

**ORDER PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING
PARTICULARS OF THE PARTIES AND WITNESSES**

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

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

**[2023] NZEmpC 219
EMPC 429/2023**

IN THE MATTER OF	an application for without notice search orders
BETWEEN	ELG Applicant
AND	KLE Respondent

Hearing: 4 December 2023
(Heard at Christchurch via Audio Visual Link)

Appearances: M Sumpter, M Wisker and H S E Smith, counsel for applicant
C Eggleston, counsel for respondent
R Towner, independent solicitor

Judgment: 4 December 2023

ORAL JUDGMENT OF JUDGE K G SMITH

[1] This morning I heard from Mr Towner, who was appointed as the independent solicitor to carry out the search order that resulted from my judgment of 23 November 2023.¹

[2] Mr Towner reported that the search was carried out on 27 November 2023 and that throughout it the defendant, KLE, cooperated fully. That assistance enabled the search to be executed expeditiously.

¹ *ELG v KLE* [2023] NZEmpC 211.

[3] The search resulted in the seizure of about 77 physical items. Among the seized items were four laptops, four desktops, nine hard drives, three mobile phones, over 20 USB smart sticks, and sundry storage devices. Access was also provided to 12 cloud accounts. Some physical items were immediately returned to ELG by agreement.

[4] Accompanying Mr Towner's report was a memorandum from Ben Crossman at Deloitte. Mr Crossman also swore an affidavit explaining steps taken by him during the search and the next phase of Deloitte's forensic analysis. The nature of that analysis means it is unlikely to be concluded for several weeks.

[5] In addition to hearing from Mr Towner this morning I heard from Mr Sumpter and Mr Eggleston, who is acting for KLE. I was told by counsel that there is a prospect that matters may be resolved, but in any event given the present situation an opportunity is needed to return to Court as soon as is reasonably possible.

[6] After hearing from counsel, the following further orders are made:

- (a) The search order made on 23 November 2023 is continued and the items seized, and copied, except for those that have returned by agreement to ELG, are to remain in the custody or under the control of Mr Towner and Mr Crossman until further order of the Court.
- (b) Mr Crossman is to provide Deloitte's report (which may be an interim one) as soon as is possible but no later than **30 January 2024**.
- (c) The hearing will resume on **9.30 am on 5 February 2024** and again will be conducted by AVL.
- (d) For the avoidance of doubt, and by consent, there will be a continuation of the interim order for non-publication and the order that the file is not to be searched except by leave of a Judge.

[7] Leave is reserved to the parties to apply on reasonable notice for further or other orders.

[8] Costs are reserved.

K G Smith
Judge

Judgment delivered orally at 10 am on 4 December 2023