



# Employment Court of New Zealand

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## Kohli v Brahmhatt [2020] NZEmpC 226 (14 December 2020)

Last Updated: 17 December 2020

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2020\] NZEmpC 226](#)

EMPC 334/2019

IN THE MATTER OF	challenges to determinations of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs
BETWEEN	BHUMIKA KOHLI First Plaintiff
AND	NZ CLEAN MASTER 2013 LIMITED Second Plaintiff
AND	PALAV BRAHMBHATT First Defendant
AND	HARDIK GEDIYA Second Defendant
AND	MANINDER SINGH Third Defendant
AND	HEMANT DHAMIJA Fourth Defendant

Hearing: On the papers

Appearances: D Jaques, counsel for plaintiffs  
D Fleming, counsel for  
defendants

Judgment: 14 December 2020

### COSTS JUDGMENT OF JUDGE J C HOLDEN

BHUMIKA KOHLI v PALAV BRAHMBHATT [\[2020\] NZEmpC 226](#) [14 December 2020]

[1] The plaintiffs filed challenges to two determinations of the Employment Relations Authority that together had ordered them to pay a total of \$134,332.25 (plus tax where applicable) in respect of arrears of wages, penalties and costs.<sup>1</sup>

[2] The plaintiffs applied for an unconditional stay of the Authority's determinations pending the outcome of the challenges. The defendants filed an application for security for costs.

[3] The Authority's determinations were stayed on condition that the plaintiffs pay the monies ordered by the Authority into Court by 16 March 2020. The plaintiffs also were ordered to pay security for costs in the amount of \$10,000 by 16 March 2020.<sup>2</sup>

[4] No monies were paid into Court and, on 9 October 2020, the proceedings were struck out.<sup>3</sup>

[5] The defendants now seek costs of \$17,442.68 including GST. Those are the defendants' actual costs and are less than costs under the Court's Guideline Scale, calculated in accordance with Category 2B, which was the costs categorisation given to these proceedings.<sup>4</sup> The plaintiffs have not taken any steps in relation to the application for costs, with counsel advising that Ms Kohli has left the country.

[6] The Court has a discretion as to costs. It must exercise that discretion in the interests of justice and in accordance with established principles. It has adopted the Guideline Scale to assist the Court and to promote predictability, expedition and consistency.<sup>5</sup>

[7] The defendants ultimately were successful in these proceedings. They were put to cost in taking the steps that they did. Their opposition to the application for an unconditional stay of the Authority's determinations was successful, as was their

1 *Brahmbhatt v Kohli* [2019] NZERA 507 (Member Arthur) (substantive); *Brahmbhatt v Kohli*

[2019] NZERA 557 (costs).

2 *Kohli v Brahmbhatt* [2020] NZEmpC 20.

3 *Kohli v Brahmbhatt* [2020] NZEmpC 115.

4. "Employment Court of New Zealand Practice Directions" <[www.employmentcourt.govt.nz](http://www.employmentcourt.govt.nz)> at No 16.

5 *Xtreme Dining Ltd v Dewar* [2017] NZEmpC 10, [2017] ERNZ 26 at [25].

application for security for costs. They are entitled to costs. The amount sought is reasonable in the circumstances. As they are not registered for GST, the inclusion of GST is appropriate.

[8] Accordingly, the plaintiffs are ordered jointly and severally to pay the defendants the amount of \$17,442.68 for costs with such payment to be made within 20 working days of the date of this judgment.

[9] There is no costs award in relation to the application for costs.

J C Holden Judge

Judgment signed at 10.30 am on 14 December 2020

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