

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

**I TE KŌTI MATUA O AOTEAROA
KIRIKIROA ROHE**

**CIV-2025-419-000178
[2026] NZHC 2971**

UNDER the Judicial Review Procedure Act 2016

IN THE MATTER OF an application for judicial review

BETWEEN SARA TEREHIA HONA
Applicant

AND MĀORI LAND COURT
First Respondent

ARIANA FRANCIS HUNIA, BRENDA
CHANEL ROSELY HUNTER, CHERYL
MATEWAI RAMEKA, DAVID
DENNISTON GREY, EMERINA
DOROTHEA ADAMS, JOHN
RANGITUEHU TUPARA and PAULA
ALICE RAKATAU as trustees of the
PAENOA TE AKAU TRUST
Second Respondents

Hearing: On the papers

Counsel: Applicant in Person
Z R Hamill and S R Hiha for the First Respondent
D Grey in Person on behalf of Second Respondents

Judgment: 29 September 2026

COSTS JUDGMENT OF TRACEY WALKER J

*This judgment was delivered by me on 29 September 2026 at 3 pm
pursuant to r 11.5 of the High Court Rules 2016*

Registrar/Deputy Registrar

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[1] Following judgment issued on 29 July 2026, the self-represented applicant, Ms Hona, seeks costs against both respondents, “in such amount as the Court considers just”.¹ Ms Hona submits that she is the successful party in that the judgment found that inclusion of a three-month compliance period in the formal order issued by the Māori Land Court breached natural justice and was consequently unlawful. Further, that the proceedings were necessary to remedy that unlawful process.

[2] Ms Hona seeks costs “in accordance with the statutory framework governing costs recoverable by self-represented litigants,” and leaves the final assessment to the Court.

[3] In support of her application for costs, Ms Hona filed subsequent memoranda detailing settlement proposals that she had initiated and which she claims were rejected or ignored by the respondents. Further, she maintains the second respondent actively sought to “conceal, obfuscate, and cover up” the fact that they had engaged in improper ex parte communications to alter the original court order. She further requests that the Court make the following declarations:

- (a) the applicant made genuine, reasonable attempts to settle this proceeding which were ignored by the respondents;
- (b) the respondent acted in bad faith by maintaining an untenable position to obscure the ex parte alteration of the original order; and
- (c) the respondents’ combined actions and ex parte conduct constituted a severe, unjustifiable breach of natural justice.

The first respondent

[4] The first respondent opposes an award of costs against it as an abiding party in respect of the applicant’s application for review (but reserving the right to be heard on the question of costs). It refers to the well-established principle that decision-makers, including judicial bodies in respect of applications for judicial review, should not enter

¹ *Hona v Māori Land Court & Ors* [2026] NZHC 2192.

the fray and actively defend its own decision.² It argues that an abiding party will not normally be liable for costs because pre-litigation conduct is not ordinarily a relevant factor.³ An exception is where the conduct of an abiding party unreasonably contributes to the time and expense of the proceedings. In that event, they may be liable to make a contribution to costs.⁴

[5] The first respondent submits costs should not be ordered against the Māori Land Court as judicial immunity protects judicial and quasi-judicial decision makers from “all civil liability whatsoever.”⁵ It says that includes civil liability to pay court-ordered costs. The Court of Appeal in *Coroners Court v Newton* explained costs will only be awarded (even in judicial review proceedings) against judicial officers such as justices or coroners in the rarest of circumstances where such a judicial officer has done something which calls for strong disapproval.⁶ A mistake in law will generally not suffice rather, it must be shown that the judicial officer concerned has acted perversely, oppressively or in bad faith.⁷ The first respondent submits this principle applies only in circumstances where judicial officers (such as Coroners) do not have complete immunity from civil liability and therefore does not supersede the judicial immunity afforded to the Māori Land Court.

[6] I am satisfied a costs order against the Māori Land Court is not appropriate in these circumstances. Irrespective of whether judicial immunity applies, the threshold of acting perversely, oppressively, or in bad faith is clearly not made out. I dismiss the claim for costs against the first respondent.

The second respondent

[7] The second respondent trustees of the Paenora Te Akau Trust also oppose the application for costs. They maintain that costs should lie where they fall essentially

² *Engineers Union v Court of Arbitration* [1976] 2 NZLR 283 (CA) at 284-285 and *Secretary of Internal Affairs v Pub Charity* [2013] NZCA 627, [2014] NZAR 177 at [27].

