

CONCERNING

applications for review pursuant
to section 193 of the Lawyers and
Conveyancers Act 2006

AND

CONCERNING

determinations of a North Island
Standards Committee

BETWEEN

MR CS

AND

MR HT

MRS LM

Introduction

[1] Mr CS instructed ABC law firm to act on his behalf in proceedings in which he alleged that his sister lacked testamentary capacity to make a will of which the [organisation] had applied for a grant of probate. Mr HT and Mrs LM were the lawyers who had the carriage of those matters.

[2] Mr CS has sought a review of two determinations of the Standards Committee in which the Committee determined to take no further action in respect of the complaints against both Mr HT and Mrs LM but ordered Mrs LM to pay the sum of \$1000 on account of costs on the basis that the proceedings were justified.

[3] Mrs LM has sought a review of the determination because of the costs order against her.

Background

[4] In July 2010 Mr CS approached Mr QA, a lawyer in the North Island, for advice with regard to a potential challenge to his sister's will. Mr CS's view was that his sister lacked testamentary capacity at the time when she made her will.

[5] Mr QA lacked expertise in this field of the law and referred Mr CS to ABC firm. An initial opinion was provided to Mr CS by ABC firm. Thereafter it would seem that ABC firm and Mr CS corresponded in some detail.

[6] In August 2010 Mr CS sought firm advice from ABC firm as to whether they considered they could “develop a substantive winning case around Testamentary Capacity”.¹ He also sought advice as to the “range of costs one could expect for this action.”²

[7] Mrs LM responded on the following day:³

I will consider your attachments later today and will look at a strategy based on proceedings rather than the approach to the charities which we discussed earlier.

Costs are always difficult to estimate as they are always dependent on the response of the opponents and on the procedural steps needed. In this case we can anticipate opposition by the [organisation] and possibly Mr CS sister's friends. The charities may or may not oppose. You have said family members won't but that sometimes changes in cases like this. We will look at that once I have done some research into the steps we are likely to need to take.

On the basis of what we know so far we can't say you have a certain case - even in cases where we consider there is a strong case it is always possible that the Judge doesn't see it the same way. That was the reason we proposed the approach to the charities as a possible practical step to avoid litigation costs in an uncertain case. As litigators we are of course willing to pursue claims on our client's behalf, but we try to take a realistic assessment of the claim at the outset and at each step along the way. Ultimately while we give you the advice on the legal strengths of a claim the decision whether to pursue the claim is yours.

[8] Events somewhat overtook matters at that stage when Mrs LM discovered that the [organisation] had applied for probate which was about to be granted. Accordingly instructions were sought and obtained on an urgent basis to lodge a caveat against the issue of probate.

[9] Despite dealing directly with Mr CS, ABC firm rendered an account for attendances to 31 August 2010 through Mr QA. At that stage Mr CS advised that he did not want to deal through Mr QA and that ABC firm should communicate directly with him. On 2 September 2010 Mrs LM sent the firm's Terms of Engagement and client information to Mr CS.

[10] Between August 2010 and May 2011 ABC firm rendered a further five accounts all of which were paid. At that stage costs totalled \$28,709.60.

[11] Mr CS then sent an email to Mrs LM⁴ in which he referred to his email of 15 August 2010 and noting that Mrs LM was by then in possession of substantially more information, posed the following questions:

- (a) In your legal opinion is there a substantive case with a good potential of winning?

¹Email CS to LM (15 August 2010).

²Above n 1.

³Email LM to CS (16 August 2010).

⁴Email CS to LM (15 May 2011).

- (b) From your Par 7 comment am I wasting my money?⁵
- (c) What is your estimate of future costs?

[12] Mrs LM responded:⁶

- (a) In our legal opinion there is a substantive case with a good potential of winning.
- (b) Our ability to advise on the value for money is limited. We comment further below.
- (c) Our estimate of further costs is \$35,000 to \$45,000 plus GST and disbursements.

[13] The litigation took the form of the [organisation] applying for probate in solemn form which was opposed by Mr CS. ABC firm rendered a further six accounts through to October 2011 by which time the estimate of \$35,000 to \$45,000 had been expended. Mr CS paid all accounts.

