

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2019] NZEmpC 50
EMPC 90/2019**

IN THE MATTER OF proceedings removed from the Employment
Relations Authority

AND IN THE MATTER OF an application for a non-publication order

BETWEEN METROPOLITAN GLASS & GLAZING
LIMITED
Plaintiff

AND A LABOUR INSPECTOR, THE MINISTRY
OF BUSINESS, INNOVATION AND
EMPLOYMENT
Defendant

Hearing: On the papers

Appearances: JM Roberts and E Callister-Baker, counsel for plaintiff
C English, counsel for defendant

Judgment: 3 May 2019

**INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS
(Application for non-publication order)**

[1] The parties seek orders prohibiting publication of the names and identifying details of certain employees named in an audit undertaken by the Labour Inspector.

[2] Clause 12 of sch 3 to the Employment Relations Act 2000 enables the Court to order that “all or any part of any evidence given or pleadings filed or the name of any party or witness or other person not be published,” subject to such conditions as the Court thinks fit. The starting point is that proceedings in the Court ought to be

conducted openly and subject to report without restriction.¹ While that is the starting point, it is necessary to weigh a range of considerations, including the potential consequences of publication on the individual employees involved.

[3] This case involves a claim by the Labour Inspector. It centres on the lawfulness of certain employment practices of the company. Those practices are said to be reflected in the way in which the named employees (who represent a sample) were dealt with over time. The proceedings were removed to the Court on the basis that they concerned important questions of law. The parties agree that the actual identity of the employees, and the personal details relating to them, are not relevant to the inquiry which the Court will need to undertake. They therefore seek that the employees be referred to as Employees 1, 2 and 3 and their identifying details be protected by a non-publication order.

[4] Having considered the matters raised in support of the application, including in the Labour Inspector's affidavit, I am satisfied that it is appropriate that a non-publication order be made. There is minimal public interest in knowing the employees' identities and personal details, and to the extent that such an interest exists, it is outweighed by the potential prejudicial consequences of publication.

[5] Accordingly, there will be a permanent order prohibiting the publication of the employees' names and any identifying details. The employees will be referred to as "Employee 1"; "Employee 2" and "Employee 3".

[6] No issue of costs arises.

Christina Inglis
Chief Judge

Judgment signed at 2 pm on 3 May 2019

¹ *H v A Ltd* [2014] NZEmpC 92, [2014] ERNZ 38; *X v Standards Committee (No 1) of the New Zealand Law Society* [2011] NZCA 676.