³ *Lincoln v Attorney-General* [2025] NZHC 49 at [13].

⁴ *Royal Forest and Bird Protection Society of New Zealand Inc v Northland Regional Council* [2019] NZHC 449, [2019] NZAR 587 at [41].

⁵ *Gazley v Lord Cooke of Thorndon* [1999] 2 NZLR 668 (CA) at 671.

⁶ *Coroners’ Court v Newton* [2006] NZAR 312 (CA) at [44], reaffirmed in *Belgiorno-Nettis v Auckland Unitary Plan Independent Hearings Panel* [2024] NZCA 695 at [33]–[38].

⁷ At [44].

because of the unique history of this judicial review proceeding. They argue that they were successful on the substantive outcome in that the mandatory injunction was maintained, whereas the applicant's success was limited to procedural success. They maintain that they acted properly and reasonably throughout and therefore no costs award against them is justified.

[8] They further say that any procedural irregularity arose within the Māori Land Court's own processes, rather than being caused by them as a party to the proceeding. In short, they were not the decision maker. Further, Ms Hona declined an earlier opportunity to resolve the matter in the Māori Appellate Court. They maintain that they complied with all directions about the proceeding; participated constructively; acted in good faith; did not contribute to the procedural issue; did not prolong or complicate the proceeding; and remained unrepresented throughout.

Assessment

[9] Costs are ultimately at the discretion of the Court although the discretion must be exercised within the framework of the High Court Rules 2016. The general rule is that costs follow the event. That is, the party who fails with respect to a proceeding should pay costs to the party who succeeds.⁸

[10] A self-represented party has recently become entitled to an award of costs under the High Court Rules. Prior to the amendment in force from 1 September 2024, a successful litigant in person was entitled to recover disbursements but not costs, other than in exceptional circumstances.⁹

[11] A disbursement means "an expense paid or incurred for the purposes of the proceeding that would ordinarily be charged for separately from legal professional services in a solicitor's bill of costs".¹⁰ Disbursements must, if claimed and verified, be included in the costs award to the extent that it is:

- (a) of a class approved by the court for the purposes of the proceeding;

⁸ High Court Rules, r 14.2(1)(a).

⁹ *Macguire v Secretary for Justice* [2018] NZSC 116, [2019] 1 NZLR 335 at [55].

¹⁰ High Court Rules 2016, r 14.12.

- (b) specific and reasonably necessary to the conduct of the proceeding;
- (c) reasonable in amount; and
- (d) not disproportionate to the circumstances of the proceeding.

[12] I pause to note that Ms Hona received a fee waiver in respect of all filing and hearing fees. So, this category of disbursement is not at issue.

[13] Ms Hona clarified her request that the court determine both the incidence of and quantum of costs by claiming time-based lay litigant costs at the flat \$500 daily rate for the preparation and drafting of documents recorded in common bundle index and “the official Court Registry logs”.

[14] In the exercise of my discretion, I decline to award costs. My reasons are these.

[15] As the respondent trustees have pointed out, the substantive decision underpinning Ms Hona’s challenge was not impeached. Ms Hona succeeded only in respect of the timeframe for compliance. That is an issue which could and should have been resolved earlier and indeed, the Māori Appellate Court invited Ms Hona to deal with that issue when she appealed the decision of the Māori Land Court. It would have been unnecessary to pursue the judicial review.

[16] The trustees at the hearing adopted a reasonable position faced with Ms Hona’s objective to overturn the substantive decision as well as the compliance period. They continued that stance at the judicial review hearing in that they were prepared to give Ms Hona a reasonable period in which to comply with the injunction. On a holistic view of the proceedings and outcome, I do not consider that Ms Hona was in fact the successful party substantively, notwithstanding the remittal to the Māori Land Court.

[17] The settlement proposals claimed by Ms Hona further do not justify a costs award in her favour. I note that in at least one proposal Ms Hona sought for the injunction to be removed.

[18] I also note that counsel to assist was appointed and played a significant role in the proceeding, ultimately to Ms Hona's advantage.

[19] For those reasons, I decline to make an order for costs in Ms Hona's favour and instead direct that costs lie where they fall.

[20] For completeness, I decline to make the declarations sought by Ms Hona. It is not necessary to do so in determining costs.

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Tracey Walker J