACT 2003 REMAINS IN FORCE. SEE https://www.legislation.govt.nz/act/public/2003/48/en/latest/sections/DLM204304

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 66/2026
[2026] NZSC 172

BETWEEN	BARNARD RICHARD LONGBOTTOM Applicant
AND	A PROFESSIONAL CONDUCT COMMITTEE OF THE DENTAL COUNCIL Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: A H Waalkens KC for Applicant
J P Coates and A James for Respondent

Judgment: 10 November 2026

JUDGMENT OF THE COURT

A The application for leave to appeal is dismissed.

B The applicant must pay the respondent costs of $4,850.

C We make an order prohibiting publication of the applicant's name, address, occupation and identifying particulars until 2 pm on 11 November 2026. Suppression will lapse at that time.

REASONS

[1] This application for leave to appeal arises from disciplinary proceedings brought against Dr Longbottom under the Health Practitioners Competence Assurance Act 2003. Those proceedings ultimately did not result in a finding of professional misconduct, but Dr Longbottom was unsuccessful in obtaining name suppression. The proposed appeal seeks to overturn the refusal of name suppression.

Background

[2] One disciplinary charge was brought against Dr Longbottom concerning treatment he provided during the COVID-19 lockdown in Auckland. It alleged breaches of COVID-related treatment guidelines and inadequate record-keeping. The Health Practitioners Disciplinary Tribunal dismissed the particulars alleging breaches of treatment guidelines but upheld the charge in respect of inadequate record-keeping. On appeal, the High Court held that the failure to keep adequate records constituted negligence and malpractice but did not amount to professional misconduct.[1] It therefore set aside the Tribunal's finding and the consequent monetary penalty and costs orders.

[3] Both the Tribunal and the High Court declined Dr Longbottom's application for permanent name suppression. Section 95(2)(d) of the Health Practitioners Competence Assurance Act empowers the Tribunal to prohibit the publication of a person's name where, having regard to the interests of any person and the public interest, it is satisfied that doing so is "desirable". The Tribunal and High Court considered the potential consequences for Dr Longbottom and his family insufficient to outweigh the public interest in open justice and transparency. They also considered that suppression could unfairly cast suspicion on other members of the small group of periodontists practising in Auckland.

[4] The Court of Appeal dismissed Dr Longbottom's name suppression appeal.[2] It accepted the respondent's contention that the "desirable" test in s 95(2) was not

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1 *X v A Professional Conduct Committee* [2023] NZHC 3037 (Johnstone J).

2 *Longbottom v A Professional Conduct Committee of the Dental Council* [2026] NZCA 253 (Cooke, Palmer and Campbell JJ) [CA judgment].

materially lower than the test for suppression in ordinary civil proceedings.[3] The Court considered that earlier decisions suggesting otherwise rested on an exceptional-circumstances requirement that had been rejected in *Erceg v Erceg*.[4] But the High Court's error in applying a test it considered lower than would apply in ordinary civil proceedings had favoured Dr Longbottom. It provided no basis to disturb its refusal of suppression.[5]

The proposed appeal

[5] Dr Longbottom submits that the proposed appeal raises questions of general or public importance concerning suppression in professional disciplinary proceedings, particularly where a disciplinary charge has been dismissed. He challenges the Court of Appeal's application of a "high" standard for name suppression and submits that the Court failed to identify any public protection interest requiring publication of his identity. He also submits that, despite rejecting a likelihood-of-harm threshold, the Court erred in upholding the High Court's assessment that harm was unlikely.

[6] Dr Longbottom further submits that a substantial miscarriage of justice will occur unless leave is granted. He says that insufficient weight was given to the risks to his professional reputation and to his family, particularly in light of the findings of negligence and malpractice that remained after the professional misconduct finding was set aside. He also argues the Courts below should have considered whether suppressing his specialisation and location would avoid unfairly implicating other practitioners.

[7] The respondent opposes leave. It submits that the Court of Appeal applied settled principles and resolved the conflicting authorities concerning s 95(2). In its submission, the remaining challenges concern the application of those principles to the particular circumstances and disclose neither an arguable question of general importance nor a risk of a substantial miscarriage of justice.

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3 At [62]–[65].

4 At [55]–[57] referring to *Erceg v Erceg [Publication restrictions]* [2016] NZSC 135, [2017] 1 NZLR 310. The Court also noted its decisions in *Peter T Rex LLC v NZME Publishing Ltd* [2023] NZCA 469 (leave to appeal declined: *Peter T Rex LLC v NZME Publishing Ltd* [2024] NZSC 10), and *Y v Attorney-General* [2016] NZCA 474, [2016] NZAR 1512 as rejecting the view that exceptional circumstances are required for a suppression order to be made in a civil case.

5 At [84].

Our assessment

[8] We are not satisfied that the criteria for leave to appeal are met. We agree with the respondent that the gravamen of the applicant's argument is that the distinctive features of professional disciplinary proceedings warrant a different approach to suppression from that set out in *Erceg v Erceg*.[6] However, we are not persuaded that Dr Longbottom has identified a sufficiently arguable error in the Court of Appeal's conclusion that:[7]

> [The] respective features of suppression decisions in a disciplinary context justify neither a lower nor a higher test than that which applies in ordinary civil cases. They merely mean, as Gardiner J pointed out in *Professional Conduct Committee v Dr B*, that "[t]he nature of some of the interests engaged in the balancing exercise may differ".

[9] Although Dr Longbottom frames his challenge in terms of the standard applicable in professional disciplinary proceedings generally, the matters he wishes to pursue essentially concern the weight given to the competing interests in his particular case. We therefore do not see any issue of general or public importance arising in this case.[8]

[10] Nor are we persuaded that a miscarriage of justice in the civil sense is in prospect.[9] The potential consequences of publication for Dr Longbottom and his family were considered in the Tribunal and in both Courts below. All three decisions found that those consequences did not meet the threshold for suppression. Nothing raised in the application gives rise to an appearance of a miscarriage in those evaluations.

Result

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

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

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6 *Erceg*, above n 4.

7 CA judgment, above n 2, at [63] citing *Professional Conduct Committee v Dr B* [2025] NZHC 617 at [36] (footnote omitted).

8 Senior Courts Act 2016, s 74(2)(a).

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

[13] To enable the applicant to prepare for publication, we make an order prohibiting publication of the applicant's name, address, occupation and identifying particulars until 2 pm on 11 November 2026. Suppression will lapse at that time.

Solicitors:
Wotton Kearney, Wellington for Applicant
Dentons Kensington Swan, Wellington for Respondent