

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

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2025] NZEmpC 238
EMPC 349/2025**

IN THE MATTER OF an application for freezing orders

BETWEEN OPEN COUNTRY DAIRY LIMITED
 Applicant

AND SIMON STEWART
 Respondent

Hearing: 3 November 2025 (heard by AVL)

Appearances: J Russ, counsel for applicant
 E Macpherson, counsel for respondent

Judgment: 4 November 2025

JUDGMENT (NO 4) OF JUDGE M S KING

[1] This proceeding involves a freezing order that was granted in favour of the applicant, Open Country Dairy Ltd (the company), on 19 August 2025.¹ It has come before the Court several times since then. In my judgment of 12 September 2025,² I varied the freezing order so that it only applied to the family home of the respondent, Mr Stewart. I also extended the freezing order until 4 November 2025, and provided that it would be reviewed at a hearing on 3 November 2025.

[2] The review hearing took place on 3 November 2025. During the hearing, counsel for the parties confirmed that the circumstances giving rise to my 12 September 2025 judgment remain unchanged. After hearing from the parties, I consider the freezing order should be extended until a further review hearing date.

¹ *Open Country Dairy Ltd v Stewart* [2025] NZEmpC 182.

² *Open Country Dairy Ltd v Stewart* [2025] NZEmpC 205.

[3] During the hearing, I observed that the Court has made orders preventing the publication of any information or identifying details in these proceedings relating to Mr Stewart's family members, his health and any information that identifies the company's customers or its confidential pricing information. I confirmed that it is appropriate that this non-publication order be continued. I observe that the Court's judgments to date do not provide specific identifying information that would breach or otherwise be inconsistent with this non-publication order.

[4] However, the Court made a further non-publication order that its earlier judgments cannot be published without further order of the Court. This was to provide Mr Stewart with an opportunity to consider whether he wanted to apply for broader non-publication orders in these proceedings. During the review hearing, an agreed timetable was set for the filing of any application for non-publication. If an application was not filed in accordance with its timetabling orders, the Court indicated that it would order the release of its earlier judgments in this proceeding.

[5] During the review hearing, the Court observed that Mr Stewart was subject to a Serious Fraud Office (SFO) prosecution. The Employment Relations Authority (the Authority) had adjourned its investigation into the damages the company could claim against Mr Stewart until the SFO prosecution was completed. In response, the company filed a separate challenge to the Authority's decision to adjourn its investigation into its damages claim.

[6] Given the numerous proceedings before the parties, the Court queried with counsel whether further mediation or a judicial settlement conference would be of assistance to the parties in resolving some, or all, of the proceedings between them in the Authority and this Court. Counsel did not have instructions on this matter.

[7] After considering the submissions made at the review hearing, I make the following orders and directions:

- (a) The freezing order made by the Court on 19 August 2025 and varied on 12 September 2025, is extended until 4 pm on 18 February 2026, or such earlier time/date as the Court may fix.

- (b) There will be a review hearing for this proceeding at 9.30 am on 17 February 2026. For the purposes of this hearing:
- (i) the company is to file a memorandum setting out its position on whether the freezing order should be continued, discharged or otherwise varied by 9 am on 3 February 2026.
 - (ii) Mr Stewart is to file a memorandum setting out the progress towards finalisation of the SFO proceedings and his position on whether the freezing order should be continued, discharged or otherwise varied, by 9 am on 10 February 2026.
- (c) The parties are directed to inform the Court, by 4 pm on 6 November 2025, whether they agree to attend a judicial settlement conference. If a judicial settlement conference is agreed, one will be scheduled promptly to consider all matters before the Authority and the Court. However, if the parties do not both agree to attending a judicial settlement conference, they are directed to attend mediation on the same basis. They are encouraged to share information for the purposes of mediation. The information will attract privilege and is likely to assist in any settlement of matters or, alternatively, an agreement on the parameters of the Authority and the proceedings before this Court.
- (d) If Mr Stewart intends to apply for non-publication orders, as considered at [4] above, he is to file and serve any application and affidavit in support by 4 pm on 19 January 2026. The company will be required to file any notice of opposition within 14 days of being served with the application and affidavit. If Mr Stewart fails to file and serve the application and affidavit by the date timetabled, the Court will order the release of its earlier judgments in this proceeding.

[8] This judgment and the extended freezing order will be served immediately on the relevant banks that hold security over the family home.

[9] Leave is reserved for either party to seek further directions from the Court.

[10] Costs are reserved.

M S King
Judge

Judgment signed at 10.30 am on 4 November 2025