

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

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

**[2020] NZEmpC 33
EMPC 340/2019**

IN THE MATTER OF	a declaration under s 6(5) of the Employment Relations Act
AND IN THE MATTER OF	an application for leave to extend time to file pleadings
AND IN THE MATTER OF	an application for leave to appear and be heard as intervenor
BETWEEN	JANE CARRIGAN First Plaintiff
AND	CHRISTINE FLEMING Second Plaintiff
AND	THE ATTORNEY-GENERAL sued on behalf of THE HONOURABLE CARMEL SEPULONI in her capacity as THE MINISTER OF SOCIAL DEVELOPMENT AND MINISTER FOR DISABILITY First Defendant
AND	THE ATTORNEY-GENERAL sued on behalf of THE HONOURABLE DAVID CLARK in his capacity as MINISTER OF HEALTH Second Defendant
AND	JUSTIN JAMES COOTE by his litigation guardian Luke Meys Third Defendant

Hearing: On the papers

Appearances: First plaintiff in person
P Dale QC, counsel for second plaintiff
S McKechnie and T Bremner, counsel for defendants

Judgment: 17 March 2020

INTERLOCUTORY JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS
(Application for leave to extend time to file pleadings)
(Application for leave to appear and be heard as intervenor)

[1] This interlocutory judgment relates to an application by the Attorney-General for an extension of timetabling orders and an application by the New Zealand Council of Trade Unions (NZCTU) for leave to appear and be heard.

[2] During the course of a telephone directions conference with the parties, it was agreed that an opportunity would be given to the NZCTU, Business New Zealand and the Human Rights Commission to apply to intervene and to be heard in the proceedings, given the nature of the issues involved.

[3] Notice was accordingly given to those three organisations. Business New Zealand has advised the Court that it does not wish to intervene and be heard; the NZCTU advanced an application and the Human Rights Commission requested additional time to consider its position.

[4] The Attorney-General is content to abide the decision of the Court on the NZCTU's application; the plaintiffs consent to it. In the circumstances, I am satisfied that it is appropriate to grant leave, given the nature of the matters at issue; the assistance the Court is likely to obtain from hearing from the NZCTU; and the absence of any discernible prejudice to any party. The NZCTU's application is accordingly granted, on the following basis:

- a) The NZCTU is to be served by the defendants with all pleadings and documents filed in the proceeding, and a copy of any agreed bundle of documents prepared for the substantive hearing.
- b) The NZCTU is granted leave to file written submissions with regard to the plaintiffs' application for a declaration under s 6(5) of the Employment Relations Act 2000; such submissions to be filed and served by a date to be fixed by the trial Judge.

- c) The NZCTU is granted leave for its counsel to appear at the substantive hearing; but not to call evidence or cross-examine any witness.
- d) The NZCTU is not to address the Court on its submissions unless leave to do so is granted by the trial Judge.
- e) The NZCTU may not seek costs against any party.

[5] In the circumstances, I grant a five-working-day extension of time to the Human Rights Commission to file and serve an application for leave to intervene and be heard.

[6] There is one residual matter than can be dealt with conveniently at this stage, and that is an application by the Attorney-General for an extension of time to file any interlocutory applications. The plaintiffs have confirmed that they are agreeable to such an extension and it is accordingly granted.

[7] Costs are reserved.

Christina Inglis
Chief Judge

Judgment signed at 9 am on 17 March 2020