[14] In February 2012 and further to discussions between Mr CS and ABC firm, Mr HT provided Mr CS with an updated estimate of \$20,000 to \$27,500 to take the case to the end of the hearing. The upper limit was based on two counsel appearing for the three day trial scheduled which Mr CS declined to authorise. He also declined to pay the sum of \$25,000 into ABC's Trust Account on account of costs as requested by Mr HT. Mr HT had requested this as by this stage Mr CS had indicated a concern over the level of costs and Mr CS himself noted that "costs have been contentious" from the time of his initial contact with Mr QA.⁷

[15] Following conclusion of the hearing Mr HT reported to Mr CS. He noted that the time recorded indicated a fee of \$37,770 and advised that although Mrs LM had assisted Mr HT during the trial her time would not be charged. Mr HT settled on a bill of \$25,000 with a further \$15,000 to be billed if the case was successful. He recorded his understanding that this had been agreed between him and Mr CS but Mr CS has disputed this.

[16] The bill was met with a response from Mr CS that the costs incurred were "astronomically stupid and out of proportion to any potential returns".⁸ He also noted in the same email that "it was the principles that were of greater importance". Mr CS then indicated he intended to refer the costs to the Law Society for review.

⁵ In paragraph 7 of her letter of 6 May 2011 Mrs LM had recorded that ABC firm had not at any time indicated that Mr CS had a strong case and referred to their advice to "take an initial pragmatic step of approaching the charities to grant your mother a life interest in the estate." That advice was given in light of the uncertainty of litigation and its inherent cost and specifically pointed out the benefit of such an approach was that it avoided the costs of litigation.

⁶ Letter ABC firm to CS (16 May 2011).

⁷ Letter CS to ABC firm (6 February 2012).

[17] That resulted in Mr CS's first complaint on 23 March 2012.

[18] Judgment issued on 8 June 2012 and Mr CS was unsuccessful. Following this, Mr CS lodged his second complaint against Mr HT and Mrs LM.

The complaints

[19] Mr CS's first complaints related to costs. He stated that he had expected fees to be in the region of \$26,000 on the basis of advice provided to him by Mr QA.

[20] The Standards Committee expressed this aspect of the complaint in the following way:⁹

Mr HT and Mrs LM [had] failed to adequately advise Mr CS of the likely fees for bringing a claim against his sister's estate.

[21] In his letter of complaint Mr CS asked:¹⁰

Are the fees charged by ABC firm appropriate for a case contesting a will.
LM \$402.50 / hour.
HT [sic] \$632.50 / hour.

[22] In the following paragraph Mr CS states:¹¹

From an initial indication the cost off \$26,000 successive further quotes and then claims come to around \$130,000 with further costs to claim costs.

[23] He also complained that he was dissuaded from pursuing the [organisation] for costs and that he perceived Mr HT was at times an apologist for the [organisation] and its counsel.

[24] He referred to what he perceived as being the "muzzling" of an employee of the [organisation] which was reflected in his subsequent complaint.

[25] As a result of investigations by the Complaints Service the Standards Committee resolved to commence an own motion investigation in that it appeared ABC firm had not provided the client information as required by Rules 3.4 and 3.5 of the Conduct and Client Care Rules¹² until 2 September 2010.

[26] Following receipt of the judgment Mr CS lodged his second complaint. This focused on the conduct of the hearing by Mr HT and Mrs LM and alleged:¹³

1. HT [sic] has been professionally negligent in that he:

⁸Email CS to ABC firm (5 March 2012).

⁹Standards Committee determination dated 12 December 2012 at para [2(a)].

¹⁰Letter CS to NZ Law Society Complaints Service (23 March 2012) at para [4].

¹¹As above n 11 at para [5].

¹²Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

¹³Letter CS to NZ Law Society Complaints Service (1 July 2012) at paras [1-3].

- a. did not in the case of KF challenge that on the face of evidence available that she had committed perjury and been subjected to undue influence as a witness.
 - b. challenge the credibility of the Plaintiff's witness whilst adequate evidence was provided to do so therefore not acting in the client's best interests.
2. HT and LM mislead [sic] the clients as to the challenging of witness credibility.
 3. HT and LM did not act in the best interests of the client.

The Standards Committee's investigations and determinations

[27] The Standards Committee proceeded to consider the complaints separately and issued two determinations. As noted in [20], the issue addressed by the Committee with regard to costs was whether Mr HT and Mrs LM had adequately advised Mr CS of the likely fees that would be incurred in pursuing the litigation. It determined that Mr HT and Mrs LM had:¹⁴

discharged their professional obligations with regards to the estimates provided to Mr CS about the likely costs of taking this case to trial. Specifically Mr HT and Mrs LM provided a genuine and reasonable estimate (when asked) and took reasonable steps to update Mr CS in terms of this estimate as the litigation continued.

