

**IN THE EMPLOYMENT COURT
WELLINGTON**

**[2012] NZEmpC 170
WRC 22/10**

IN THE MATTER OF proceedings removed from the
 Employment Relations Authority

AND IN THE MATTER OF an application for costs

BETWEEN SERVICE AND FOOD WORKERS
 UNION NGA RINGA TOTA INC
 First plaintiff

AND THE PERSONS LISTED AT
 SCHEDULE A
 Second plaintiffs

AND OCS LIMITED
 Defendant

Hearing: By memoranda of submissions filed on 1 October 2012

Appearances: Peter Cranney, counsel for plaintiff
 Paul McBride, counsel for defendant

Judgment: 4 October 2012

COSTS JUDGMENT OF CHIEF JUDGE G L COLGAN

[1] Following the conclusion of appeals in this matter in the Supreme Court, OCS Limited (OCS) has now applied for an order for costs against the plaintiffs. It seeks a contribution to its legal costs and disbursements of \$11,000.

[2] The defendant says that its actual legal costs were \$17,500 so that a contribution of \$11,000 is a reasonable one to costs reasonably incurred.

[3] Each party was partially successful in this Court: the plaintiffs were found to be entitled to “redundancy entitlements” but the defendant was successful in

resisting their claim to monetary redundancy compensation. That is still the final position after the Supreme Court's judgment.

[4] The case was truly a test case of previously uninterpreted and equivocal statutory language as has been illustrated by appeals to both the Court of Appeal and the Supreme Court. Both parties (and others) have benefited in establishing their legal positions.

[5] Although costs usually follow the event, the event in this case saw the spoils shared largely equally. For that reason, and also because this was truly a test case of new legislation, I decline to make any award of costs to any party. All must bear the legal costs and disbursements they have incurred.

GL Colgan
Chief Judge

Judgment signed at 12 noon on Thursday 4 October 2012

SCHEDULE A

BRANS	Joan
BURN	Raymond
CHAN	Shwee Yee Phee
CHAN	Than Than
CHATTERTON	Ian
CHEN	Xiu Qi
COOTES	Arapere
COOTES	Kay
DANIELS	Kari
DOWNING	Mellame
FRYER	Jan
FOLAU	Percy Te Hira
FOTU	Alalva
FOTU	Lagisa
GUO	Baode
HAMPSON	Colleen
HOLMES	Harry
HUANG	Oriole
IVOGA	Seko
KEI	Po'oi
LAULALA	Tufue
MADSEN	Christine
MALLARD	Jaimee
MALLETT	John
MAXWELL	Chrissy
OHLSON	Mary
PANDEY	Anju
PANIORA	Barbara
POTAE	Chad
PURVIS	Lorraine
RAME	Tereora
RASTON	Paul
REEVES	Stephen Mark
ROPIHA	Ruth
ROSS	Gavyn
SEINI	Kei
SHI	Wei Dong
TALLENTIRE	Bryan
TAUPAU	Tululga
TELEFONI	Alisi
TE PEETI	Clive
TOAGA	Mau
TUFUGA	Tualagi
VAEAU	Sefina
WALTERS	Ross
WATSON	Steven

YOUNG
YOUNG
YOUNG
ZAKIROVA

Crystal
Garry
Judi
Inna