

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

**I TE KŌTI TAKE MAHI O AOTEAROA  
TE WHANGANUI-A-TARA**

**[2026] NZEmpC 21  
EMPC 395/2024**

IN THE MATTER OF	a declaration under s 6(5) of the Employment Relations Act 2000
AND IN THE MATTER OF	an application for adjournment
BETWEEN	CG First Plaintiff
AND	OY Second Plaintiff
AND	ZF Third Plaintiff
AND	WT Fourth Plaintiff
AND	QA Fifth Plaintiff
AND	YS Sixth Plaintiff
AND	UJ Seventh Plaintiff
AND	CALENDAR GIRLS NZ LIMITED Defendant

Hearing: On the papers

Appearances: V Campbell, counsel for plaintiffs  
R Thompson, advocate for defendant

Judgment: 10 February 2026

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**INTERLOCUTORY JUDGMENT (NO 4)  
OF CHIEF JUDGE CHRISTINA INGLIS  
(Application for adjournment)**

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**Background**

[1] The defendant has renewed an application for an adjournment of a five-day hearing commencing on Monday 16 February 2026. I declined the earlier application for reasons set out in a judgment dated 29 January 2026.<sup>1</sup>

[2] The grounds for the earlier application were two-fold. The first ground was that Mr Thompson (advocate for the defendant) had recently suffered personal challenges, was not in a position to prepare for and appear at the hearing, and that he had had difficulties finding alternative representation for the company. The second was that Mr Samson, the sole director of the defendant company and primary witness, suffers from a number of disabilities, which meant that he had been unable to prepare his brief of evidence within time and was not able to prepare adequately for the hearing.

[3] On 4 February 2026 Mr Thompson filed an updating affidavit outlining further steps taken to obtain alternative representation for the defendant. I directed that the defendant was to confirm that the affidavit was intended to be treated as a renewed application for an adjournment and, if so, that the plaintiffs were to advise their position on it. Mr Thompson subsequently confirmed that the company was advancing a fresh application; the plaintiffs confirmed that they remain opposed to any adjournment, relying on the matters set out in their earlier affidavits and submissions filed on their behalf.

[4] Neither Mr Thompson nor Ms Campbell, counsel for the plaintiffs, wished to be heard further on the application and it is accordingly being dealt with on the papers.

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<sup>1</sup> *CG v Calendar Girls Ltd (No 3)* [2026] NZEmpC 12.

## Analysis

[5] The power to adjourn a hearing is discretionary. An adjournment impacts not only the particular parties but has broader implications in terms of the use of court time and resources, and the administration of justice.

[6] The applying party can be expected to identify good reason why the hearing ought to be adjourned, supported (where necessary) with affidavit evidence. The Court will undertake a balancing exercise, weighing various factors. Of particular relevance in a case such as this are:<sup>2</sup>

- (a) the prejudice likely to be suffered by the defendant if the adjournment is declined;
- (b) the prejudice likely to be suffered by the plaintiffs if the application is granted;
- (c) any delay in bringing the application;
- (d) any third party impact;
- (e) whether the defendant has acted reasonably and done everything practical to avoid the need for an adjournment;
- (f) the strength of the reasons in support of the application;
- (g) the impact, if any, on the right to a fair trial and the need for a resolution of the proceedings, including the likely impact of further delay on the quality of the evidence;
- (h) considerations of the impact of an adjournment on the use of scarce judicial resource, court time and others who are “waiting in line” for Court dates; and
- (i) where the balance of convenience lies.

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<sup>2</sup> See, for example, *Poutama Kaitiaki Charitable Trust v Taranaki Regional Council* [2022] NZHC 628 at [39].

[7] Ultimately, the Court will be guided by the overall interests of justice.

*Likely prejudice to the defendant*

[8] In my earlier judgment I accepted that Mr Thompson is confronting a difficult set of personal circumstances, which are impeding his ability to prepare for and appear at the hearing. That remains the case.

[9] I concluded that insufficient steps had been taken to make alternative arrangements, and that there was adequate time before the hearing to do so. The point made in Mr Thompson's updated affidavit is that he has now made additional inquiries of seven employment practitioners in Christchurch, but none have been in a position to accept instructions in this matter. It may be regarded as somewhat surprising that in a city as large as Christchurch there are no lawyers or advocates in a position to take on the fixture, but I accept Mr Thompson's evidence that the additional inquiries he has made have come to nothing.