[28] The Standards Committee determined to take no further action with regard to this aspect of the complaint.

[29] With regard to the client information own motion investigation, the Committee noted that there was some confusion as to who ABC firm was acting for prior to September 2010 but concluded that Mrs LM had not complied with the requirements of Rule 3.4¹⁵ but that because there had been an honest misunderstanding it similarly declined to take any further action. Nevertheless it determined that the complaint was justified and ordered Mrs LM to pay the sum of \$1,000 to the New Zealand Law Society by way of costs.

[30] Following an initial consideration by the Standards Committee of the second complaint it resolved to appoint an investigator to assist the Committee. Mr JV was duly appointed pursuant to s144 of the Lawyers and Conveyancers Act 2006. Mr JV delivered his report and the parties were provided with an opportunity to comment on it.

[31] The Committee proceeded to then conduct a hearing on the papers and issued its determination in respect of these matters on the same day as the determination in respect of the first complaint.

¹⁴Standards Committee determination dated 12 December 2012 at para [15].

¹⁵This should include also Rule 3.5.

[32] The Committee had regard to Mr JV's report in which he had concluded that at no stage of the proceedings would his advice have differed significantly from the advice provided by Mr CS and Mrs LM. The Committee acknowledged this opinion and came to the view that it did not consider either lawyer had been negligent in the conduct of the litigation and particularly in relation to the cross examination of the witnesses for the [organisation].

[33] The Standards Committee considered that the three issues identified by it namely:

- (a) was Mr HT professionally negligent?
- (b) did Mr HT and Mrs LM mislead Mr CS as to the challenging of witness credibility?
- (c) did Mr HT and Mrs LM fail to act in Mr CS's best interests?

were essentially the same and resolved to take no further action.

The applications for review

[34] Mr CS has sought a review of both determinations. He raises the following issues:

- the convenor of the Committee Mr BW had a possible conflict of interest and should have recused himself;
- there was no confusion as to who was acting as all of his dealings were direct with ABC firm;
- his request for an estimate of costs on 15 August 2010;
- ABC firm's client information did not include hourly rates;
- the estimates of costs provided by ABC firm were inaccurate and he was not advised when these estimates were exceeded;
- the fees charged appeared to be excessive;
- he challenged the content of Mr JV's report;
- in general terms he considered that Mr HT and Mrs LM were negligent in the manner in which they conducted the hearing and specifically refers to paragraph [61] of the judgment of Woodhouse J where His Honour notes that evidence adduced by the [organisation] was not challenged by the evidence of the witnesses for the defendants. He refers to the material

produced by him which he asserts should have been used for this purpose;

- misleading advice from ABC firm as to the prospects of success; and
- neither Mr HT nor Mrs LM had advised him of the potential for a claim under the Family Protection Act.

[35] He also alleged that Mr HT was seemingly uninterested in providing advice with regard to any potential appeal. This complaint is of course a new matter which was not addressed by the Standards Committee and therefore cannot be included in this review. This would include any complaint that neither Mr HT nor Mrs LM had advised him of the option for Mr CS's mother to bring a claim under the Family Protection Act. That option may now have been compromised by the passage of time.

[36] In the review applications Mr CS sought outcomes that are beyond the jurisdiction of this Office as well as a "fine to victim" by which I understand him to mean compensation.

[37] Mrs LM's review application concerns the costs order against her by the Standards Committee.

[38] I will address the issues raised on review generally rather than specifically addressing each matter but have nevertheless considered all of the issues raised.

Review

[39] A review hearing was conducted in the North Island on 5 June 2014 with Mr CS who was supported by his wife and Mr HT and Mrs LM.

[40] All review applications are dealt with together.

Recusal by convenor

[41] Mr CS asserted that the convenor of the Committee Mr BW had a conflict of interest and should have recused himself. The alleged conflict is that Mr BW "is known to have had a recent business arrangement with Mr QA who has an arrangement with ABC firm so should therefore have declared a possible conflict of interest and removed himself from proceedings".¹⁶

¹⁶Application for review dated 5 February 2013.

