

**ATTENTION IS DRAWN TO
THE ORDER PROHIBITING
PUBLICATION OF CERTAIN
INFORMATION IN THIS
DETERMINATION**

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 381
5477280

BETWEEN W
 Applicant

A N D X
 Respondent

Member of Authority: James Crichton

Representatives: Paul Wicks QC, Counsel for the Applicant
 Aaron Lloyd, Counsel for the Respondent

Investigation Meeting: On the papers

Date of Determination: 12 September 2014

FIRST DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] On 28 July 2014, the applicant (W) caused a Statement of Problem and other applications to be filed in the Authority. One of the applications filed with the Statement of Problem was an application for non-publication orders. It is that application which is the sole subject of this determination.

[2] The Authority is advised that there are permanent orders for non-publication of W's name and occupation and the industry in which he works together with like orders in relation to the identity of the respondent, X, those orders having been made by the High Court at Auckland.

[3] W seeks identical non-publication orders for this proceeding in the Authority on the basis that the existing permanent orders made by the High Court would be nugatory if like orders of the Authority were not made.

Determination

[4] I have had the opportunity of studying the judgment of Collins J in this matter: [2013] NZHC 489.

[5] I am satisfied that the logic that underpins the learned Judge's reasoning applies to this proceeding as much as to the matter the High Court dealt with, and a failure by the Authority to replicate the orders made in the High Court will effectively undo the force and effect of those orders. That is not something the Authority would lightly undertake.

[6] For reasons which I have already advanced, I am satisfied that the proper course of action in the present case is to make the non-publication orders sought. Counsel for X has indicated they will abide by any order the Authority makes in this matter. While the non-publication order sought relates only to material on the Authority's file concerning the criminal prosecution, the practical reality is that it is, or may be difficult for the Authority to deal appropriately with this matter, if it is constrained in any way by the non publication order.

[7] Accordingly, the Authority directs that first, the names of both parties be not published and second, any material on its file that relates to W's criminal prosecution is not to be published. It follows that material relating to W being charged, material relating to the non-publication of his name and the name of the respondent in relation to the criminal case are none of them to be published. As to the first non publication order, the Authority directs that heretofore, the applicant in this proceeding is to be known as W and the respondent as X.

[8] For the avoidance of doubt, in any proceeding in the Authority on this matter and any determination issued concerning this file, material relating to the matters identified are not to be published.

James Crichton
Member of the Employment Relations Authority