

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

CIV-2010-404-006349

BETWEEN FRANCISC CATALIN DELIU
 Plaintiff

AND BOON GUN HONG
 Defendant

Hearing: 12 October 2010

Appearances: Plaintiff in Person
 C T Patterson for Defendant

Judgment: 27 October 2010

JUDGMENT OF VENNING J

This judgment was delivered by me on 27 October 2010 at 2.00 pm, pursuant to Rule 11.5 of the High Court Rules.

Registrar/Deputy Registrar

Date.....

Solicitors: F C Deliu, Auckland
Copy to: C T Patterson, Auckland

Introduction

[1] The parties to this proceeding are both barristers and solicitors of this Court. Unfortunately neither of them have conducted themselves in the way officers of this Court should behave. Their correspondence and dealings with each other have been, to say the least, discourteous. Relations between them have broken down to the extent the plaintiff now seeks injunctive relief against the defendant.

Background

[2] In early May 2010 Messrs Zhao and Ram, members of chambers headed by the plaintiff, instituted proceedings (the Marr proceedings) against the defendant, a conveyancing practitioner, alleging negligence in a conveyancing transaction on which he had acted for Mr and Mrs Marr.

[3] The defendant took exception to the issue of proceedings against him. On 5 May he wrote to Messrs Zhao and Ram and their instructing solicitors stating inter alia that:

I am giving you the opportunity to have withdrawn immediately the action against me, failing which I will:

- (a) file a strike-out action;
- (b) file a complaint with the New Zealand Law Society on the ground that you are not competent to undertake this litigation for the clients;
- (c) on the striking-out, seek full costs against you (rather than the clients);
- (d) file defamatory action and an action in tort against you on the grounds that as the client's counsels you ought to be aware such frivolous action against me will cause a loss of my good reputation and name.

[4] The defendant's letter, particularly the above passage, was unwise and inappropriate. In his affidavit in these proceedings he accepts that he should not have demanded the proceedings against him be withdrawn. He says that he let his emotions get the better of him.

[5] The plaintiff took it upon himself to respond to the letter as head of chambers. He responded in a direct and somewhat confrontational manner. He suggested, amongst other things, that Mr Hong was well outside his depth and unwise to have written such a letter.

[6] The plaintiff also referred the matter to the New Zealand Law Society (NZLS) as a complaint on the basis that the defendant had treated fellow practitioners in a disrespectful manner and had threatened and improperly sought to coerce them into abandoning legal processes.

[7] The defendant, again unwisely, exacerbated the matter by then writing to Mr Baker, the instructing solicitor, suggesting inter alia that the solicitor might be personally liable for the negligence of the instructed counsel. He also wrote in some detail to the NZLS in response to the plaintiff's complaint against him and lodged a cross-complaint against the plaintiff.

[8] Mr Baker sought to calm the situation by responsibly suggesting the parties consider their position, apologise to each other and also to the NZLS and withdraw their mutual complaints.

[9] Unfortunately the parties did not take up Mr Baker's sensible suggestion. The situation instead worsened. The defendant presented a further discursive cross-complaint to the NZLS against the plaintiff and the plaintiff in turn left an inappropriate and unprofessional message on Mr Hong's answer phone on 9 June stating inter alia:

I am just letting you know I am going to sue you now.

I am going to file proceedings against you and they are going to be serious proceedings.

You have crossed the line way too far and you know unfortunately you are just another Kiwi lawyer and I am going to show you how I deal with you. ...

Your complaint I have no doubt will be defamatory and I am going to sue you in defamation and I just won a defamation judgment against another Kiwi..eh..Chinese...eh... wannabe lawyer ... eh... and effectively I will send you a copy of that judgment Mr. Hong.

You should know very seriously that I have gone to war with Bell Gully, Russell McVeagh, with Judges of New Zealand, I am really not afraid of any of you, I can take all of you on, because frankly..... eh..... you are not competent lawyers, as a group .. eh..., so anyway feel free to make any complaint you want, but, first ..eh... know that there will be retaliation for what you do, I am not going to sit idly by and let you do what you have been doing, there will be consequences and you will be sorry for what you done in the end and I am leaving you this personal word on purpose, which you can send Law Society 'cos I told them how corrupt they are too..