[42] Mr QA has explained¹⁷ that he purchased Mr BW's practice and had employed him as a staff solicitor. I do not accept that the association between Mr QA and ABC firm is as portrayed by Mr CS. In addition I do not consider Mr BW would not address this complaint impartially because of the business transaction between him and Mr QA. He had nothing to gain or lose from the outcome of the complaint. In any event any bias or conflict is resolved by this review.

Conduct of the litigation

[43] Mr CS complains that Mr HT and Mrs LM were negligent in the manner in which they conducted the litigation. In particular Mr CS asserts that he had provided Mr HT and Mrs LM with a quantity of material which they declined to utilise to contradict evidence given by the [organisation] witnesses and to challenge their credibility. In conjunction with this Mr CS asserts that a employee of the [organisation] was prevented by the [organisation] from giving truthful evidence and wanted Mr HT to accuse her of perjury.

[44] Mr HT and Mrs LM were engaged by Mr CS to conduct litigation against the [organisation]. Mr CS relied on Mr HT and Mrs LM to exercise proper care and diligence in the conduct of the litigation and he was billed for their skill and expertise.

[45] Mr CS holds strong views as to the way in which the litigation should have been presented. However it was Mr HT and Mrs LM who made the decisions as to the strategy to follow with regard to the evidence before the Court. They were unsuccessful and Mr CS now considers that they were negligent in their conduct of the case.

[46] Decisions of the Courts in claims for negligence recognise that lawyers do not have a duty to be right. In *Saif Ali & another v Sydney Mitchell & Co (a firm) and others*¹⁸ Lord Salmon said at 231:

...the barrister is under no duty to be right; he is only under a duty to exercise reasonable care and competence. Lawyers are often faced with finely balanced problems. Diametrically opposite views may and not infrequently are taken by barristers and indeed by judges, each of whom has exercised reasonable and sometimes far more than reasonable, care and competence. The fact that one of them turns out to be wrong certainly does not mean that he has been negligent.

[47] It does not necessarily follow that an adverse professional conduct finding will follow a finding of negligence. For negligence to form the basis for a finding of misconduct it must be "negligence or incompetence...of such a degree or so frequent as to reflect on [a lawyer's] fitness to practise or as to bring his or her profession into

¹⁷In the course of the review of the determination of Mr CS's complaint against him.

¹⁸*Saif Ali & another v Sydney Mitchell & Co (a firm) and others* [1980] AC 198.

disrepute”.¹⁹ Allegations of misconduct must be brought before the Lawyers and Conveyancers Disciplinary Tribunal.

[48] Unsatisfactory conduct as defined in s 12(a) of the Lawyers and Conveyancers Act is conduct which “falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer”. Neither Mr HT nor Mrs LM evidenced a lack of competence or diligence in the conduct of these proceedings. It is clear that they followed a strategy of only putting before the Court evidence that was relevant and could be sustained.

[49] Mr CS refers to the judgment of Woodhouse J²⁰ where His Honour states:²¹

What I consider to be credible and reliable evidence for the plaintiffs establishes, through nine witnesses who had direct dealings with [Mr CS’s sister], that she was mentally competent. The positive conclusions of all of the witnesses in different ways and notwithstanding cross-examination were that [Mr CS’s sister] was mentally competent; they were not simply conclusions that there was an absence of evidence of possible mental impairment. This direct evidence was not challenged to any material extent by the evidence of [Mr CS’s mother, Mr CS’s brother and Mr CS] in respect of their dealings with [Mr CS’s sister].

[50] Mr CS considers that if evidence had been led which generally challenged the evidence given by the [organisation] witnesses the impact of their evidence would have been diminished. He wanted Mr HT to directly challenge the evidence of Ms KF for example and to accuse her of perjury. Mr HT and Mrs LM declined to do so on the basis that only evidence which directly related to Ms CS’s state of mind should be before the Judge. They were also mindful of their professional obligations to “not attack a person’s reputation without good cause”.²²

[51] Mr CS wanted to adduce evidence of a communication by Ms KF to him and his brother which she later retracted or declined to confirm. That took place after Ms CS’s death and added nothing to the evidence relating to her state of mind at the time she made her will. Mr HT and Mrs LM therefore declined to pursue this line of questioning.

[52] The evidence of another witness that Mr CS wanted Mr HT to challenge concerned statements made about Mr CS’s personality with which he disagreed. Again Mr HT declined to take this course of action on the basis that it had nothing to do with [Mr CS’s sister’s] state of mind when she made her will.

¹⁹ Lawyers and Conveyancers Act 2006 s 241(c).

