

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
CHRISTCHURCH**

**I TE KŌTI TAKE MAHI O AOTEAROA
ŌTAUTAHI**

**[2025] NZEmpC 190
EMPC 352/2025**

IN THE MATTER OF proceedings removed in full from the
Employment Relations Authority

AND IN THE MATTER OF an application for interim injunction

AND IN THE MATTER OF an application to order attendance for cross-
examination

BETWEEN WILSON PARKING NEW ZEALAND
LIMITED
Plaintiff

AND PETER TURNER
First Defendant

AND ATE PROPERTY LIMITED TRADING AS
MAINLAND PARKING
Second Defendant

EMPC 357/2025

IN THE MATTER OF an application for freezing orders

BETWEEN WILSON PARKING NEW ZEALAND
LIMITED
Plaintiff

AND PETER TURNER
First Defendant

AND ATE PROPERTY LIMITED TRADING AS
MAINLAND PARKING
Second Defendant

Hearing: On the papers

Appearances: K Crossland and S Han, counsel for plaintiff
G Jones, counsel for defendants

Judgment: 28 August 2025

INTERLOCUTORY JUDGMENT OF JUDGE HELEN DOYLE
(Application to order attendance for cross-examination)

Application for cross-examination

[1] Wilson Parking New Zealand Limited (Wilson Parking) has applied for interim relief in the form of interim injunctions and a freezing order against Mr Turner and ATE Property Limited.

[2] This judgment decides an application by Wilson Parking for an order that Mr Turner attend and be cross-examined at the hearing of the application for interim relief on 8 and 9 September 2025.

[3] The application is opposed by Mr Turner and ATE Property Limited.

[4] By agreement the application for an order that Mr Turner attend and be cross-examined is dealt with on the basis of memoranda filed by counsel in the Employment Relations Authority (the Authority) before proceedings were removed to the Court.

The arguments

[5] There is affidavit evidence from a former employee of Wilson Parking that includes several paragraphs about burner phones. Mr Turner has not responded to the burner phone issues in his affidavit evidence. Wilson Parking wants to cross-examine Mr Turner to test if he denies the burner phone disposal arrangement referred to in the previous employee's affidavit and/or offers an alternative explanation.

[6] Mr Crossland refers to an Employment Court judgment in *TLNZ Auckland Ltd v Maritime Union* where cross-examination was permitted at a hearing of an interim injunction restraining a threatened strike.¹

¹ *TLNZ Auckland Ltd v Maritime Union of New Zealand Ltd* [2012] NZEmpC 47, [2012] ERNZ 86 at [18].

[7] Wilson Parking says the application in this matter differs fundamentally from other interim injunction proceedings because the company obtained comprehensive discovery through an Employment Court ordered search process, yielding a large quantity of documents. In those circumstances, it says that the usual judicial reluctance to assess credibility in interlocutory proceedings because of the incomplete nature of the evidence does not apply. Wilson Parking refers to the High Court judgment in *Kea Investments v Wikeley Family Trust* and statements from the Court of Appeal set out in *Kea* about whether credibility findings are available at the interlocutory stage.²

[8] Mr Jones says that the credibility of those who have filed affidavits is not at issue in the interim stage with reference to the well-established principles for the refusal or grant of an interim injunction.³

[9] Further, it says that if Mr Turner's credibility is thought to be relevant to the determination of the interim injunction, then the credibility of the plaintiff's deponents is also relevant. He would wish to cross-examine other deponents.

Discussion

[10] The interim relief orders sought are as follows:

- (a) An interim injunction restraining the defendants from using, disclosing or otherwise dealing with the plaintiff's confidential information.
- (b) An interim injunction restraining the defendants from soliciting or entering into any business arrangement with the landlord parties listed in schedule 1.
- (c) A freezing order requiring the defendants to pay 30 per cent of all revenue derived to date and to be derived from the landlord parties in

² *Kea Investments Ltd v Wikeley Family Trustee Ltd* [2023] NZHC 466 at [47]-[48], citing *Wing Hung Printing Company Ltd v Saito Offshore Pty Ltd* [2010] NZCA 502, [2011] 1 NZLR 754 and *Green & McCahill Holding Ltd v Ara Weiti Developments Ltd* [2022] NZCA 218 at [82].

³ *Klissers Farmhouse Bakeries Ltd v Harvest Bakeries Limited* [1985] 2 NZLR 129 (HC); and *American Cyanamid Co v Ethicon Ltd* [1975] 1 All ER 504 at 509-510.

schedule 1 into an interest-bearing stakeholder account pending determination of the proceeding.

- (d) An interim injunction restraining the defendants from selling, transferring, pledging, or otherwise disposing of the defendants' portfolio of leases and management contracts obtained through use of the plaintiff's confidential information.

[11] The application for an interim injunction in *TLNZ Auckland Ltd* had initially been filed on an ex-parte basis to restrain a threatened strike.⁴ The defendants then filed an affidavit which raised key matters not addressed on behalf of the plaintiffs. There is reference in the judgment to the importance of these key matters and the need to address them before a vessel was due to be loaded, supporting urgency. The plaintiffs' counsel was given an opportunity to take instructions on whether the plaintiffs wished to lead any oral evidence, which would be subject to cross-examination. The plaintiffs elected to call a witness.

[12] The circumstances in this matter are distinguishable from those in *TLNZ Auckland Ltd*. The application for interim relief in this matter is on notice. Mr Turner had an opportunity to respond to matters in the affidavit evidence and opposes the application for cross-examination.

[13] Counsel can make submissions about the affidavit evidence directed to the tests to be applied for an interim injunction. Submissions can be made about whether there are exceptional circumstances that would displace the usual approach that credibility issues are not determined from affidavit evidence at an interlocutory stage. Full testing of the evidence can take place at the substantive hearing.

[14] An order that Mr Turner attend and be cross-examined will extend the hearing time, increase costs and divert the Court's attention from the key aspects it is required to consider. There is a likelihood of other applications for deponents of affidavits to attend and be cross-examined.

⁴ *TLNZ Auckland Ltd*, above n 1.

[15] I am not satisfied that there are special circumstances to order Mr Turner's attendance for cross-examination or that injustice would arise unless it was permitted.

Outcome

[16] The application to order Mr Turner to be made available for cross-examination is declined.

[17] Costs are reserved.

Helen Doyle
Judge

Judgment signed at 3.50 pm on 28 August 2025