

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

**I TE KŌTI TAKE MAHI O AOTEAROA  
TE WHANGANUI-A-TARA**

**[2020] NZEmpC 97  
EMPC 492/2019**

IN THE MATTER OF	an application for leave to extend time to file a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for leave to adduce further evidence
BETWEEN	SANDRA SAVRIM Applicant
AND	WELLINGTON HOSPITALITY GROUP LTD Respondent

Hearing: On the papers

Appearances: P McBride, counsel for applicant  
J Sumner, counsel for respondent

Judgment: 3 July 2020

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**INTERLOCUTORY JUDGMENT OF JUDGE J C HOLDEN  
(Application for leave to adduce further evidence)**

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[1] Ms Savrim has applied for leave to extend time to file a challenge to an Employment Relations Authority (Authority) determination.<sup>1</sup> She filed an affidavit in support of her application at the time the application was filed.

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<sup>1</sup> *Savrim v Wellington Hospitality Group Ltd* [2019] NZERA 419 (Member MacKinnon).

[2] Wellington Hospitality Group Ltd (Wellington Hospitality) filed a notice of opposition to that application, which was supported by an affidavit from Mr Andrew Williams. Ms Savrim then filed an affidavit in reply to Mr Williams's affidavit.

[3] Wellington Hospitality now makes an application for leave to file a further affidavit in reply. It says that several matters raised by Ms Savrim in her affidavit in reply cannot be adequately addressed by submissions without further evidence. It says that the evidence it wishes to adduce is cogent, relevant, credible and of assistance to the Court. This judgment resolves that application.

[4] Ms Savrim has not filed a notice of opposition to Wellington Hospitality's application for leave to file a further affidavit in reply.

[5] Nevertheless, the Court needs to be satisfied that it is in the interests of justice for further evidence to be adduced in the circumstances.

[6] There are three issues Wellington Hospitality raises: inconsistencies between Ms Savrim's first and second affidavits, lack of evidence for statements she makes in her affidavit in reply to that of Mr Williams, which Wellington Hospitality says it can refute, and admissibility of evidence about what was said in the context of mediation.

[7] I am satisfied that any inconsistencies in Ms Savrim's affidavits can be dealt with by way of submission. I also am not prepared to admit further evidence regarding the mediation. The evidence given in Ms Savrim's affidavit seems of limited, if any relevance to the issue of whether she should be granted leave to pursue her challenge out of time. There are real issues as to admissibility, but those issues could be dealt with, if necessary, by way of submission.

[8] The statements made by Ms Savrim that Wellington Hospitality says lack supporting evidence, and that it wishes to refute, cover:

- (a) Ms Savrim's allegation that Wellington Hospitality made misrepresentations to Immigration New Zealand;

- (b) Ms Savrim's evidence that her deportation order is subject to separate District Court and High Court proceedings; and
- (c) Ms Savrim's evidence that she was "represented by counsel" in her Australian proceedings, in that counsel drafted the relevant legal submissions that Ms Savrim then tendered to the Australian courts.

[9] I am not satisfied that the interests of justice require further evidence from Wellington Hospitality in relation to Ms Savrim's other proceedings in New Zealand or in Australia. The points raised by Wellington Hospitality are fine ones and of limited significance.

[10] However, I accept Wellington Hospitality should be permitted to address the allegation Ms Savrim makes in her affidavit in reply regarding Wellington Hospitality's alleged misrepresentations to Immigration New Zealand.

[11] Accordingly, leave is granted for Wellington Hospitality to file and serve a further affidavit addressing its communications with Immigration New Zealand and Ms Savrim's allegation that her present situation was caused, at least in part, by Wellington Hospitality's misrepresentations to Immigration New Zealand. Any such affidavit is to be filed and served by Wellington Hospitality within 10 working days of the date of this judgment.

[12] Costs are reserved.

J C Holden  
Judge

Judgment signed at 10 am on 3 July 2020