[10] I interpolate here that Mr Deliu suggested if the Court was to make adverse comments about him he should be given the opportunity to be heard. However he accepted that he had made the telephone call to the defendant as transcribed by the defendant. The comments that Mr Deliu made in that telephone call and his intemperate comments in the correspondence before the Court speak for themselves.

[11] If possible, the correspondence between the parties then degenerated even further, with more complaints and counter complaints to the Law Society. Matters descended to the stage where the parties suggested in correspondence they held concerns as to each other's mental state. The plaintiff also lodged a complaint with the police alleging that the defendant was guilty of blackmail.

[12] On 16 September the National Standards Committee of the NZLS considered the plaintiff's complaints and the defendant's counter complaints. It resolved to take no further action on either set of complaints.

[13] The NZLS did, subsequently, offer the parties mediation. The plaintiff declined to accept that offer and has chosen instead to pursue these proceedings. He has apparently also taken separate proceedings against the NZLS complaining at the way it dealt with the complaints. He accuses the NZLS of dereliction of statutory duty and corruption.

The undertaking

[14] On receipt of these proceedings the defendant instructed counsel. That led to him filing an undertaking with the Court to confirm that, pending further order of the

Court, he will not publish in any form any allegation that the plaintiff has engaged in criminal or unethical conduct or as to improper and personal enrichment save:

- a) in the context of correspondence with and or submissions in evidence presented to the NZLS in relation to the complaints and cross-complaints;
- b) in these proceedings for the purpose of defending the proceedings and/or any counterclaim or application for relief;
- c) in the District Court proceedings issued against him for the sole purpose of seeking relief (in particular, seeking an award of increased costs or an award of costs against counsel) in those proceedings.

[15] The defendant has also undertaken not to correspond with anyone at the plaintiff's chambers, or his instructing solicitors regarding his allegations save as is reasonably necessary for the purposes specified above or to respond to such allegations that the plaintiff might publish to third parties regarding him.

The plaintiff's case

[16] The plaintiff does not accept the undertaking as sufficient. He still seeks an interim injunction. He submits there is a seriously arguable question to be tried and that the balance of convenience supports the grant of an injunction. During submissions the plaintiff amended the terms of the injunction sought to enjoin the defendant from publishing, in any form, any information alleging the plaintiff has committed any of the acts particularised or any other allegations of criminal or unethical conduct or as to improper personal enrichment. In addition, pending further order of the Court the plaintiff seeks an order the defendant be enjoined from saying the plaintiff is participating in any of the conduct particularised in the submissions.

[17] Mr Deliu submitted that to address the issue of any genuine complaint the defendant may have against him (although denying there could be any such

complaint) the defendant could have leave to apply to the Court to satisfy the Court the complaint was genuine, a process akin to that applicable to a vexatious litigant.

The defendant's case

[18] The defendant's position is that the injunction should be declined. He says he has substantive defences to the claims brought against him and, that, in any event, the injunctive order sought is unnecessary, given the undertaking provided. The defendant also says that when regard is had to the balance of convenience and the actions of the plaintiff himself, injunctive relief ought to be declined.

Decision

[19] The plaintiff pleads a number of actions against the defendant: abuse of process, malicious prosecution, intentional infliction of emotional distress and defamation/injurious falsehood. All causes of action are based on the defendant's actions in writing to the NZLS and the comments he has made in his communications with the NZLS and others.

[20] The tests for an injunction are well settled: *Klissers Farmhouse Bakeries Ltd v Harvest Bakeries Ltd*¹ and *American Cyanamid Co Ltd v Ethicon Ltd*.² The object of an interlocutory injunction is to protect the plaintiff against injury by violation of his rights for which he could not be adequately compensated in damages recoverable in the action. If damages are an adequate remedy and the defendant would be in a financial position to pay them no injunction should be granted. If the Court is satisfied there is a serious question to be tried and there is doubt as to the adequacy of damages as a remedy, the Court must consider whether the balance of convenience lies in favour of granting or refusing the injunctive relief sought.

¹ *Klissers Farmhouse Bakeries Ltd v Harvest Bakeries Ltd* [1985] 2 NZLR 129.

² *American Cyanamid Co Ltd v Ethicon Ltd* [1975] AC 396.

