



# Employment Court of New Zealand

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## Dr X v A District Health Board [2012] NZEmpC 158 (17 September 2012)

Last Updated: 25 September 2012

IN THE EMPLOYMENT COURT CHRISTCHURCH

[\[2012\] NZEmpC 158](#)  
CRC 23/12

IN THE MATTER OF an opposed application for adjournment

BETWEEN DR X Plaintiff

AND A DISTRICT HEALTH BOARD Defendant

Hearing: By submissions filed on 12, 13 and 14 September 2012

And by telephone conference call on 17 September 2012

Counsel: Mr Jeffcoat, counsel for plaintiff

Mr McBride, counsel for defendant

Judgment: 17 September 2012

### INTERLOCUTORY JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] Interim non-publication orders were previously made by the Court. The defendant has applied for a lifting of those orders, which is opposed by the plaintiff. A hearing of the opposed application was set down for 1 October 2012. The plaintiff seeks an adjournment of that hearing.

[2] The application for an adjournment is advanced on the grounds that the Medical Council is involved and will shortly be considering the issue of name suppression in the context of its inquiry. It is said that the plaintiff's position would be undermined if the Court proceeded to deal with the defendant's application to lift the non-publication order in the interim. Reference is also made to an application for a compliance order that has been filed in the Employment Relations Authority. That

application relates to a settlement agreement entered into between the parties,

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following which the plaintiff discontinued her proceedings in this Court. The plaintiff says that the defendant has breached the agreement by applying to lift the non-publication orders.

[3] The Authority is conducting an investigation into the matters raised by the plaintiff on 5 October 2012. It is unclear, at this stage, when the Medical Council may conclude its consideration of the matters before it.

[4] The application for an adjournment is opposed. Mr McBride, counsel for the defendant, noted a particular concern about ongoing delays and a desire (on the part of the defendant) to bring matters to a conclusion. As he pointed out, the Medical Council's consideration could take a number of months.

[5] I have had regard to the factors identified on the defendant's behalf, including the public interest in open justice.

However, I consider that it is in the broader interests of justice that the hearing of the defendant's application be adjourned. The Medical Council is to consider whether or not the plaintiff's name and identifying details ought to be suppressed in the context of its inquiry. Lifting the interim orders made in this Court would effectively undermine any such determination. Further, the Authority is to consider the ambit of the parties' settlement discussions and agreement, and (in particular) whether the defendant agreed not to advance an application to lift the interim orders made. The outcome of the Authority's investigation may have some bearing on the defendant's application. I note, for completeness, that Mr Jeffcoat indicated that his client was not practising and was not intending to practice pending the outcome of the Medical Council's deliberations.

[6] While I am prepared to grant the adjournment sought, I am concerned not to allow matters to drag on indefinitely. Mr Jeffcoat is to file a memorandum, within

10 working days of today's date, advising of the steps being taken before the Medical Council to seek a non-publication order, and the likely timeframes involved. He is also to advise the outcome of the Authority's investigation as soon as that comes to hand.

[7] The hearing currently set down for 1 October 2012 is adjourned sine die. The non-publication orders currently in force are to continue in the interim pending further order of the Court.

[8] Leave is granted to either party to apply for further orders or directions on reasonable notice.

[9] Costs are reserved.

Christina Inglis

Judge

Judgment signed at 4.30pm on 17 September 2012

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