

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

CIV 2008-404-549

BETWEEN	MICHAEL PETER STIASSNY AND GRANT ROBERT GRAHAM First Plaintiffs
AND	FORESTRY CORPORATION OF NEW ZEALAND LIMITED (IN RECEIVERSHIP) Second Plaintiff
AND	CITIC NEW ZEALAND LIMITED (BVI) (IN RECEIVERSHIP) Third Plaintiff
AND	THE COMMISSIONER OF INLAND REVENUE Defendant

Hearing: On the papers

Judgment: 22 May 2009

**JUDGMENT OF ALLAN J
ACCESS TO COURT FILE**

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[1] In this proceeding the plaintiffs are engaged in a dispute with the Commissioner of Inland Revenue in respect of taxation matters. The proceeding is in its interlocutory stages. The Commissioner has filed a statement of defence to the plaintiffs' pleading.

[2] In April 2009 Mr V Siemer sought access to the Court file, and in particular to the statement of claim and statement of defence. The Registrar declined Mr Siemer's request, because he was not satisfied in terms of r 3.11 that he had demonstrated he had a genuine or proper interest in the proceedings.

[3] Mr Siemer has sought to have the Registrar's decision reviewed by a Judge, pursuant to r 3.11(4). I directed that counsel for the parties be advised of Mr Siemer's request and asked them to indicate their stance with respect to it within seven days.

[4] Counsel for the Commissioner does not formally oppose or support Mr Siemer's request, but expresses the view that it is doubtful that he has a genuine or proper interest in the proceedings. Counsel for the fourth plaintiff says that the Registrar's decision was correct, and that Mr Siemer has not established a genuine or proper interest in the proceedings, but does not wish to be heard further on Mr Siemer's application. Counsel for the first plaintiffs opposes Mr Siemer's request on the same ground, but wishes to be heard further before any order is made which would permit Mr Siemer to have access to the Court file.

[5] Mr Siemer says that he has a genuine and proper interest, in that:

I run a public watchdog website which exposes the unethical and suspect public conduct of Auckland Insolvency Accountant Michael Stiassny. This website is www.stiassny.org. As a legal news journalist, as well as concerned New Zealand citizen, I have a bonafide interest in any case where a powerful accountant is suing the tax collector for New Zealand, particularly where this plaintiff (Stiassny) employs or has employed at least three judges on the very Court in which he has filed suit.

On that basis, please advise when I might review the statement of claim and statement of defence in this action.

[6] The proper approach to search applications was outlined by the Court of Appeal in *McCully v Whangamata Marina Society Inc* [2007] 1 NZLR 185. There a two stage test was propounded. The applicant must first satisfy the judicial officer that he has a genuine or a proper interest. If he can, then a discretion arises. Bona fide publishers, and especially those with a particular interest in business affairs or in commercial litigation, will often be able to establish that they have a genuine and proper interest in gaining access to a Court file: *Re Fourth Estate Periodicals* (1989) 3 PRNZ 189.

[7] In my opinion Mr Siemer has not established a genuine or a proper interest. The Registrar was right to refuse access to the file. The website to which Mr Siemer refers is, as he himself says, dedicated to “exposing” Mr Stiassny, who is a plaintiff in the present proceeding. For some time Mr Siemer has been engaged in litigation against Mr Stiassny. The obvious inference is that Mr Siemer’s primary interest in obtaining access to the file is to further his dispute with Mr Stiassny. Mr Siemer has provided no proper basis for his claim to be “a legal news journalist”. That description denotes a degree of objectivity that is absent from Mr Siemer’s interest in Mr Stiassny.

[8] On the information currently provided by Mr Siemer, I am satisfied that the Registrar reached the right decision for the right reason. That decision is accordingly upheld.

C J Allan J