

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA406/07
[2007] NZCA 456**

BETWEEN SIMUNOVICH FISHERIES LIMITED,
 PETER JOHN SIMUNOVICH AND
 VAUGHAN HILTON WILKINSON
 Applicants

AND TELEVISION NEW ZEALAND
 LIMITED
 Respondent

Court: William Young P, Robertson and Ellen France JJ

Counsel: J G Miles QC and A Ivory for Applicants
 T J Walker for Respondent

Judgment:
(on the papers) 23 October 2007 at 11.30 am

JUDGMENT OF THE COURT

The application for special leave to appeal out of time is granted.

REASONS OF THE COURT

(Given by Ellen France J)

[1] The applicants, a privately owned fishing company and its directors, have brought defamation proceedings against Television New Zealand Limited (TVNZ) in relation to a programme broadcast by TVNZ about the fishing industry. The television programme was described as an “Assignment Special”.

[2] In a decision delivered on 10 July 2007, Allan J declined to make an order that TVNZ produce draft scripts in relation to the “Assignment” programme on the basis the drafts were subject to legal professional privilege: HC AK CIV 2004-404-3903. The applicants seek special leave under r 29(4) of the Court of Appeal (Civil) Rules 2005 for special leave to appeal out of time against that decision.

[3] We are satisfied that granting leave is in the overall interests of justice. The brief delay (two days) in filing the notice of appeal was due to an oversight and the respondent consents to the grant of leave.

[4] The application has been dealt with on the papers on the basis of the notice of application and associated consent memorandum. In those circumstances, we make no order for costs.

Solicitors:
Craig Griffin Lord, Auckland for Applicants