

IN THE SUPREME COURT OF NEW ZEALAND

SC 62/2008

BETWEEN

VINCENT ROSS SIEMER
Applicant

AND

MICHAEL PETER STIASSNY AND
FERRIER HODGSON
Respondent

Court: Blanchard, Tipping and McGrath JJ

Date of Minute: 10 March 2010

MINUTE OF THE COURT

[1] The Court has received Mr Siemer's application for recall of its leave judgment of 19 November 2008 [2008] NZSC 98. We decline to do so. The Court was well aware when it issued its leave judgment that Hammond J had made orders, as sought by Mr Siemer, in relation to the receivership of Paragon in 2001. The Court understood that in his Minute of 5 November 2008 Hammond J had not accurately recollected the Paragon litigation in which he had been involved as a High Court Judge when he said that it was before Mr Stiassny became involved. It was quite apparent to us from the reasons for judgment of Hammond J dated 19 July 2001 that Paragon was in receivership. The Court therefore had a full appreciation that Mr Stiassny had been acting as a receiver at that time. It was also quite apparent that nothing in that judgment or in other material put forward by Mr Siemer was at all suggestive that Hammond J had an acquaintance with matters in issue which required that he should recuse himself from the proceeding which was the subject of the leave application. Indeed the judgment in question was favourable towards Mr Siemer in terms of its findings and the orders made were as sought by

Mr Siemer. In particular, Hammond J's comment that the relief sought by the plaintiffs had been appropriate and indeed the only effective relief available to them seems merely to have reflected what the Judge was then asked to do. It is altogether fanciful to suggest that the reference to "the only effective relief", whether right or wrong, demonstrates the possibility of bias or that it should in any way now embarrass the Judge.