

ATTENTION IS DRAWN TO THE ORDER
PROHIBITING PUBLICATION AT PARAGRAPH
[12 & 13] OF THIS DETERMINATION

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**[2016] NZERA Auckland 345
5639861**

BETWEEN X
Applicant
AND Y
Respondent

Member of Authority: Eleanor Robinson
Representatives: Francis Peters, Counsel for Applicant
Chris Patterson/Nicola Hartwell, Counsel for Respondent
Determination: 13 October 2016

INTERIM DETERMINATION OF THE AUTHORITY

The Applications

[1] The Respondent has applied in a memorandum dated 12 October 2016 for a permanent non-publication order in respect of:

- a) The names of the Parties, the non-parties and the geographical area in which the Respondent's farm is based in the application before the Authority;
- b) Any information that might lead to the identification of the parties, non-parties or geographical area in which the Respondent's farm is based; and/or
- c) The evidence given or pleadings filed in the name of any party or witness or other person referred to in the application for non-publication.

[2] The application is made on a without notice basis.

[3] The reasons for this application for an interim non-publication order without notice are set out in an email which is accompanied by affidavits in support from the Respondent dated 12 October 2016. The Respondent submits in support of its application that the matter

has already attracted media interest as set out in the affidavits, namely an article which appeared in the news media in the latter part of last year but which did not contain any information which could lead to the identification of either party or any of the potentially affected non-parties.

[4] The application is further argued as necessary to protect the interests of non-parties who may be affected by the details of this matter being publicised and made known to the wider public. Three of the non-parties are the young children.

[5] The parties have been directed to, and will be attending mediation in this matter. Resolution of the matter at mediation will almost inevitably include a stipulation as to confidentiality.

[6] Failing resolution at mediation, the Authority will be conducting an investigation into the claims made by the Applicant.

[7] I have considered the application made by the Respondent and I am satisfied for the reasons set out in the email dated 12 October 2016 that an interim non-publication order is both necessary and appropriate, and that it is in the interests of justice to make such an order.

[8] This interim non-publication order shall apply until further order of the Authority.

[9] Given the without notice nature of the application, the parties are granted leave to apply to the Authority to vary the terms of this order and/or have it lifted prior to the Authority's investigation meeting.

[10] Whether or not this interim non-publication order will be made into a final non-publication order is a matter which will be addressed by the Authority at the time of the investigation meeting.

ORDER

[11] In these circumstances I conclude that it is appropriate that interim name suppression be granted in this matter.

[12] **Accordingly, pursuant to clause 10 (1) of Schedule 2 of the Employment Relations Act 2000 (the Act), I order that the name of the parties, the non-parties and the geographical area in which the Respondent's farm is based in the application before the Authority, and all or any part of any information, evidence given or pleadings filed which may lead to the identification of the parties, non-parties, and the geographical**

area in which the Respondent's farm is based are subject to an interim non-publication order.

[13] Pursuant to Schedule 2 clause 10(1) of the Act the names of the parties and the non-parties referred to in this matter are not be published. They are to be referred to by letters bearing no relationship to their actual names.

[14] The parties are advised that a breach of this Order will be considered as obstructing the Authority's investigation and liable to a penalty pursuant to s134A of the Employment Relations Act 2000 (the Act). Pursuant to s 135(2) of the Act:

(2) Every person who is liable to a penalty under this Act is liable,-

(a) in the case of an individual to a penalty not exceeding \$10,000;

(b) in the case of a company or other corporation, to a penalty not exceeding \$20,000

**Eleanor Robinson
Member of the Employment Relations Authority**