

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2012] NZEmpC 145
ARC 15/09**

IN THE MATTER OF interlocutory applications

BETWEEN LUCY ORA HAMON
 Plaintiff

AND COROMANDEL LIVING TRUST
 Defendant

Hearing: By memorandum filed on 28 August 2012
 (Heard at Auckland)

Judgment: 29 August 2012

INTERLOCUTORY JUDGMENT (NO 2) OF JUDGE B S TRAVIS

[1] By an email of 17 August 2012 the Chief Mediator of the Mediation Service on behalf of the Labour Group, Ministry of Innovation, Business and Employment, has requested leave to make submissions in this matter which involves mediation confidentiality under s 148 of the Employment Relations Act 2000.

[2] The request was circulated to the parties and on 21 August 2012 Mr Coltman, on behalf of the defendant, advised that the defendant did not oppose the application of the Chief Mediator for leave to file submissions.

[3] The Court has today received from the plaintiff, a memorandum objecting to the Chief Mediator being permitted by the Court to make submissions on the following grounds:

- (a) The Chief Mediator is not a party to the proceedings;

- (b) By inference the Chief Mediator will be self-serving and will seek s 148 to be expanded or maintained. This is contrary to what the plaintiff is seeking, that is that s 148 be restricted;
- (c) The bias of the Chief Mediator will injure the plaintiff's case;
- (d) The plaintiff has to contend with a second party (the Chief Mediator) who may improve the defendant's case to the disadvantage of the plaintiff;
- (e) The Chief Mediator is forbidden from accessing the affidavits and submissions filed on this application. Therefore the Chief Mediator's submissions can only be of a general nature and are of no use as the plaintiff's application turns on the particular facts of this case.

[4] In these circumstances, if the Chief Mediator wishes to pursue the matter, a formal application for leave will need to be filed. Any such application should be filed and served by Friday 28 September 2012.

[5] As the application for leave is likely to be opposed by the plaintiff a hearing will be required at which the parties will be entitled to be heard and make submissions.

[6] In the meantime the timetable for filing further submissions in the part-heard matter, which required the plaintiff to file her submissions within 30 days of receipt of the defendant's supplementary submissions which were filed on 13 August 2011, is suspended.

B S Travis
Judge

Judgment signed at 4.15pm on 29 August 2012