

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 119/2024
[2026] NZSC 67

BETWEEN VINCENT ROSS SIEMER
 Applicant

AND ATTORNEY-GENERAL
 First Respondent

 REGISTRAR OF SUPREME COURT
 Second Respondent

Court: Ellen France, Williams and Kós JJ

Counsel: Applicant in person

Judgment: 28 May 2026

JUDGMENT OF THE COURT

The application for recall of this Court’s judgment of 20 March 2025 (*Siemer v Attorney-General* [2025] NZSC 16) is dismissed.

REASONS

Introduction

[1] The applicant has filed a document dated 9 February 2026 described as an “Interlocutory application ... for (1) disqualification of Miller J with cause, and (2) a definitive ruling on fee waiver on genuine public interest grounds”. As we shall explain, we consider this application is appropriately treated as an application for the recall of the judgment of Miller J of 20 March 2025.¹

¹ *Siemer v Attorney-General* [2025] NZSC 16 [Fee waiver judgment].

Background

[2] In a judgment delivered on 11 September 2024, the Court of Appeal ruled that the Attorney-General could adduce court minutes and judgments issued in proceedings by the applicant or his wife in support of the Attorney-General’s applications for orders under s 166 of the Senior Courts Act 2016 (the admissibility decision).² An order under s 166 may be made against a litigant who has commenced two or more proceedings that are “totally without merit”.³ The s 166 order places constraints on parties from bringing or continuing civil proceedings.⁴

[3] In November 2024, the applicant filed a notice of application for leave to appeal to this Court from the admissibility decision. He also applied for a fee waiver. The fee waiver application was made on the basis he had not been granted legal aid and was wholly dependent on New Zealand superannuation to meet his living expenses.⁵ The application for a fee waiver was declined by the Deputy Registrar. The Deputy Registrar was not satisfied the applicant was wholly dependent for payment of his living expenses on New Zealand superannuation.

[4] The applicant then filed what was termed a “plea for ancillary declaratory relief”. This was treated as an application for review of the Deputy Registrar’s decision. A second fee waiver application was also lodged. In this application, the applicant claimed public interest grounds as the basis for the fee waiver application.⁶ Miller J dismissed the application for review of the Deputy Registrar’s decision concluding first that the applicant had not established that he was unable to pay the fee.

[5] Miller J also addressed the “genuine public interest” ground relied on in the second fee waiver application. Miller J said this:⁷

I am prepared to assume (without deciding) that the proceeding concerns a matter of genuine public interest. I am not persuaded that the proceeding is unlikely to continue if the fee is not waived. He complains that he has been

² *Attorney-General v Siemer* [2024] NZCA 435 (French, Mallon and Wylie JJ).

³ Senior Courts Act 2016, s 167.

⁴ See s 168.

⁵ Supreme Court Fees Regulations 2003, reg 5(2)(a) and (3)(b)(ii).

⁶ Regulation 5(2)(b) and (4).

⁷ Fee waiver judgment, above n 1, at [6] (footnote omitted).

denied a fair process, but his application for leave to appeal has been permitted to proceed in parallel and, should he continue, it will be assessed on its merits.

[6] The applicant then filed an “application for Supreme Court review” of the judgment of Miller J. After some further procedural skirmishing, an interlocutory application for waiver of the filing fee on public interest grounds was filed. Miller J treated this as an application for recall of the judgment of 20 March 2025. In a judgment delivered on 19 August 2025, the application was dismissed for the reasons given in the earlier judgment, noting no new matters were raised. The Registrar was directed not to accept for filing any further recall applications on this matter.

[7] The next step was the lodging of the document referred to at [1] above.

Our assessment

[8] The application for disqualification of Miller J is based on a transcript of an in-chambers discussion before the Judge, in the High Court, in June 2012. The discussion related to an earlier application brought on behalf of the Attorney-General under the predecessor provision to s 166 which was the subject of a strike-out application by the applicant. On the face of that transcript, it is not readily apparent that it provides a basis for disqualification for cause. But, in any event, a panel of three Judges, not including Miller J, has been convened to consider the application for a ruling on the fee waiver.

[9] In our view, that application is in essence an application for recall of the earlier decision.⁸ The Registrar could, based on the earlier direction, accordingly have refused to accept it for filing. That said, we have considered whether recall is appropriate. Ultimately, the application is simply an attempt to re-litigate the merits. That is not a basis for recall. Further, even if, as the Judge was prepared to assume, the matter is one of genuine public interest, it is not axiomatic a fee waiver must follow. We are not persuaded Miller J was wrong to conclude that, in the absence of a fee waiver, the proceeding would continue.

⁸ There is no jurisdiction to seek a review of a decision of a judge dismissing an application for review under s 160 of the Senior Courts Act: see *Guy v Bank of New Zealand* [2013] NZSC 127 at [4].

Result

[10] The application for recall of this Court's judgment of 20 March 2025 (*Siemer v Attorney-General* [2025] NZSC 16) is dismissed.