

**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**

**[2024] NZEmpC 8
EMPC 429/2023**

IN THE MATTER OF an application for without notice search
orders

BETWEEN ELG
Applicant

AND KLE
Respondent

Hearing: On the papers

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

Judgment: 2 February 2024

JUDGMENT (NO 3) OF JUDGE K G SMITH

[1] On 23 November 2023, a search order was granted to the applicant.¹ That order was continued in the subsequent judgment of 4 December 2023, which decision also scheduled a further hearing on 5 February 2024 to review the orders previously made.²

[2] On 30 January 2024, Mr Towner, in his capacity as independent solicitor, filed his second report attached to which was a report from the independent analysts, Deloitte, setting out progress in forensically analysing the items seized and uplifted in the search that was undertaken pursuant to the orders made in November 2023.

¹ *ELG v KLE* [2023] NZEmpC 211.

² *ELG v KLE* [2023] NZEmpC 219.

[3] The Deloitte's report:

- (a) categorised the property uplifted and explained how it determined that particular items contained confidential information belonging to the applicant;
- (b) recommended next steps that might be taken; and
- (c) identified those devices yet to be searched.

[4] In response to Mr Towner's second report, counsel for the applicant and respondent filed a joint memorandum on 2 February 2024 in which they acknowledged reviewing the report and advised that attempts are being made by them to resolve the underlying proceeding in the Employment Relations Authority. A joint request was, therefore, made by counsel to adjourn Monday's hearing to a date to be scheduled after 4 March 2024 and in the meantime to continue the orders previously made.

[5] In the circumstances, I accept that the application is appropriate. By consent:

- (a) the hearing scheduled for 5 February 2024 is adjourned until the first available date after 4 March 2024; and
- (b) the orders made on 23 November 2023 and continued on 4 December 2023 are further continued pending further order of the Court. For the avoidance of doubt those orders include the non-publication of the names of the parties or information that might identify them and that the Court file is not to be searched without the leave of a Judge.

[6] Costs are reserved.

K G Smith
Judge

Judgment signed at 12.30 pm on 2 February 2024