

**NOTE: HIGH COURT ORDER PROHIBITING PUBLICATION OF NAMES  
OR IDENTIFYING PARTICULARS OF APPELLANT DFT AND  
RESPONDENT RMC IN [2021] NZHC 2080 REMAINS IN FORCE.**

**NOTE: FAMILY COURT ORDER PROHIBITING PUBLICATION OF  
NAMES OR IDENTIFYING PARTICULARS OF DFT AND JDN REMAINS IN  
FORCE.**

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**I TE KŌTI PĪRA O AOTEAROA**

**CA431/2022  
[2023] NZCA 325**

BETWEEN

DFT  
Appellant

AND

JDN  
First Respondent

MANUKAU DISTRICT COURT  
Second Respondent

RMC  
Third Respondent

ANITA ELLIS  
Fourth Respondent

ALLAN NIXON  
Fifth Respondent

CAROL NEILL  
Sixth Respondent

KAREN ALLEN  
Seventh Respondent

ATTORNEY-GENERAL  
Eighth Respondent

ANTHONY MAHON  
Ninth Respondent

SHONA UNASA  
Tenth Respondent

SAM WOLFGRAMM  
Eleventh Respondent

ALOEMA FUTIALO  
Twelfth Respondent

**CA449/2022**

BETWEEN

DFT  
Appellant

AND

AUCKLAND HIGH COURT  
First Respondent

JDN  
Second Respondent

CAROL NEILL  
Third Respondent

B WALLACE-SHARPE  
Fourth Respondent

**CA452/2022**

BETWEEN

DFT  
Appellant

AND

NEW ZEALAND LAW SOCIETY  
First Respondent

RMC  
Second Respondent

**CA522/2022**

BETWEEN

DFT  
Appellant

AND

RMC  
First Respondent

TRACEY MANN  
Second Respondent

**CA556/2022**

BETWEEN

DFT  
Appellant

AND

AUCKLAND HIGH COURT  
First Respondent

RMC  
Second Respondent

JDN  
Third Respondent

NEW ZEALAND POLICE  
Fourth Respondent

EMMA GIBBS  
Fifth Respondent

PETER WILSON  
Sixth Respondent

CHIEF EXECUTIVE OF ORANGA  
TAMARIKI  
Seventh Respondent

RENUKA WALI  
Eighth Respondent

LEANNE DUNNE  
Ninth Respondent

**CA692/2022**

BETWEEN

DFT  
Appellant

AND

ATTORNEY-GENERAL  
Respondent

**CA5/2023**

BETWEEN

DFT  
Appellant

AND

FAMILY COURT AT MANUKAU  
First Respondent

JDN  
Second Respondent

**CA6/2023**

BETWEEN

DFT  
Appellant

AND

ATTORNEY-GENERAL  
First Respondent

DISTRICT COURT AT MANUKAU  
Second Respondent

JDN  
Third Respondent

**CA7/2023**

BETWEEN

DFT  
Appellant

AND

DISTRICT COURT AT AUCKLAND  
First Respondent

N  
Second Respondent

**CA104/2023**

BETWEEN

DFT  
Appellant

AND

BANK OF NEW ZEALAND  
First Respondent

EDDIE (WHETŪ) RANGI  
Second Respondent

Counsel: Appellant in person  
D Jones for Eighth Respondent in CA431/2022  
P N Collins for First Respondent in CA452/2022  
S P R Conway and C D Fuller for Respondent in CA692/2022  
G M Taylor and A P Lawson for First Respondent in CA5/2023  
D Jones and N D White for First Respondent in CA6/2023  
L M Edginton for Respondents in CA104/2023  
N W Taefi and M A Ashmore as Counsel assisting

Judgment: 26 July 2023 at 11.00 am  
(On the papers)

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### **JUDGMENT OF GODDARD J**

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**The appellant must pay costs of \$478.00 to the Attorney-General.**

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### **REASONS**

#### **Background**

[1] The appellant filed three applications seeking orders preventing certain judges of this Court from hearing any matter concerning her in the future.<sup>1</sup> Cooper P issued a minute dated 17 May 2023 (the Minute) declining to make any order or give any direction in relation to the participation of any of those judges in matters to which the appellant is a party.

[2] The appellant applied for recall of the Minute. The application for recall was opposed by the Attorney-General. Counsel for the Attorney-General filed a memorandum dated 29 May 2023 setting out the grounds on which recall was opposed.

[3] The recall application was dismissed by the President on 2 June 2023.

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<sup>1</sup> The Judges named in the applications were Brown, Goddard and Katz JJ.

## **Costs application**

[4] The President directed that if the Attorney-General sought costs in connection with the recall application, a memorandum should be filed within 10 working days. On 15 June 2023 counsel for the Attorney-General filed a memorandum seeking costs of \$478.00, which is the amount of costs payable in respect of preparation of a memorandum of opposition in relation to an interlocutory application for a standard appeal on a band A basis, pursuant to the Court of Appeal (Civil) Rules 2005 (Rules).

[5] The appellant responded by email to the Registrar suggesting that it would be “more progressive” to stay costs pending the outcome of her application to the Supreme Court for leave to appeal from the Minute. In response to a direction given by the President on 30 June 2023 that any submissions the appellant may wish to make should be filed within 10 working days, the appellant sent a further email to the Registrar submitting that:

... it is an act of abuse to discriminate against someone’s financial hardship and deliberately impose costs as punishment to serve as a deterrent against a legally rounded and supported case that was an opportunity for the court to make a just and fair decision, squandered for reasons only the fully informed judges will know.

It is unfortunate that judges have taken my cases personally and lost sight of the forest.

This is a world record appeal case won and deliberately robbed of a just and transparent finding and deserved costs as the victorious appellant.

## **Discussion**

[6] The appellant’s recall application was unsuccessful. It was opposed by the Attorney-General. The principle that costs generally follow the event supports an award of costs in favour of the Attorney-General, unless there are any countervailing factors which indicate that an award of costs would not be appropriate.

[7] Nothing in the appellant’s emails identifies any reason for deferring a decision on costs in respect of her unsuccessful application for recall of the Minute. An application for leave to appeal to the Supreme Court does not operate as a stay. It is generally desirable for this Court to proceed to determine any outstanding matters relating to costs despite such an application being made.

[8] Nor do those emails identify any principled basis for declining to make an order for costs. The appellant's large measure of success in the substantive appeals determined by this Court on 26 April 2023<sup>2</sup> has no bearing on the question of costs in relation to her application to recall the Minute. That application lacked any proper basis, and should not have been made.

[9] It follows that an award of costs is appropriate. The amount sought by the Attorney-General is consistent with the costs regime set out in the Rules.

### **Result**

[10] The appellant must pay costs of \$478.00 to the Attorney-General.

Solicitors:

Crown Law Office | Te Tari Ture o te Karauna, Wellington for Eighth Respondent in CA431/2022, Respondent in CA692/2022, and First Respondent in CA5/2023 and CA6/2023  
Buddle Findlay, Auckland for Respondents in CA104/2023

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<sup>2</sup> *DFT v JDN* [2023] NZCA 15.