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YQO v MYN [2024] NZEmpC 100 (12 June 2024)

Last Updated: 17 June 2024

ORDER PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF THE PARTIES IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2024\] NZEmpC 100](#)
EMPC 111/2024

IN THE MATTER OF	an application for special leave to remove proceedings to the Court
AND IN THE MATTER OF	an application for interim non-publication orders
BETWEEN	YQO Applicant
AND	MYN Respondent

Hearing: 12 June 2024
(Heard at Wellington by telephone)

Appearances: M W O'Brien and J Plunket, counsel for applicant
C W Stewart and D Church, counsel for respondent

Judgment: 12 June 2024

INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

(Application for interim non-publication orders)

[1] The respondent (MYN) seeks interim orders prohibiting the publication of the names and identifying details of the parties. The applicant (YQO) does not oppose the application and is content to abide the decision of the Court. The application arises in the context of an application for special leave to remove a matter from the Employment Relations Authority.

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[2] I heard from counsel during the course of a telephone conference this morning. I indicated that I would deliver a judgment today.

[3] The basis on which the Authority made orders of non-publication is set out in its determination.¹ After referring to the approach articulated in *H v A Ltd*,² *XYZ v ABC*,³ *Crimson Consulting Ltd v Berry*⁴ and *Erceg v Erceg*⁵ it was said that:

[12] In this case I find the allegations made by YQO in the Statement of Problem are serious in nature and have the potential to cause reputational damage to MYN before the claims are tested by evidence and investigation.

[13] On that basis, I consider that there are grounds sufficient to justify the making of an interim order.

[4] The interim order was made pending a substantive determination of the issues between the parties.

[5] Ms Stewart, counsel for the respondent, submits that it is appropriate for the Court to make mirror orders, essentially to

preserve the integrity of the orders made in the Authority.⁶

[6] The Court has broad powers to make orders of non-publication. The judgments referred to by the Authority emphasise that such orders should only be made where the Court is satisfied, to a high standard, that the interests of justice require a departure from the usual principles of open justice. The Authority was prepared to infer potential damage to reputation in the event that the names of the parties were published, having regard to the nature of the allegations before it.

[7] I am satisfied that it is appropriate, in the broader interests of justice, to make the interim order sought. That is because I consider such an order necessary to protect the integrity of the order made in the Authority, weighing against the interests of open justice emphasised in the judgments referred to above.

1 *YQO v MYN* [2024] NZERA 108 at [12]- [13].

2 *H v A Ltd* [2014] NZEmpC 92, [2014] ERNZ 38.

3 *XYZ v ABC* [2017] NZEmpC 40, [2017] ERNZ 175.

4 *Crimson Consulting Ltd v Berry* [2017] NZEmpC 94, [2017] ERNZ 511.

5 *Erceg v Erceg* [2016] NZSC 135, [2017] 1 NZLR 310.

6 See *MW v Spiga Ltd* [2023] NZEmpC 46.

[8] It is on that basis that I consider it desirable to exercise the discretion conferred the [Employment Relations Act 2000](#), sch 3 cl 12.

[9] Accordingly there is an interim order prohibiting publication of the names of the parties or any information that might tend to identify them until further order of the Court. For convenience the Court will use the same anonymised descriptors for the parties as the Authority used.

[10] I do not understand any issue of costs to arise on this application.

Christina Inglis Chief Judge

Judgment signed at 4.00 pm on 12 June 2024

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