IN THE COURT OF APPEAL OF NEW ZEALAND

CA862/2013 [2014] NZCA 3

BETWEEN VINCENT SIEMER

Appellant

AND OFFICIAL ASSIGNEE

Respondent

Judgment: (On the papers)

7 February 2014 at 10 am

JUDGMENT OF WILD J

The application for review is dismissed.

REASONS OF WILD J

- [1] By application dated and filed on 13 January, the appellant applies under r 7(2) for review of the Registrar's decision refusing to accept his application dated 24 December last, and received by the Court when the Registry opened on 6 January.
- [2] The Registrar's decision was made on 7 January. The appellant's application of 24 December was one made under s 61A(1) Judicature Act 1908 for a ruling by a Judge dispensing with the security for costs a deputy registrar had fixed at \$5,880.
- [3] In her 7 January decision the Registrar held that there was no jurisdiction for the 24 December application under s 61A(1).
- [4] I agree with the Registrar. The scheme of this Court's Civil Rules is quite deliberately that security for costs is fixed automatically by the r 35(5) formula, and

that any application for a departure is dealt with by the Registrar under r 35(6). That is to avoid the time of Judges of this Court being taken up dealing with security.

- [5] The appellant's correct course, if dissatisfied with the fixing of security for costs, was an application under r 35(6). A Judge would only become involved if application was made to review the Registrar's decision under r 35(6). The appellant's application cut across the scheme of the rules, effectively by seeking to have a Judge perform the Registrar's r 35(6) function.
- [6] For those reasons I uphold the Registrar's decision of 7 January as correct and dismiss the application for review.