[21] However, where a plaintiff seeks an interim injunction to restrain potentially defamatory material the threshold is higher: *Auckland Area Health Board v Television New Zealand Limited*,³ *TV3 Network Services Ltd v Fahey*.⁴

[22] So while the Court has jurisdiction to restrain the publication of defamatory material the jurisdiction will be exercisable only for clear and compelling reasons. If it is intended to justify the allegedly defamatory matters the circumstances will need to be exceptional to warrant an injunction rather than leaving the complainant with their remedy in damages. The same principle also applies in the case of successive defamations: *TV3 Network Services Ltd v Fahey*.⁵

Defamation/malicious falsehood

[23] To support the claim for defamation/malicious falsehood the plaintiff refers to and relies on comments the defendant made in letters of 23 May (to NZLS), 10 and 17 June (to NZLS), 15 and 20 September (to NZLS).. The letters to the NZLS were copied to the plaintiff, his junior barristers and instructing solicitors (and on occasion the defendant's counsel). The other documents of 10 June and 15 September were filed with the District Court and were similarly copied.

[24] The gist of the defamatory meanings attributed to the plaintiff are set out in the schedule hereto. For present purposes I accept that some, if not all the statements could be defamatory of the plaintiff.

[25] However, that is not an end of the matter. Insofar as the communications were communications with the NZLS either in response to a complaint the plaintiff had made against him or were a cross-complaint by the defendant against the plaintiff the allegations are subject to absolute privilege: s 14 Defamation Act 1992: *Teletax Consultants Ltd v Williams*.⁶

³ *Auckland Area Health Board v Television New Zealand Limited* [1992] 3 NZLR 406.

⁴ *TV3 Network Services Ltd v Fahey* [1999] 2 NZLR 129.

⁵ At 133.

⁶ *Teletax Consultants Ltd v Williams* [1989] 1 NZLR 698.

[26] Similarly, to the extent the communications are contained in documents filed with the District Court, and served on the counsel or solicitor on record, they are privileged: s 14.

[27] However, it may be arguable the protection afforded to the privileged communications with the NZLS does not extend to the copying of the allegations to third parties such as the junior counsel or the instructing solicitor in the Court proceedings.

[28] It is not necessary to resolve that issue on this application as the defendant also wishes to raise the defences of honest opinion and truth. In *McSweeney v Berryman*⁷ Barker J held that the principle established in *Bonnard v Perryman*⁸ applied in New Zealand, namely that:⁹

“Until it is clear that an alleged libel is untrue, it is not clear that any right at all has been infringed; and the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions. We entirely approve of, and desire to adopt as our own, the language of Lord Esher MR in *Coulson v Coulson* 3 TLR 846 - 'To justify the Court in granting an interim injunction it must come to a decision upon the question of libel or no libel, before the jury have decided whether it was a libel or not. Therefore the jurisdiction was of a delicate nature. It ought only to be exercised in the clearest cases, where any jury would say that the matter complained of was libellous, and where, if the jury did not so find, the Court would set aside the verdict as unreasonable'. In the particular case before us, indeed, the libellous character of the publication is beyond dispute but the effect of it upon the Defendant can be finally disposed of only by a jury, and we cannot feel sure that the defence of justification is one which, on the facts which may be before them, the jury may find to be wholly unfounded; nor can we tell what may be the damages recoverable. ... Upon the whole we think, with great deference to Mr Justice North, that it is wiser in this case, as it generally and in all but exceptional cases must be, to abstain from interference until the trial and determination of the plea of justification.”

[29] Further, in *New Zealand Mortgage Guarantee Co Ltd v Wellington Newspapers Ltd*¹⁰ a full Court of the Court of Appeal accepted the statement by Oliver J in *Bestobell Paints Ltd v Bigg*¹¹ that:

⁷ *McSweeney v Berryman* [1980] 2 NZLR 168.

⁸ *Bonnard v Perryman* [1891] 2 Ch 269.

⁹ At 283-285.

¹⁰ *New Zealand Mortgage Guarantee Co Ltd v Wellington Newspapers Ltd* [1989] 1 NZLR 4 (CA).

¹¹ *Bestobell Paints Ltd v Bigg* [1975] FSR 421 at 492-430.

no interlocutory injunction will be granted in defamation proceedings, where the defendant announces his intention of justifying, to restrain him from publishing the alleged defamatory statement until its truth or untruth has been determined at the trial, except in cases where the statement is obviously untruthful and libellous

was not affected by *American Cyanamid*.

