

Appellant: **S**

Respondent: **Vector Limited**

In re: **A non-party interlocutory application to vary a suppression order**

APPLICATION TO VARY BLANKET SUPPRESSION ORDER

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Under sections 208(3) and 210 of the Criminal Procedure Act 2011, *Siemer v Solicitor-General [2013] NZSC 68 & Erceg v Erceg [2016] NZSC 135*, the Appellant now seeks the blanket suppression order currently preventing publication of any aspect of judgment “[2020] NZSC 97” (“the Judgment”) be varied to allow public dissemination of information contained within the Judgment which could not jeopardise fair trial rights -

UPON THE GROUNDS

1. There is no lawful power to order blanket suppression of a Supreme Court of New Zealand Judgment, only temporary suppression of trial-related information (refer to s199C of the Criminal Procedure Act 2011).
2. If the current blanket suppression order in effect is premised upon protection of fair trial rights, blanket suppression creates an unnecessary infringement of public rights guaranteed by s14 of the New Zealand Bill of Rights Act 1990 to accomplish this stated objective.

SUPPORTING SUBMISSIONS

3. Currently, the Judgment is totally suppressed, under power of criminal penalties for those who share any information contained in it with members of the public. Even the reasons the Supreme Court relied upon for suppression are suppressed. Indeed, the Applicant risks imprisonment for mentioning the reason given for the suppression was to protect fair trial rights.
4. As section 199C of the Criminal Procedure Act 2011 makes clear, use of suppression orders to protect fair trial rights must be targeted to trial-related information. The Judgment concerns a criminal matter which originated in the District Court, meaning two further appellate court rulings likely lie between the trial court and the Judgment. It is difficult in such a circumstance to conceive every aspect of the Judgment, including the existence of parties, needs to be suppressed to protect a trial advancing three courts below. Equally, the current suppression order suggests the Supreme Court dealt only with facts and evidence specific to this criminal trial and that no broader public implication or interest results from this Court’s analysis or conclusions.

5. There is no indication the public's right to know the affairs of New Zealand's highest court was considered as a starting point, consistent with this Court's ruling *Rogers v TVNZ Ltd* [2007] NZSC 91.¹
6. It is submitted that the current suppression order cannot be sustained if the public's right to acquire and share information as provided by Section 14 of the New Zealand Bill of Rights Act 1990 is taken into account. The current blanket suppression order should be varied to accommodate these rights.
7. Finally, there is significant and ongoing public interest in the Judgment's legal findings. Vector Limited has publicly released information in the interests of its shareholders and members of the public² which breaches the current blanket suppression order – including it being a named party in this criminal case. This dichotomy concerning sharing of this public court information calls into question the need for suppression orders, as well as public harm of such an order (other than perhaps the anonymization of the other party's name which has already occurred in the Judgment).
8. Reasonably, the information which this Court's blanket suppression order sought to conceal from the public is in the public domain and Vector Limited appears to be in criminal breach for publicly disseminating this information – an action which warrants their prosecution for contempt of court.



Vincent Ross Siemer, Applicant
Legal news publisher

¹ At [120]

² <https://www.nzherald.co.nz/business/vector-pursues-private-fraud-prosecution/MKCY5F7HY6WNN3J3RAA5QM5B7M/>