



# Employment Court of New Zealand

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## MW v Spiga Limited [2024] NZEmpC 187 (30 September 2024)

Last Updated: 3 October 2024

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2024\] NZEmpC 187](#)

EMPC 20/2023

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application to access Court documents
BETWEEN	MW Plaintiff
AND	SPIGA LIMITED Defendant

Hearing: On the papers

Appearances: A Mapu, advocate for plaintiff  
No appearance for defendant  
RE Harrison KC, counsel to assist  
J Lill for Findex Ltd

Judgment: 30 September 2024

INTERLOCUTORY JUDGMENT (NO 4) OF JUDGE B A CORKILL

(Application to access Court documents)

[1] An application has been made by Joseph Lill, of Findex Ltd, to access a copy of the report provided by a pūkenga, Māmari Stephens, as to the role of tikanga in non-publication proceedings.

[2] Ms Stephens assisted the Court by producing her report, and giving oral evidence as to tikanga, which was subsequently referred to in the judgment of the Court.<sup>1</sup>

<sup>1</sup> *MW v Spiga Ltd* [\[2024\] NZEmpC 147](#) at [\[62\]](#), [\[68\]](#), [\[219\]](#), [\[221\]](#)–[\[223\]](#) and [\[226\]](#).

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[3] Mr Lill says that his firm undertakes workplace investigations. He says the role of tikanga within those processes is increasingly important and prevalent.

[4] It is well accepted that the Court may grant access to documents held on the court file.<sup>2</sup> Considering an application for access to Court documents involves a discretion.<sup>3</sup>

[5] Mr Mapu, advocate for the plaintiff, stated that the plaintiff has no issue regarding this application. The defendant has not participated in these proceedings.

[6] Mr Harrison KC, counsel to assist, is currently overseas and asked that his attendance be excused.

[7] A copy of the application was forwarded by the registry to Ms Stephens, who advised she has no difficulties with her

report being made available, as requested.

[8] In all the circumstances, I accept that providing access to the report as requested is appropriate, given the reasons advanced for obtaining it and the principle of open justice (which has greater weight since the substantive hearing has concluded).<sup>4</sup> There is no suggestion that confidentiality or privacy interests will be imperilled.

[9] The application to access Court documents is granted.

[10] A copy of the pūkenga report is accordingly to be provided to Mr Lill.

2. In analysing an application for access, the Court has previously found it helpful to have regard to the approach set out in the [Senior Courts \(Access to Court Documents\) Rules 2017](#), applied via reg 6 of the [Employment Court Regulations 2000](#). See, for example, *Prasad v LSG Sky Chefs New Zealand Ltd* [\[2017\] NZEmpC 160](#); and *KAQ v Attorney-General* [\[2021\] NZEmpC 196](#).
3. *Sawyer v Vice-Chancellor of Victoria University of Wellington* [\[2019\] NZEmpC 7](#); citing *Greymouth Petroleum Holdings Ltd v Empresa Nacional del Petróleo* [\[2017\] NZCA 490](#), [\[2017\] NZAR 1617](#).

<sup>4</sup> See Senior Court (Access to Court Documents) Rules, rr 12 and 13.

[11] No issue as to costs arises.

Signed at 10.30 am on 30 September 2024

B A Corkill Judge

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