

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

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

**[2023] NZEmpC 112
EMPC 20/2023**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER	of applications for intervener status
BETWEEN	MW Plaintiff
AND	SPIGA LIMITED Defendant
AND	NEW ZEALAND COUNCIL OF TRADE UNIONS Intervener
AND	NEW ZEALAND LAW SOCIETY TE KĀHUI TURE O AOTEAROA Intervener
AND	AUCKLAND DISTRICT LAW SOCIETY INCORPORATED Intervener
AND	THE NEW ZEALAND BAR ASSOCIATION (NGĀ AHORANGI MOTUHAKE O TE TURA) Intervener
AND	THE EMPLOYMENT LAW INSTITUTE OF NZ INCORPORATED Intervener
AND	THE PRIVACY COMMISSIONER Intervener
AND	EMPLOYERS AND MANUFACTURERS ASSOCIATION (NORTHERN) INCORPORATED Intervener

AND HUMAN RESOURCES INSTITUTE OF
NEW ZEALAND
Intervener

AND STUFF LIMITED, NZME PUBLISHING
LIMITED AND RADIO NEW ZEALAND
LIMITED
Intervener

Hearing: On the papers

Appearances: A Mapu, advocate for plaintiff
R Harrison KC, counsel to assist
P Cranney, counsel for New Zealand Council of Trade Unions
K Radich, counsel for New Zealand Law Society Te Kāhui Ture o
Aotearoa
CW Stewart, counsel for Auckland District Law Society Inc
J MacGillivray, counsel for the New Zealand Bar Association
(Ngā Ahorangi Motuhake o Te Tura)
AF Drake, counsel for The Employment Law Institute of NZ Inc
K Dalziel, counsel for The Privacy Commissioner
P O'Neil, counsel for Employers and Manufacturers Assoc
(Northern) Inc
K Khanna, agent for Human Resources Institute of New Zealand
D Nilsson, counsel for Stuff Limited, NZME Publishing Limited
and Radio New Zealand Limited (the media entities)

Judgment: 25 July 2023

**INTERLOCUTORY JUDGMENT (NO 3) OF JUDGE B A CORKILL
(Applications for intervener status)**

[1] This interlocutory judgment considers three further applications which have been made for orders that certain organisations may intervene and be heard.

[2] In my interlocutory judgment of 21 April 2023, I granted formal applications by six other parties who sought intervener status.¹

¹ *MW v Spiga Ltd* [2023] NZEmpC 62.

[3] That interlocutory judgment sets out the background to the question of whether a permanent non-publication order should be made following the entering into by the parties of a s 149 agreement containing a confidentiality clause. I explained that a full Court has been convened to deal with the challenge, and that it was considered appropriate for potentially affected parties to apply for leave to intervene.

[4] I also explained that such applications are to be considered under cl 2(2) of sch 3 to the Employment Relations Act 2000 (the Act), the test being whether, in the opinion of the Court, the applicant is justly entitled to be heard. The test is broad and must be determined on the particular circumstances of the case.

[5] I have considered the applications now made by the Employers and Manufacturers Assoc (Northern) Inc, the Human Resources Institute of New Zealand, and Stuff Ltd, NZME Publishing Ltd and Radio New Zealand (the media entities).

[6] Having reviewed each application, I am satisfied that each organisation has a particular perspective which the Court will be assisted by considering when dealing with the challenge, along with all other views.

[7] There is no opposition from either of the parties, counsel to assist, or any other interveners.

[8] Accordingly, I grant leave to each of the applicants to appear and be heard. They are to be provided with a copy of all documents that have been filed to date. All documents from now on are to be served not only on the parties and counsel to assist, but also on all interveners.

[9] The Court will now convene a telephone directions conference with all representatives, with a view to finalising the evidence which may be placed before the Court, and for the filing of submissions in advance of the hearing, which it is anticipated will be able to proceed on 9–11 October 2023. I request all representatives

to liaise with each other, if necessary via counsel to assist, with a view to reaching a common position on both issues prior to the telephone directions conference.

B A Corkill
Judge

Judgment signed at 11.30 am on 25 July 2023