

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

**CIV 2005-404-1808**

BETWEEN	FERRIER HODGSON First Plaintiff
AND	MICHAEL PETER STIASSNY Second Plaintiff
AND	VINCENT ROSS SIEMER First Defendant
AND	PARAGON SERVICES LIMITED Second Defendant

Hearing: 13 July 2007

Appearances: P Hunt for the plaintiffs  
V R Siemer in Person

Date of  
Committal: 13 July 2007

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**COMMITTAL OF POTTER J**

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Solicitors: McElroys, P.O. Box 835, Auckland

Copy to: V R Siemer, 27 Clansman Terrace, Gulf Harbour, Auckland

[1] Yesterday Mr Siemer was brought before the Court at about 10 a.m. on a warrant to arrest issued pursuant to my judgment dated 9 July 2007 (“the judgment”). Mr Siemer sought an adjournment to enable him to seek legal advice and representation. With the consent of counsel for the plaintiffs the Court was adjourned until 2.15 p.m. for that purpose.

[2] When the Court reconvened Mr Siemer was not represented by counsel. He advised that he had not seen a copy of the judgment dated 9 July 2007, nor the plaintiffs’ submissions to the Court. Mr Hunt provided Mr Siemer with copies of those documents. Although Mr Siemer said he did not require time to read them, I adjourned the Court until 2.50 p.m. to provide him with an opportunity if he so wished, to read the documents.

[3] When the Court reconvened Mr Siemer said he was ready to proceed. I heard submissions from Mr Hunt for the plaintiffs and from Mr Siemer. At the conclusion of his submissions Mr Siemer said that he did not have access to relevant authorities to which he wished to refer on the issue of penalty. In answer to the Court, he said he wanted a day to access them. Mr Hunt did not oppose a further adjournment.

[4] I therefore remanded Mr Siemer in custody and adjourned the Court until 3 p.m. today, Friday 13 July 2007. I directed that the prison authorities provide to Mr Siemer any reasonable assistance in obtaining access to the authorities to which he sought to refer. He had indicated to the Court that they were at his home.

[5] Today Mr Siemer has again appeared before the Court. He says he has not been able to access the material because this was not facilitated by the Auckland Central Remand Prison. He expressed the view that in any event, I had no intention to be fair or to consider any material that might indicate a lenient approach. I entirely reject that submission.

[6] Mr Hunt in submissions referred to the two judgments of this Court dated respectively 16 March 2006 and 9 July 2007, which found Mr Siemer in contempt of

Court. Mr Hunt noted that the earlier judgment was upheld by the Court of Appeal and leave to appeal has been declined by the Supreme Court.

[7] He referred to the aggravating features of Mr Siemer's offending which are referred to in the judgment dated 9 July 2007. Mr Siemer's offending conduct has been continuing. Each of the judgments relates to a raft of offending deliberately undertaken in breach of a Court injunction. Mr Siemer had clear and ample notice by the judgment of 16 March 2006 of the likely consequences of any continuation or resumption of his campaign of vilification of Mr Stiassny in breach of the Court's injunction. The breaches of the injunction are wilful and deliberate and directly challenge the authority of the Court.

[8] Not only is the offending conduct repetitive, but it shows a progression in the nature of the offending. For example, Mr Siemer has admitted that his conduct is in breach of the Court's injunction. He has flaunted his offending conduct to the plaintiffs and their advisers. He has challenged the plaintiffs and the Court in relation to the pursuit of the substantive proceeding. He has appeared at the offices of Ferrier Hodgson to disseminate material which he knew to be in breach of the injunction. He has developed a new website which along with the previous website has become a vehicle for further attacks against Mr Stiassny.

[9] He has shown no remorse. Rather a determination to pursue his campaign to harm Mr Stiassny's reputation in breach of the Court injunction.

[10] Mr Siemer's submissions tended to seek to traverse past events which have already been in evidence before this Court and have been the subject of judgments of this Court and the Court of Appeal.

[11] He noted that he has paid the fine of \$15,000 imposed by this Court in the judgment of 16 March 2006. I note, however, that he has not paid costs awarded by the Court which exceed \$200,000.

[12] There are a number of cases in which the Court has had to consider the penalty to be imposed when a person who has been found to be in contempt of Court is brought before the Court on a writ of arrest.

