

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

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

**[2026] NZEmpC 4
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 leave to withdraw as counsel and solicitor
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

Judgment: 20 January 2026

**INTERLOCUTORY JUDGMENT (NO 2)
OF CHIEF JUDGE CHRISTINA INGLIS**
(Application for leave to withdraw as counsel and solicitor)

[1] This judgment deals with an application advanced by counsel for the plaintiffs for leave to withdraw as counsel for the third and sixth plaintiffs. An affidavit has been filed in support of the application.

[2] While there is no express statutory power relating to the withdrawal of a party's solicitor or counsel, the Employment Court enjoys all of the powers inherent in a court of record,¹ including the power to control its own processes and to prevent any abuse of process.² Such inherent powers "arise as necessary to enable a court to function effectively as a court of judicature".³ Courts have exercised their inherent powers in a broad range of situations, including to control solicitors.⁴ The current application seems to me to fall squarely within the inherent powers of this Court.⁵

[3] As the Employment Relations Act 2000 and the Employment Court Regulations 2000 do not provide any form of procedure for applications of this sort, the Court applies the procedure set out in r 5.41 of the High Court Rules.⁶ Rule 5.41 requires that every application for withdrawal must be made by interlocutory application and must be supported by an affidavit giving the grounds of the application.⁷

¹ Employment Relations Act 2000, s 186(1).

² See *Hynds Pipe Systems Ltd v Forsyth* [2017] NZEmpC 89, [2017] ERNZ 484 at [9]–[17]; and Philip A Joseph *Joseph on Constitutional and Administrative Law* (5th ed, Thomson Reuters, Wellington, 2021) at 901–905.

³ *District Court at Christchurch v McDonald* [2021] NZCA 353, [2021] 3 NZLR 585 at [27].

⁴ Joseph, above n 2, at 902.

⁵ The same conclusion was reached by the District Court within its accident compensation appellate jurisdiction in *MS v Accident Compensation Corp* [2020] NZACC 126 in respect of an advocate who was not a lawyer.

⁶ Applied via reg 6 of the Employment Court Regulations 2000. Note that while r 5.41 of the High Court Rules 2016 is expressed to relate to solicitors, the High Court has indicated that it can permit the withdrawal of other types of counsel by drawing on its inherent jurisdiction: *Burgess v Monk* [2017] NZHC 2618, (2017) 24 PRNZ 712 at [17]–[20]; and *Criffel Deer Ltd v ANZ Bank New Zealand Ltd* [2022] NZHC 2175, at [7] and [10]–[11].

⁷ High Court Rules, r 5.41(4).

[4] Unless the Court directs otherwise, notice of the application and any relevant documents must be served on the party for whom the applicant acted; that notice must also inform the party of the effect that r 5.42 will have on their address for service if the applicant is permitted to withdraw as representative.⁸ I am satisfied, based on the affidavit before the Court, that these steps have been taken.

[5] The Court must be satisfied that an adequate basis has been established before making an order. That is to ensure that the rights of the affected party are adequately protected and reflects counsel's obligations as an officer of the Court.⁹ As the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 provide, a lawyer has a duty to complete a retainer unless the client discharges them from the engagement, the lawyer and client have agreed that the lawyer will no longer act, or the lawyer terminates the arrangement for good cause.¹⁰

[6] Having regard to the matters raised in the affidavit, I am satisfied that there is good reason for counsel to cease to act for the third and sixth plaintiffs, and grant leave to withdraw accordingly. The order will come into effect once Ms Campbell has served a copy of this order on the defendant company, and has filed an affidavit of service with the Court.¹¹

Christina Inglis
Chief Judge

Judgment signed at 3 pm on 20 January 2026

⁸ Rule 5.41(5).

⁹ *Burgess v Monk*, above n 6, at [19]–[20]; and *Criffel Deer Ltd v ANZ Bank New Zealand Ltd*, above n 6, at [7].

¹⁰ Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, r 4.2.

¹¹ High Court Rules, r 5.41(3).