

# HIGH COURT OF AUSTRALIA

STEWARD J

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MOLLY HARRIS TOYNE

APPLICANT

AND

NICHOLAS ARTHUR STOKES

RESPONDENT

[2024] HCASJ 44

*Date of Judgment: 19 December 2024*

S43 of 2023

## ORDERS

- 1. Pursuant to r 6.02.5(c) of the High Court Rules 2004 (Cth), the applicant's solicitor is granted leave to withdraw as solicitor for the applicant.*
- 2. The applicant's solicitor is to serve a copy of this order on the applicant and the respondent.*
- 3. The applicant's solicitor is to give notice in writing to the Court and to the respondent of the applicant's last known address for service.*

## Representation

The applicant is represented by Sachs Gerace Lawyers

The respondent is represented by Baker Deane & Nutt Lawyers



1 STEWARD J. On 2 May 2023, the applicant filed an application for special leave to appeal in this Court. By that application, the applicant sought special leave to appeal the whole of the judgment of the Court of Appeal of the Supreme Court of New South Wales (Ward P, Adamson JA and Simpson AJA),<sup>1</sup> granting leave to appeal and allowing an appeal from a judgment of the District Court of New South Wales (Russell SC DCJ), and permanently staying District Court proceedings 2021/195454. The applicant's solicitor was retained to act for the applicant in that application on a pro bono basis.

2 On 20 October 2023, this Court heard the applicant's application for special leave to appeal and made orders refusing that application with costs.

3 On 11 October 2024, the applicant's solicitor informed the applicant by email that: the respondent to the application for special leave to appeal had applied for an assessment of his costs of that application; the firm's retainer had come to an end; and, unless the applicant advised that she wished to receive further assistance from the firm, or in the absence of any response, the firm intended to withdraw as her legal representative and would take the necessary steps in this Court to do so.

4 On 21 October 2024, the respondent to the application for special leave to appeal prepared a bill of costs.

5 On 29 October 2024, the applicant's solicitor confirmed to the applicant by email that the applicant did not intend to retain the firm in respect of the respondent's costs application before this Court, and that the firm would seek leave from this Court to withdraw as the solicitor on record. It is not apparent from the materials before the Court whether the email sent to the applicant on this date was sent in response to some communication from the applicant, or in the absence of any response to the solicitor's email of 11 October 2024.

6 On 21 November 2024, the applicant's solicitor filed an application seeking leave to withdraw as solicitor for the applicant pursuant to r 6.02.5(c) of the *High Court Rules 2004* (Cth) ("the Rules"). The application was accompanied by an affidavit sworn by the solicitor and exhibits of correspondence between, inter alia, the solicitor and the applicant.

7 Having regard to the affidavit and correspondence exhibited before the Court, I am satisfied that the applicant's solicitor has complied with the requirement under r 6.02.5(c) of the Rules to give notice in writing to the applicant of the solicitor's intention to apply for leave to withdraw prior to making the

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1 *Stokes v Toyne* [2023] NSWCA 59.

2.

application to this Court. I am further satisfied that in all the circumstances it is appropriate for leave to withdraw to be granted.