

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

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

**[2025] NZEmpC 154
EMPC 250/2025**

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

AND IN THE MATTER OF an application for stay of proceedings

BETWEEN A LABOUR INSPECTOR OF MINISTRY
 OF BUSINESS, INNOVATION AND
 EMPLOYMENT
 Plaintiff

AND ELEMENTS THERAPEUTIC MASSAGE
 LIMITED
 First Defendant

AND XUAN ZHANG
 Second Defendant

AND PING DU
 Third Defendant

Hearing: On the papers

Appearances: G La Hood, counsel for the plaintiff
 No appearance for the first and second defendants
 A Douglass, counsel for the third defendant

Judgment: 24 July 2025

**CONSENT INTERLOCUTORY JUDGMENT OF JUDGE M S KING
(Application for stay of proceedings)**

[1] This proceeding concerns a judgment of the Court where the Labour Inspector's application for an extension of time to challenge a determination of the Employment Relations Authority (the Authority) was granted.¹

[2] In the judgment the Court reserved the issue of costs and indicated that if agreement could not be reached between the parties the third respondent, Ping Du, could file a memorandum seeking costs.

[3] On 17 June 2025 Mr Du filed an application for an extension of time for leave to appeal, and an application for leave to appeal the Employment Court judgment. The application for leave and application for an extension of time are scheduled to be heard on the papers by the Court of Appeal in the week of 17 November 2025.

[4] By consent, the parties seek orders from the Court to stay the proceedings pending the outcome of the application for leave, and if granted, an appeal to the Court of Appeal. The parties' consent to the stay of proceedings does not apply to the issue of costs arising from the Court's judgment.

[5] Accordingly, by consent, I order that this proceeding (EMPC 250/2025) be stayed, pending the outcome of the application for leave to the Court of Appeal and, if granted, the appeal itself. For the avoidance of doubt the issue of costs on the Court's judgment is not stayed.

[6] Costs are reserved.

M S King
Judge

Judgment signed at 12.15 pm on 24 July 2025

¹ *A Labour Inspector v Elements Therapeutic Massage Ltd* [2025] NZEmpC 94; *A Labour Inspector v Elements Therapeutic Massage Ltd* [2022] NZERA 415.