[13] In *ISIS Group Seminars Ltd v Hauwai* CP1987/89 6 March 1990 a writ of arrest followed a finding of contempt of Court arising from breach of an interim injunction order, the same set of circumstances that brings Mr Siemer before the Court. The injunction in that case restrained the defendant from advertising, promoting or conducting Stop Smoking seminars in the same form as the plaintiff's seminars. In that case the defendant undertook to the Court to abide by the terms of the injunction and to pay a bond. The Court decided, however, that more was called for because the defendant had deliberately flouted the injunction order and the deliberate contempt must be met by a sharp penalty. So despite the undertaking and the bond provided by the defendant, a term of imprisonment totalling 21 days was imposed.

[14] In *Attorney-General v Pickering* HC Hamilton CP24/98 21 September 2001, a case mentioned yesterday by Mr Siemer in submissions, the defendant was brought before the Court pursuant to a writ of arrest, again following continuing breaches of the terms of a Court injunction. The defendant in that case sold an unlicensed animal remedy in breach of the injunction. The Attorney-General sought a term of imprisonment of three months. The defendant had signed an undertaking that he would not continue to knowingly sell or use that remedy. The Court imposed a term of imprisonment of one month.

[15] In *Auckland City Council v Finau* [2003] DCR 286 a term of imprisonment of 21 days was imposed by the District Court for breaching an injunction restraining the defendant from continuing to display signs on his property which contravened Council by-laws.

[16] In *North Shore City Council v Park Lane Motor Inn Ltd* [1992] DCR 346 a term of imprisonment of one month was imposed on the defendant who deliberately transgressed a Court injunction by holding conferences at its premises which

contravened a conditional use consent in breach of an injunction which restrained him from so doing.

[17] The plaintiffs submitted that Mr Siemer has shown the utmost disregard for the authority of the Court, in particular by continuing to breach the injunction after having been held in contempt of Court. Mr Hunt submitted that the penalty should reflect both past breaches and the continuing breaches following the Court's previous finding of contempt, but accepted that a concurrent penalty was appropriate. He noted there was no indication of remorse by Mr Siemer nor, unlike the situation in the cases of *Pickering and ISIS Group Seminars Ltd v Hauwai*, was there any undertaking or even indication that Mr Siemer would in future abide by the terms of the Court injunction.

[18] Mr Siemer submitted that in respect of the *Pickering* case there was financial benefit to Mr Pickering and there was a health and safety aspect, both of which factors are absent in this case.

[19] Mr Siemer claimed in his submissions that he had not broken any laws and that he had been respectful to the Court

[20] Mr Siemer fails to appreciate that by deliberately breaching orders of the Court his conduct strikes at the very heart of justice. Holland J in *Savill v Roberts* HC Chch CP9/96 10 December 1986 said:

It is important that Courts ensure that injunctions are meticulously observed and show no reluctance to punish those who wilfully disobey. ... they are orders of the Court and if orders of the Court are not observed according to the letter anarchy or chaos may ultimately prevail. The fact that a defendant considers the injunction should not have been granted or cannot be legally justified likewise makes no difference. It must be obeyed until it is overturned or amended by due legal process ...

[21] In *Jenison v Baker* [1972] 1 All ER 997 at 101 Salmon LJ said:

Contempt is an unfortunate and misleading phrase. It suggests that it exists to protect the dignity of the Judge. Nothing could be further from the truth. The power exists to ensure that justice shall be done. Solely to this end it prohibits acts and words tending to obstruct the administration of justice. The public at large, no less than an individual litigant, have an interest, and a

very real interest in justice being effectively administered. Unless it is so administered, the rights, and indeed the liberty of the individuals will perish.

[22] In ensuring that judgments of the Court are obeyed the Court upholds the interests of justice and the interests of the public at large. Unless the Court insists and ensures due and proper observance of its orders, then indeed anarchy and chaos could be the outcome.

[23] Mr Siemer's breaches of the Court injunction have been serious, continuous, deliberate and contumacious. His breaches of this Court's injunction have been proved beyond reasonable doubt as has been found in the two judgments dated 16 March 2006 and 9 July 2007. As Paterson J said in *The Attorney-General v Pickering*, imprisonment for contempt is a last resort and no Judge takes pleasure in imprisoning for contempt. Mr Siemer leaves the Court no alternative but to impose on him a term of imprisonment which reflects his past and continuing breaches of this Court's injunction, the aggravating features submitted by the plaintiffs (which I accept), and the absence of any mitigating factors such as remorse or an undertaking not to continue his offending actions in future.

[24] In the circumstances, Mr Siemer, I impose on you a term of imprisonment of six weeks.

[25] Please stand down.