[30] Mr Patterson submits the defendant's instructions are that the statements alleged to be defamatory were either statements of opinion or, to the extent that they could be objectively interpreted as statements of fact, the defendant asserts the truth of those statements.

[31] In those circumstances an interim injunction would only be issued in an exceptional case.

[32] Mr Deliu submitted this was an exceptional case and referred to a number of cases where a lawyer has obtained redress against a party defaming him or her including: *Tropeano v Lauro*;¹² *Cretella v Kuzminski*;¹³ *Deliu & Ors v Tait & Ors*;¹⁴ and *Farrall v Kordowski*¹⁵ [2010] EWHC 2436 (filed after hearing). Mr Deliu also referred to the importance of a lawyer's reputation: *Alexander v Rountree*.¹⁶ The authorities referred to confirm that a professional person's reputation is important and that, in appropriate cases, injunctive relief may be directed. However, each case must of course turn on its own facts and the need for the relief must be determined on those facts. The need for the protection of injunctive relief will be heightened where the defendant has published the comments broadly, as in *Alexander* (where the letter had been sent to a number of unknown persons); and *Farrall* (comments published on a website).

[33] Mr Deliu submitted that the present case was very similar to that of *Ferrier Hodgson v Siemer*.¹⁷ He cited extensively from that case and the subsequent *Siemer* decisions. The position in the *Siemer* litigation was, however, quite different to the

¹² *Tropeano v Lauro* [2010] SADC 113.

¹³ *Cretella v Kuzminski* 3:08CV109 USDC ED Va, 31 July 2009.

¹⁴ *Deliu & Ors v Tait & Ors* DC Auckland CIV-2010-004-108, 8 March 2010.

¹⁵ *Farrall v Kordowski* [2010] EWHC 2436.

¹⁶ *Alexander v Rountree* CA229/00, 15 February 2001.

¹⁷ *Ferrier Hodgson v Siemer* HC Auckland CIV 2005-404-1808, 5 May 2005.

present. In *Siemer* the defendant had published the defamatory material extensively, both through the use of a website and by a billboard directing parties to the website. The publication in the present case is much more limited. It has been confined to correspondence to the NZLS, junior barristers in the plaintiff's chambers, (who had some dealing with the file), the plaintiff's instructing solicitors, counsel for the defendant and the Court.

[34] Further, as in *Alexander* the defamatory material in the *Siemer* case was both extreme and vituperative. There was no reasonable possibility of a defence of truth succeeding in relation to any of the allegations.

[35] Importantly the defendant has not sought to publish the statements more broadly and has now, after taking advice, accepted he let his emotions get the better of him and has undertaken to the Court not to publish the allegations further.

[36] The plaintiff is free to pursue his substantive claim against the defendant. If the defendant maintains the defence of truth and fails in it then he will bear the consequences. There is no reason to consider that the defendant, a solicitor of a number of years standing could not meet any damages award that the plaintiff may ultimately achieve.

[37] At present however, the plaintiff fails to satisfy the Court that, even if the statements were defamatory, (and the defences of absolute privilege, truth and honest opinion fail), it is necessary to issue an injunction in the circumstances as they now exist.

Malicious/injurious falsehood

[38] The plaintiff pleads malicious falsehood with the allegation of defamation. Often the two will overlap. But the tort of malicious (injurious) falsehood is not exactly the same as defamation. The elements of the tort of injurious falsehood are:

- i) a false statement published to a third person;

- ii) published maliciously;
- iii) with resulting damage.

Both injurious falsehood and defamation involve false statements made to a third person to the detriment of the plaintiff. The same statement can constitute both. The difference is that injurious falsehood does not protect reputation. Damages for loss of reputation are restricted to defamation: *Joyce v Sengupta*;¹⁸ *Customglass Boats Ltd & Another v Salthouse Brothers Ltd and Another*.¹⁹

[39] However, for present purposes there is little difference between the two. An applicant seeking the restraint on publication of alleged injurious falsehood must satisfy the higher burden applicable to a defamation case: *Alan H Reid Engineering Ltd v Ramset Fasteners (NZ) Limited*.²⁰

[40] Further, as noted, a necessary element of the cause of action of injurious falsehood is damage. The evidence concerning this element is scant. While the plaintiff says his instructing solicitors have withdrawn instructions, the plaintiff remains counsel for the plaintiffs in the two sets of proceedings before the District Court.

