

**Attention is drawn to the order prohibiting publication of certain information in this determination**

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2018] NZERA Auckland 129  
3024402

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|---------|---|
| BETWEEN | SEGER ROADING LIMITED<br>Applicant                        |
| A N D   | JACOB PROCTOR<br>First Respondent                         |
| AND     | JASON MATHER<br>CONSTRUCTION LIMITED<br>Second Respondent |

Member of Authority: Rachel Larmer

Representatives: Blair Edwards, Counsel for Applicant  
Michael Black, Counsel for First Respondent  
Jeremy Sparrow, Counsel for Second Respondent

Investigation Meeting: On the papers

Submissions Received: Joint Bundles of relevant documents filed on 26 April 2018

Date of Determination: 27 April 2018

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**DETERMINATION OF THE  
EMPLOYMENT RELATIONS AUTHORITY**

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[1] Further to the discussions held during the telephone conference on 15 March 2018 the parties have worked together to address issues regarding the Applicant's confidential and commercially sensitive information which has been filed with the Authority in support of its claims.

[2] The parties agree that the bundle marked "Confidential Joint Bundle of Documents" should be subject to a non-publication order. The parties do not agree that the bundle marked

“Disputed Confidential Information Joint Bundle of Documents” should be subject to a non-publication order.

[3] I consider it is in the interests of justice to issue a non-publication order regarding the bundle marked “*Confidential Joint Bundle of Documents*” that the parties agree contains solely confidential information.

[4] I am not currently in a position to form a definitive view regarding the confidentiality or otherwise of the disputed bundle of documents.

[5] So in order to preserve the potential confidentiality of the disputed documents until witnesses can be questioned about them during the Authority’s substantive investigation meeting I now make an interim non-publication order regarding the “*Disputed Confidential Information Joint Bundle of Documents*” which is to remain in place pending the further order of the Authority.

[6] The parties have leave to revert to the Authority regarding the interim non-publication order if it creates any issues in terms of a parties’ ability to prepare for the substantive investigation meeting.

[7] The interim non-publication order can be reviewed at the conclusion of the evidence given during the substantive investigation meeting. The parties shall have an opportunity to provide submissions on whether the interim non-publication order shall remain final and on whether or not the disputed documents meet the legal test for confidential information.

[8] The non-publication order and interim non-publication orders referred to above are made by the Authority pursuant to clause 10 Second Schedule Employment Relations Act 2000, on the basis that there is no current public interest in making this information available and that it is in the interest of justice to allow the Applicant to preserve the confidentiality of its confidential and potentially confidential information until its confidentiality claim can be tested.

**Rachel Larmer**  
**Member of the Employment Relations Authority**