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JKL v OPQ Limited (Wellington) [2018] NZERA 2029; [2018] NZERA Wellington 29 (23 April 2018)

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JKL v OPQ Limited (Wellington) [2018] NZERA 2029 (23 April 2018); [2018] NZERA Wellington 29

Last Updated: 4 May 2018

IN THE EMPLOYMENT RELATIONS AUTHORITY WELLINGTON

[2018] NZERA Wellington 29
3017796

BETWEEN JKL Applicant

AND OPQ LIMITED Respondent

Member of Authority: M B Loftus

Representatives: Greg Cain, Counsel for Applicant

Steph Dyhrberg, Counsel for Respondent

Investigation Meeting: On the papers and by telephone conference on 23 April

2018

Determination: 23 April 2018

**DETERMINATION OF
THE EMPLOYMENT RELATIONS AUTHORITY**

[1] On 9 October 2017 I issued interim orders in respect to various matters between the parties.¹ In particular I ordered OPQ be restrained from continuing part of a disciplinary inquiry into aspects of JKL's conduct given the potential his participation might be impeded by a concurrent investigation of the Serious Fraud Office (SFO). I also issued an order prohibiting publication of the pleadings, attached documents, information contained there-in and anything which may lead to the identification of the parties.

[2] On 2 February 2018 these orders were renewed and that concerning the scope of OPQ's possible disciplinary enquiry was widened.² The revised orders remained in place till 2 May 2018.

[3] On 5 April 2018 the SFO laid various charges against JKL. That led to an application the previous orders be again extended though there was the possibility

¹*JKL v OPQ Limited* [2017] NZERA Wellington 102

²*JKL v OPQ Limited* [2018] NZERA Wellington 11

those concerning the scope of OPQ's disciplinary investigation might perhaps be amended.

[4] The application led to a telephone conference though in the interim circumstances altered yet again. As a result the parties now agree the orders restraining OPQ in respect to its disciplinary inquiry are no longer required. They shall therefore lapse forthwith though that does not, depending on future events, preclude the possibility similar claims may again arise.

[5] The request regarding an extension of the prohibition order remains. OPQ

opposes the application.

[6] Having listened to the parties I advised, during the telephone conference, that I would extend the order. The prime reason is an initial hearing of the SFO's charges has been scheduled and JKL will seek name suppression. It makes no sense to lift my orders in a way which may fetter, compromise or otherwise undermine the Court's ability to consider that application, especially as the outcome should soon be known.

[7] To that end I advised the parties I will continue the non-publication order until

17 May 2018. In the interim Mr Cain shall, as soon as he knows the outcome of the

Court's deliberation, advise both Ms Dyhrberg and the Authority.

[8] At that time further decisions will be made, after input from the parties, as to how this matter will progress.

Conclusion and Orders

[9] For the above reasons I order a continuation of the interim prohibition on publishing any information contained in the pleadings and accompanying documents filed in the Authority as well as anything which may lead to the identification of the

parties.³ This order remains in place until 17 May 2018.

[10] Costs are reserved.

M B Loftus

Member of the Employment Relations Authority

3 Above n 1 at paragraph 48 (d)

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