²⁰ In the matter of the will of [Mr CS’s sister]- between the [organisation] (plaintiff) and CS and CS’s mother(defendants)[citation omitted].

²¹ Above n 20 at para [61].

²² Rule 13.8 of Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

[53] These decisions were made by Mr HT and Mrs LM in the exercise of their judgment and do not approach a level of incompetence or a lack of diligence such as would support a finding of unsatisfactory conduct.

[54] I also record here that I interpret the statement by Woodhouse J in [61] quoted above, differently from Mr CS. My understanding of His Honour's comment is that even though the evidence was adduced by the defendants and the plaintiff's witnesses were cross examined by Mr HT, none of that evidence disturbed the evidence of the plaintiff's witnesses as to [Mr CS's sister]'s testamentary capacity at the time she made her will.

[55] It would only be if the litigation strategy adopted by a trial lawyer exhibited a lack of knowledge or ability to deal adequately with the case in hand that there could be a finding of unsatisfactory conduct in these circumstances. Otherwise, it would be unwarranted for the LCRO or a Standards Committee to formulate a view or opinion as to what course of action a trial lawyer should have taken in any particular litigation – that is a decision to be taken only by counsel in possession of all of the evidence and a full understanding of the case in hand.

[56] Nothing in what Mr CS has presented supports a finding that either lawyer lacked competence or diligence in the conduct of this litigation. Mr JV's report which was commissioned by the Standards Committee supports this view.

[57] Mr CS has accused Mr HT of being an apologist for the [organisation] when Mr HT recommended to Mr CS that they allow the [organisation] to proceed to administer the Estate on an interim basis so that progress could be made pending determination of the challenge being mounted by Mr CS. Mr HT's assessment was that this was a sensible course of action and recommended it to Mr CS. In his complaints Mr CS depicts this as Mr HT not acting in his best interests and siding with the [organisation] and their counsel.

[58] A lawyer's job is to give advice based on what he or she determines is the best course of action. It does not always involve putting forward advice with which the client will agree. In fact a lawyer would be doing his or her client a disservice if that was what occurred. A client is free to accept or reject a lawyer's advice but it does not necessarily follow that the lawyer is not promoting their client's interests if the advice does not coincide with his or her own thoughts. I do not accept Mr CS's allegations in this regard.

Costs

[59] The Standards Committee has approached the issue of costs on the basis that Mr CS was not properly informed as to the level of costs or advised when estimates were going to be exceeded. At the review hearing I noted that Mr CS's complaint put the quantum of ABC firm's costs into question. In his initial complaint to the Law Society²³ Mr CS referred to Mr HT's and Mrs LM's hourly rates as excessive and in other places referred to costs being "outrageous".²⁴

[60] After the Standards Committee issued its second determination Mr HT raised this issue directly with the Standards Committee.²⁵ He noted that Mr CS had complained about the quantum of the firm's fees and sought confirmation that it would be correct to infer from the fact that there had been no adverse finding about the firm's fees there was no issue with them. The Standards Committee declined to comment given that it had completed its investigation of the complaint and issued its decision.

[61] The Committee did not directly address Mr CS's complaints as a costs complaint and I consider that it should have done so.

[62] At the review hearing Mr HT made submissions that I should exercise my discretion and determine the matter myself in conjunction with which he argued that as neither the Standards Committee or Mr JV had seen fit to make any adverse comment about the quantum of the fees then the matter should be determined in ABC firm's favour.

[63] However I do not consider that this complaint has been properly or directly addressed by the Committee. Because of this the only option is to return the matter to the Standards Committee to do so.

[64] Before doing so I wish to give the parties the opportunity to consider whether or not they wish to attempt to resolve this issue by means of formal mediation which can be arranged for the parties at no cost to them. Mr CS and Mr HT are therefore requested to advise the case manager no later than 4 July 2014 if they wish to mediate the issue of costs. Should the matter go to mediation Mr CS would need to take note of the fact that there has been no adverse finding against Mr HT or Mrs LM in respect of their conduct of the case. If both parties do not confirm that they wish to mediate the matter then the Standards Committee will investigate and determine the matter as directed in this decision.

²³Letter CS to NZ Law Society Complaints Service (23 March 2012).

²⁴Email CS to HT (24 February 2012).

²⁵Letter HT to North Island Law Society 25 January 2012 – the correct addressee would have been the New Zealand Law Society.