Abuse of process

[41] The plaintiff also alleges the defendant has committed the tort of abuse of process by filing frivolous, vexatious, scurrilous and/or scandalous complaints against him to the NZLS for ulterior motives unrelated to the regulation of the legal profession and/or for an improper purpose.

[42] It is an abuse of process to use legal or related processes in order to accomplish an ulterior purpose. It would thus be an abuse of process to lodge a complaint with the NZLS where the purpose was not to prosecute it to conclusion

¹⁸ *Joyce v Sengupta* [1993] 1 WLR 337at 348.

¹⁹ *Customglass Boats Ltd & Another v Salthouse Brothers Ltd and Another* [1976] 1 NZLR 36.

²⁰ *Alan H Reid Engineering Ltd v Ramset Fasteners (NZ) Limited* (1990) 4 TCLR 126.

but to use it as a means of obtaining a collateral advantage: *Gordon v Treadwell Stacey Smith*.²¹

[43] The plaintiff, however, does not identify in his pleadings what the ulterior motive unrelated to the regulation of the legal profession the defendant has in making the complaints against him. The defendant can be criticised for his letter of 5 May and, if he had lodged a complaint with the NZLS in order to prevent the plaintiff or his junior counsel pursuing the Court proceedings, that could, arguably, support a claim of abuse of process. But on the evidence before the Court the defendant did not instigate the complaints with the NZLS but rather his complaints to the NZLS were in response to the plaintiff's complaints against him to that body. The defendant must be entitled to respond to the complaints made by the plaintiff. Such a response which was in part at least by defence, cannot be said to be an abuse of process.

[44] The plaintiff fails to make out a basis for interim injunctive relief under this head of claim.

Malicious prosecution

[45] The plaintiff also raises the cause of action of malicious prosecution against the defendant. He says the defendant has committed the tort of malicious prosecution by instituting and pursuing the NZLS complaints against the plaintiff without proper cause as evidenced by their dismissal. (I note the plaintiff's complaints have apparently suffered the same fate).

[46] The tort of malicious prosecution requires proof that the defendant is acting for a corrupt motive even though using the process or prosecution for its legitimate purpose.

[47] The plaintiff fails to plead particulars of the corrupt motive other than making the general allegation the defendant is acting maliciously. Again, in circumstances where the defendant has responded to the complaints to the NZLS brought by the

²¹ *Gordon v Treadwell Stacey Smith* [1996] 3 NZLR 281 (CA).

plaintiff rather than instigating them himself, and given the material before the Court concerning the actions of the plaintiff himself, the plaintiff fails to satisfy the Court he has an arguable case on this aspect of the claim.

Intentional infliction of emotional distress

[48] The plaintiff next pleads that the defendant has committed the tort of intentional infliction of emotional distress by intentionally or recklessly engaging in extreme and outrageous conduct which has caused the plaintiff emotional distress. The plaintiff refers in his affidavit to the emotional distress as evidenced by stress, sleep loss, vomiting and dizzy spells. The plaintiff also says that he suffers from anxiety and depression. While the plaintiff has deposed to those effects, as Mr Patterson observed in his submissions, the plaintiff's assertions as to the effect on him of the defendant's correspondence is in stark contrast to the public face presented by the plaintiff in his own correspondence and dealings with the defendant and the NZLS.

[49] The plaintiff's correspondence and dealings have been direct and forceful, as exemplified by the message he deliberately left on the defendant's answerphone:

“Well feel free Mr Hong, nothing you do scares me and I am going to show you what I am going to do ... eh ... if you can't take a case like a man and like a professional ... acting completely unprofessionally now it is time to pay and you will see how you will pay ...

the more you escalate ... the more I will respond.

[50] Again, the plaintiff fails to satisfy the Court that this cause of action could support the issue of an interim injunction.

Summary/conclusion

[51] The plaintiff fails to satisfy the Court that there are clear and compelling reasons supporting the issue of an injunction to protect him from defamation or malicious falsehood in this case.

[52] In relation to the remaining causes of action even if, contrary to the above discussion, the plaintiff was able to establish a serious question to be tried, the plaintiff fails to satisfy the Court on the balance of convenience that injunctive relief is necessary in this case.

