



# Employment Court of New Zealand

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## Thompson v Phoenix Publishing Limited [2019] NZEmpC 149 (18 October 2019)

Last Updated: 23 October 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURĀU

[\[2019\] NZEmpC 149](#)

EMPC 189/2019

IN THE MATTER OF      an application under [ss 138\(6\)](#) and  
                                 [140\(6\)](#) of the [Employment Relations Act](#)  
                                 [2000](#)

AND IN THE MATTER    of an application to join a party

BETWEEN                JOY THOMPSON  
                                 Plaintiff

AND                        PHOENIX PUBLISHING LIMITED  
                                 Defendant

Hearing:                7 October 2019  
                                 (Heard at Christchurch via Audio Visual  
                                 Link)

Appearances:        G Ogilvie, advocate for plaintiff No  
                                 appearance for defendant

Judgment:             18 October 2019

### INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH

(Application to join a party)

[1] On 21 January 2019, Joy Thompson obtained a compliance order against Phoenix Publishing Ltd.<sup>1</sup> The order compelled the company to pay Ms Thompson

\$5,000 pursuant to [s 123\(1\)\(c\)\(i\)](#) of the [Employment Relations Act 2000](#) (the Act) and

\$4,383.52 for wage arrears, plus interest, within 14 days. In a subsequent determination, the Authority imposed a penalty on Phoenix Publishing of \$15,000 payable within seven days.<sup>2</sup>

<sup>1</sup> *Thompson v Phoenix Publishing Ltd* [\[2019\] NZERA 25](#).

<sup>2</sup> *Thompson v Phoenix Publishing Ltd* [\[2019\] NZERA 117](#).

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[2] On 18 June 2019, Ms Thompson filed proceedings in the Court seeking as relief the imposition of sanctions on Phoenix Publishing, pursuant to [s 140\(6\)](#) of the Act, because the compliance order has not been satisfied.

[3] The statement of claim anticipated an application to join Ms Rawson, Phoenix Publishing's only director, to the proceeding and named her as a defendant. In a contemporaneous application, orders were sought joining Ms Rawson on the same basis advanced in an application heard contemporaneously in *Cooper v Phoenix Publishing Ltd*. This judgment is being issued at the same time as the judgment in that case.<sup>3</sup>

[4] The application to join Ms Rawson is misconceived. It is premised on the Court making a further compliance order compelling her to make the company comply with the Authority's determination when the proceeding is about whether

sanctions for non-compliance should be imposed.<sup>4</sup>

[5] The application to join Ms Rawson is unsuccessful and is dismissed.

[6] Costs are reserved.

K G Smith Judge

Judgment signed at 4.15 pm on 18 October 2019

3 *Cooper v Phoenix Publishing Ltd* [2019] NZEmpC 148.

4 At [11]-[14].

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