



Employment Court of New Zealand

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Columba At Ascot (2009) Limited v Freiden [2023] NZEmpC 143 (29 August 2023)

Last Updated: 7 September 2023

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2023\] NZEmpC 143](#)

EMPC 240/2023

IN THE MATTER OF an application for a freezing and
 ancillary orders
BETWEEN COLUMBA AT ASCOT (2009) LIMITED
 Applicant
AND ANGELA FREIDEN
 Respondent

Hearing: On the papers
Appearances: L Bercovitch, counsel for
 applicant Respondent in person
Judgment: 29 August 2023

JUDGMENT (NO 4) OF JUDGE KATHRYN BECK

[1] On 19 July 2023, a judgment was issued by this Court making freezing and ancillary orders under [s 190\(3\)](#) of the [Employment Relations Act 2000](#) and [pt 32](#) of the [High Court Rules 2016](#) in respect of a bank account and any other assets held by Angela Freiden, to prevent her from disposing or otherwise dissipating that property pending the determination of the substantive claims brought by Columba at Ascot (2009) Ltd (Columba).¹

[2] Columba's claims were that Ms Freiden paid amounts to herself to which she was not entitled and created false accounting records in Columba's systems in order to channel payments of its funds into her own account. Columba argued that there was a good arguable case that the actions alleged constituted prima facie breaches of

¹ *MNO v PQR* [\[2023\] NZEmpC 109](#).

COLUMBA AT ASCOT (2009) LIMITED v ANGELA FREIDEN [\[2023\] NZEmpC 143](#) [29 August 2023]

the express and implied terms of Ms Freiden's employment agreement, her statutory duty of good faith, and her common law duty of fidelity to her employer.

[3] Those orders were amended and extended until 14 and 29 August 2023.² The matter was due to come back before the Court yesterday, 28 August 2023, for review.

[4] Counsel for Columba has filed a memorandum dated 25 August 2023 which seeks orders:

- (a) releasing the freezing orders over Ms Freiden's assets, with no issue as to costs;
- (b) lifting the non-publication order currently in place; and
- (c) vacating the hearing set down for 28 August 2023 and excusing appearances.

[5] On the basis of the memorandum and the advice from Ms Freiden that she did not wish to be heard, yesterday's hearing was vacated. This judgment makes the orders sought.

[6] The Court has been provided with a copy of the statement in reply filed by Ms Freiden in the Employment Relations Authority. In this document she admits liability to Columba in the amount of over \$300,000. Mediation of Columba's claim against her in the Authority has been set down for 1.30 pm on 14 September 2023.

[7] Since the freezing orders were made on 19 July 2023, Columba has made inquiries into Ms Freiden's asset position, based on the information obtained as a result of the orders. Ms Freiden appears to have no or minimal assets to which freezing orders can apply. Columba therefore considers that the freezing orders no longer serve any practical purpose and it is appropriate for them to be lifted. Columba takes this

2 *MNO v PQR* [2023] NZEmpC 119; and *MNO v PQR* [2023] NZEmpC 128.

position even though it considers that it has a good arguable case against Ms Freiden and that the freezing orders were properly granted and maintained in all other respects,

[8] I agree, and I make orders accordingly.

Non-publication order

[9] On 19 July 2023, the Court made an interim non-publication order over this matter.³ That order was made to provide Ms Freiden the opportunity to address the allegations or to try and preserve her identity.

[10] Given the early admissions by Ms Freiden, the parties were advised that the order would be reviewed at the next call of this matter. While initially advising that she intended to apply for the interim non-publication order to remain, Ms Freiden has now advised the Court that she does not wish to proceed with such application. Columba has also not sought a non-publication order either here or in the Authority.

[11] It is therefore appropriate for the interim non-publication order to be lifted immediately. There is no longer any basis for it to remain in place.

Conclusion

[12] The following orders are made:

- (a) The freezing and ancillary orders (as modified from time to time) are now released.
- (b) The interim non-publication order over the identity of the parties, including their names and any details that would tend to identify them, and over the evidence filed, is now lifted.

³ *MNO v PQR*, above n 1, at [4].

- (c) There is no issue as to costs.

Kathryn Beck Judge

Judgment signed at 8.30 am on 29 August 2023