

BETWEEN

VINCENT ROSS SIEMER, MBA
27 Clansman Terrace
Gulf Harbour
Ph: 027 444 1218, Fax: 09 428
2521
Appellant

AND

MICHEAL HERON, solicitor
Russell McVeagh
48 Shortland Street
Auckland 1140
Ph: 09 367 8000, Fax: 09 367 8163
First Respondent

AND

RUSSELL MCVEAGH, a firm of
solicitors with offices in Vero
Centre, 48 Shortland St., Auckland.
Ph: 09 367 8000
Second Respondent

AND

FORCE 1 SECURITY, a security
firm located at 45 O'Rorke Road,
Penrose, Auckland. Ph: 09 579 1523
Third Respondent

AND

SIONE TANAKI (SP0105) a
security guard of Auckland,
employed by Force 1 Security
Fourth Respondent

AND

PIO SAMI (no badge or license) a
security guard of Auckland,
employed by Force 1 Security
Fifth Respondent

APPLICATION FOR RECALL OF JUDGMENT

5 December 2011

Submitted by: Vince Siemer
27 Clansman Terrace
Gulf Harbour

To the Registrar of the Supreme Court

I, Vincent Ross Siemer, the appellant in the proceedings above, apply for recall of the Judgment of the Supreme Court SC06/2011 [2011] NZSC 133, dated 8 November 2011 (“the Judgment”).

1. The grounds for recall are:
 - (a) The Judgment is grossly misleading in law, and therefore demonstrably unsafe.
 - (b) The Judgment is manifestly wrong in fact.

PARTICULARS

2. The Appellant applied for leave to appeal to the Supreme Court on 19 January 2011.
3. By NOTICE OF RESULT OF APPLICATION FOR LEAVE TO APPEAL, the Supreme Court Registrar Gordon Thatcher “certified” that the Supreme Court “delivered a judgment” on the 30th day of March 2011 which stated –
 - A The application for leave to appeal is granted.
 - B The ground approved is whether leave of the Court of Appeal was required under s 67 of the Judicature Act for the applicant's appeal against security for costs fixed by order of the High Court or whether appeal was available as of right under s 66 of the Judicature Act.”
4. A copy of that certification, sealed by the Supreme Court of New Zealand, is attached.
5. There was no subsequent amendment to the approved ground. The appeal along the approved ground was heard in the \$100 million Supreme Court building on 15 September 2011.
6. That appeal was opposed by the respondents, and counsel for the first and second respondents appeared to argue in opposition at the hearing.
7. By reserved judgment dated 8 November 2011, the five permanent judges of the New Zealand Supreme Court issued a judgment which stated –

“The appeal is dismissed”¹

¹ SC06/2011 [2011] NZSC 133

8. However, any grammar school student reading the judgment can easily determine the appeal was not dismissed. Moreover, the appellant clearly prevailed on the only approved ground. In other words, the appeal was undeniably successful.
9. One real danger is that not one but all five judges on New Zealand's highest court minimally appear incompetent if the judgment is not corrected.
10. More worrisome, the judges actually issued a press release with the judgment which stated -
"The Supreme Court has unanimously dismissed the appeal."
(a copy of this press release dated 8 November 2011 is also attached).
11. The result is that lawyers and public are being misled to believe upon a review of the certified 30 March 2011 "judgment" granting leave that the learned Supreme Court judges had declared no right of appeal exists to an order of security for costs by the subsequently issued "dismissal" of the actual appeal upon this approved ground, and as further reported in the Judges' "press release". This would not only be a false conclusion but directly contradictory to the factual reality.
12. It is legally obscene for the full bench of the Highest Court of this fine country of law-respecting people to obfuscate the law in a manner which is, on its face, overtly contradictory – and in doing so undermine the rule of law.
13. The appropriate response is for the Supreme Court to recall its judgment and issue a replacement judgment and press release accurately stating and recording that the appeal was successful.
14. The Supreme Court bench may wish to direct and entertain submissions from the Amicus Curiae if it is unclear as to the proper legal course.

This application is made in reliance upon *Saxmere Company Ltd v Wool Board Disestablishment Company Ltd* [2009] NZSC 122 (No 1 and No 2), *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (NZSC), *Atty Gen v Chapman* [2011] NZSC 110 and § 27 of the New Zealand Bill of Rights Act 1990.

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Vince Siemer, appellant,
27 Clansman Terrace,
Gulf Harbour 0930

TO: The Supreme Court at WELLINGTON

AND TO: The Respondents and Amicus Curiae Andrew Beck