

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

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2024] NZEmpC 60
EMPC 181/2023**

IN THE MATTER OF a challenge to a determination of the
Employment Relations Authority

AND IN THE MATTER OF an application to join a party

BETWEEN MICHAEL LANIGAN AND THE
OTHER PLAINTIFFS LISTED IN
APPENDIX A
Plaintiffs

AND FONTERRA BRANDS (NEW
ZEALAND) LIMITED
Defendant

Hearing: On the papers

Appearances: BA Smith and T Oldfield, counsel for plaintiffs
RM Rendle, counsel for defendant
P Cranney, counsel for E tū Inc

Judgment: 10 April 2024

**INTERLOCUTORY JUDGMENT (NO 2) OF JUDGE K G SMITH
(Application to join a party)**

[1] This proceeding is a challenge to a determination of the Employment Relations Authority that concluded the defendant company may lawfully and reasonably instruct the plaintiffs to use fingerprint technology for time recording purposes.¹

¹ *Fonterra Brands (New Zealand) Ltd v Lanigan* [2023] NZERA 197 (Member Dumbleton).

[2] An application has now been made by way of memorandum on behalf of E tū Inc seeking to be joined to the proceeding as a plaintiff. The application is consented to by the plaintiffs and not opposed by the defendant.

[3] The power to join a party to a proceeding is conferred by s 221 of the Employment Relations Act 2000. An order may be made joining any party to the proceeding if doing so enables the Court to more effectually dispose of any matter before it according to the substantial merits and equities of the case. The threshold is relatively low.

[4] E tū Inc and the defendant are parties to a collective agreement operative between 1 March 2023 and 28 February 2024. The union's interest in this proceeding arises because the litigation will involve interpreting and/or applying the collective agreement and, in particular, whether or not it permits the method of time recording the defendant intends to operate.

[5] Given the role the collective agreement will play in this proceeding, allowing the union to participate as a party falls squarely within s 221.

Outcome

[6] The application is granted.

[7] The application proposed a timetable for amended pleadings if it succeeded. The timetable was consented to by the plaintiffs and defendant. Applying that timetable I order as follows:

- (a) A further amended statement of claim, incorporating the claims of all of the plaintiffs against the defendant, is to be filed and served within 21 days of the date of this judgment.
- (b) An amended statement of defence (if any) is to be filed and served within 28 days of the amended statement of claim being served.

[8] Costs are reserved.

K G Smith
Judge

Judgment signed at 2.15 pm on 10 April 2024

APPENDIX A

PETER ARMSTRONG

JAN BOSMA

MARTIN BROCK

ANTHONY CROPP

SHANNON FARLEY

DION HUBERS

BRIAN HUGHES

ANDREW JAMES

BRADLEY JESSON

CLIFF MCNEIL

WILLIAM MARR

BRUCE MUNRO

JASON POWRIE

DARREL ROBERTS

PAUL TAU

JEREMY WRIGHT