

BEFORE THE MOTORSPORT NEW ZEALAND

NATIONAL COURT OF APPEAL

IN RELATION TO Race 17,NZ6 National Series

16 to 18 January 2015

BETWEEN JUSTIN ASHWELL Appellant

AND MOTORSPORT NEW ZEALAND OFFICIALS

Respondent

DECISION OF THE COURT AS TO COSTS:

- 1.The Appellant,who was successful with his Appeal, seeks reimbursement of the costs that he incurred with solicitors,for the preparation of his submissions and affidavits,plus various out of pocket expenses and disbursements.
- 2.Motorsport NZ have accepted that the appeal fee should be refunded,but oppose any order for payment of costs.
- 3.The submissions,and other documents presented by the Appellant were of high quality,and were helpful,although ultimately the deciding issue in the appeal was a question of fact,ie the accuracy of a measuring tool,and how it was used.
- 4.The circumstances are somewhat unusual,in that the measuring tool was provided to the official by the Appellant himself (being supplied by the NZ6 Club),and the official had no reason to believe that the tool was inaccurate.That evidence only came to light later.
- 5.We have no wish to discourage Appellants from seeking legal advice,indeed the guidelines encourage them to do so.Nevertheless, in this sport of volunteers,we are of the view that awards of legal costs should be made sparingly.In the circumstances of this particular case,we do not believe that the sport should be penalised by an award of costs,however we do order the repayment of the appeal fee,plus the protest fee of \$425,and order a payment by the sport to the Appellant of \$500 towards his disbursements.
- 6.I apologise to the parties for the delay in issuing this costs award.This is entirely my fault,not that of my colleagues.

J A Langford



19 May 2015