[65] An issue related to costs is that ABC firm did not include the hourly rates of the lawyers involved in the litigation in the client information provided to Mr CS. Mr HT advised that this was a conscious policy decision by the firm and not an oversight.

[66] The time expended on a matter is only one of the factors set out in Rule 9 of the Conduct and Client Care Rules to be taken into consideration when assessing a fee. The hourly rates of the lawyers having carriage of a file is relevant only to the time expended.

[67] Rule 3.4 requires a firm to advise clients the basis on which fees will be charged. In its client information letter ABC firm advised that “fees will be charged taking into account reasonable fee factors set out in the Rules of Conduct and Client Care for Lawyers”.²⁶ Whilst Rule 3.5 requires a lawyer to provide the name of the person who will have general carriage or overall responsibility for the file there is no requirement to provide the hourly rates charged by a lawyer. Consequently there has been no breach of the rules in this regard.

Mrs LM’s application for review

[68] The Standards Committee determined that a “minor technical breach”²⁷ had arisen “as a result of an honest misunderstanding”²⁸ resulting in ABC firm’s not providing the required client information until 2 September 2010.

[69] The Committee exercised its discretion not to make a finding of unsatisfactory conduct against either lawyer but nevertheless considered that the proceedings were justified and that it was just to order Mrs LM to pay the sum of \$1000 by way of costs to the New Zealand Law Society.

[70] Mrs LM has applied for a review of that determination. She advises that when ABC firm received Mr QA’s request for an opinion a file was opened in the name of XXX firm and the file number allocated to that file appeared on all communications until 2 September 2010. In addition ABC firm’s first bill of costs dated 30 August 2010 was addressed to XXX firm and sent to that firm. It was at that stage that Mr CS wrote to ABC firm and confirmed that he wished to deal directly with ABC and that firm was to regard him as their client. At that time Mrs LM then forwarded the firm’s Terms of Engagement and client information to Mr CS.

[71] Mrs LM has provided details of communications that she had with Mr QA during the period from 26 July to 1 September 2010 which all support the view that she

²⁶ ABC firm’s Terms of Engagement para [2.1(a)].

²⁷ Above n 14 at para [32].

²⁸ Above n 14.

continued to regard Mr QA as the firm's instructing solicitor and Mr CS as his client. These include:

- providing him with a copy of the opinion on 27 July 2010;
- an email on 11 August 2010 seeking Mr QA's comments on a draft letter that she intended to send to Mr CS; and
- telephone contact with Mr QA on a number of occasions.

[72] All of these communications indicate that Mrs LM continued to regard Mr CS as Mr QA's client until Mr CS indicated otherwise. There was no confusion or misunderstanding on her part.

[73] I note that this part of the Standards Committee's determination resulted from an own motion investigation and was not part of Mr CS's complaint. In addition it related to a period of time spanning no more than six weeks. It is difficult to accept that it is just that costs should be imposed in these circumstances where the Committee has acknowledged that there has been an honest misunderstanding. In addition the sum of \$1,000 ordered to be paid is a significant costs order for a Standards Committee to make when orders made by Committees where there has been a finding of unsatisfactory conduct average \$1,500.

[74] In any event as I do not consider there was any misunderstanding Mrs LM is justified in objecting to the imposition of costs.

[75] Finally if there should be any doubt that the order against Mrs LM should be set aside Mr HT advised at the review hearing that Mrs LM acted in accordance with his instructions. It is clearly therefore not just that the costs order should be made against Mrs LM and nor were the proceedings against her justified.

[76] The order for payment of costs therefore will be reversed.

Decision

1. Pursuant to s209 of the Lawyers and Conveyancers Act 2006 the Standards Committee is directed to consider Mr CS's complaint about costs on the basis that it is a complaint pursuant to s 132(2) of the Act and to issue a determination in respect thereof. This direction is suspended until such time as directed by this Office pending any mediation to be undertaken in accordance with paragraph [64] of this decision.

2. Pursuant to s 211(1)(a) the order directing Mrs LM to pay the sum of \$1000 by way of costs is reversed.
3. Pursuant to s 211(1)(a) the determinations of the Standards Committee are otherwise confirmed.

DATED this 24th day of June 2014

O W J Vaughan
Legal Complaints Review Officer

In accordance with s 213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

Mr CS
Mr HT
Mrs LM
Mr ND as a related person
A North Island Standards Committee
The New Zealand Law Society