[53] The publication of the correspondence and documents the plaintiff complains of has been restricted. On the face of it, the communications with the principal addressees, namely the NZLS and the District Court, are privileged under the Defamation Act. The publication to other parties has been limited to the plaintiff's instructing solicitors, the plaintiff's junior counsel and the defendant's adviser. There is no suggestion the defendant has sought to publish the statements more broadly.

[54] Next, as noted, the defendant has a proper interest in responding to the complaints made by the plaintiff against him and in defending the proceedings against him before the NZLS and in the District Court.

[55] Importantly, since these proceedings were issued the plaintiff has taken advice and now acknowledges he overreacted and let his emotions get the better of him in relation to aspects of the correspondence. As an officer of the Court he has also undertaken to the Court to restrict further communications.


[56] Further, if the plaintiff succeeds at trial there is no reason to suggest the defendant will not be able to meet any damages award made in the plaintiff's favour.

Result

[57] For those reasons the application for interim injunction is declined. I do, however, record that in declining the injunction the Court relies on the undertaking provided by the defendant.

Costs

[58] Costs are reserved.



Venning J

SCHEDULE

The alleged defamatory statements pleaded are:

Letter of 23 May:

- the plaintiff exhibited lack of due care and skill and lack of courtesy to a fellow practitioner;
- the plaintiff failed to properly consider all legal issues;
- the plaintiff was not competent in the areas and fields of the law;
- the plaintiff issued proceedings that was to the detriment of clients;
- the plaintiff intended to prevent the defendant from communicating with counsel with junior counsel and the instructing solicitors to avoid embarrassment;
- the plaintiff and his junior counsel did not have an in-depth knowledge of conveyancing matters and legal precedent;
- the plaintiff had failed to act with courtesy to a fellow practitioner;
- the plaintiff had no idea what a fiduciary was;
- the plaintiff had failed in obligations to his clients;
- the plaintiff was an amateur (lawyer);
- the plaintiff had breached a number of rules by allowing the proceedings to issue through barristers in his chambers;

- the plaintiff's actions would cause financial harm to his client;
- in addition, although not strictly defamatory, the plaintiff also complains the defendant indicated when the proceedings were completed he intended to seek out the plaintiff's clients and advise them of their right to have independent counsel address any concerns with the Law Society.

10 June letter:

- inviting the parties to revisit any decision holding the plaintiff in high regard;
- the plaintiff was unfit to be head of any barrister's chambers or to provide advice to junior barristers;
- in addition, although not defamatory, the plaintiff complains the defendant stated he had reviewed all actions taken by the plaintiff.

17 June letter:

- the plaintiff holds utter contempt for Judges;
- the plaintiff holds utter contempt for the Law Society;
- the plaintiff holds utter contempt for fellow practitioners;
- the plaintiff has no respect for legal practitioners;
- the plaintiff is racist;
- the plaintiff does not have good standing to be a practitioner;

- the plaintiff refuses to accept judgments of the Court to the detriment of his clients;
- that the plaintiff should be restricted or restrained from heading the barrister's chambers;
- that the plaintiff has shown thuggery towards others previously;
- the plaintiff was mentally unstable;
- the plaintiff's admission to the Law Society was a mistake;
- the plaintiff was unfit to practise as a legal practitioner;
- the plaintiff had breached his fiduciary duty to his clients;
- the plaintiff had undertaken unwinnable, unmeritorious and vexatious proceedings in order to generate fees and/or utilise such cases for his marketing and promotional purposes to the detriment of clients and legal aid authorities;
- he had breached his duty to the Court as an officer of the Court and had misled it;
- he had intentionally subverted the barrister's intervention rule;
- he undertook briefs on behalf of clients that went beyond his level of scope and experience;
- he enticed junior barristers to his chambers to utilise there, in his persona in their names;
- had brought the profession into disrepute and it was necessary to protect members of the public from the plaintiff;

- it was necessary to protect junior solicitors from the plaintiff;
- the website of the plaintiff's chambers was misleading;

The 15 September statements:

- the plaintiff was unfit to practise and should not have been admitted;
- the plaintiff showed he had no basic understanding of the way the New Zealand legal system works;
- that emails to one of the plaintiff's instructing solicitors may have been subverted.