[10] The hearing is of some importance to the parties, namely an application for a declaration of employment status. If the plaintiffs succeed on the application, they can pursue claims against the defendant in the employment jurisdiction; if they do not succeed, they cannot. The matter can be contrasted to, for example, an interlocutory application where the parties might be expected to press on.<sup>3</sup>

[11] The defendant wishes to be represented in these proceedings. That means that if the hearing went ahead on Monday next week the defendant would be required to represent itself. I accept that this would present a prejudice to the defendant in the particular circumstances. This weighs in favour of an adjournment.

*Prejudice likely to be suffered by the plaintiffs if adjournment is granted*

[12] It is clear that each of the plaintiffs will be detrimentally impacted if an adjournment is granted. Their circumstances were referred to in my earlier judgment and do not need to be repeated here. This weighs against the application.

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<sup>3</sup> Compare *ANZ Banking Group (NZ) Ltd v Couchman* (1992) 6 PRNZ 34 (HC), referred to in *Cogle v IAG New Zealand Ltd* [2020] NZHC 1907 at [24].

### *Delay*

[13] The application is brought at a relatively late stage. Inadequate steps were taken at an early stage to put in place alternative arrangements. The Court is now left in the invidious position of dealing with an application that could have been avoided.

### *Third party impact?*

[14] No issues have been identified in respect of third parties, other than other court users, which I touch on below.

### *Strength of reasons in support*

[15] I have dealt with the strength of the grounds relied on in the analysis above.

### *Impact on fair trial and resolution of claim*

[16] The defendant wishes to be represented at the hearing and is now in a position where it would need to proceed without representation if it were to actively defend the plaintiffs' proceedings. That would likely impact their ability to fully participate in the hearing, particularly given the timeframes involved.

[17] Further delay in having the proceedings dealt with is problematic, for the reasons set out in my earlier judgment.

### *Whether the applicant has acted reasonably*

[18] It will be apparent that I consider that earlier, proactive steps to find alternative representation would likely have obviated the need for the present application.

### *Broader impacts*

[19] Adjournments negatively impact other Court users. Vacating hearing dates at the 11<sup>th</sup> hour makes it unlikely that those dates can be utilised by other parties who are waiting in line to have their matters heard. That weighs against an adjournment.

*Balance of convenience/interests of justice*

[20] It appears from medical information exhibited to Mr Thompson's affidavit that he will likely be in a position to deal with this case by the end of February 2026. That means that an adjournment could be relatively brief, going some way to reducing the prejudice that the plaintiffs will suffer.

[21] There are further steps that may be taken to address, at least to some extent, the impact of an adjournment on the plaintiffs. Some have plans to move overseas; alternative arrangements can be made to take their evidence via AVL. One of the plaintiffs has an operation scheduled. It may be that their evidence can be taken separately. Other issues may be able to be dealt with by split hearing times. The current five day allocation of hearing time can likely be reduced, particularly if the briefs of evidence are taken as read. Three days should suffice, particularly if cross-examination and re-examination are focussed on the matters relevant to a s 6 analysis.

[22] And if Mr Thompson, as the defendant's chosen representative, remains unavailable to deal with the proceeding, there is more than ample time to make alternative arrangements.

[23] Taking into account the steps that may be taken to ameliorate the negative implications of an adjournment for the plaintiffs, the balance of convenience rests (by a slim margin) with the defendant.

[24] The interests of justice follow the balance of convenience.

**Result**

[25] By a narrow margin, I am satisfied that good reason has been made out for granting an adjournment and that it is in the broader interests of justice to do so. The application for an adjournment is accordingly granted, but on the following conditions:

- (a) The defendant is liable for the plaintiffs' wasted costs brought about by the adjournment and the costs of the adjournment application itself; in both cases, the quantum of costs is reserved.

- (b) The matter is adjourned to the first available dates (three days) after 2 March 2026.
- (c) It is highly unlikely that any further adjournment will be granted; the defendant now has ample time to make the necessary arrangements in terms of representation, including in the event that Mr Thompson remains unable to deal with the case within the expected timeframe.
- (d) Leave is reserved to the plaintiffs to apply for further directions and orders as to the way in which the plaintiffs' evidence is to be given.
- (e) A telephone conference is to be scheduled with a Judge in three weeks' time to monitor progress.

Christina Inglis  
Chief Judge

Judgment signed at 3.45 pm on 10 February 2026