IN THE HUMAN RIGHTS REVIEW TRIBUNAL **[2018] NZHRRT 21**

	Reference No. HRRT 046/2017
UNDER	**THE PRIVACY ACT 1993**
BETWEEN	**KATHY APOSTOLAKIS**
	PLAINTIFF
AND	**PUBLIC TRUST**
	DEFENDANT

AT WELLINGTON

BEFORE:
Mr RPG Haines QC, Chairperson
Ms GJ Goodwin, Member
Mr BK Neeson JP, Member

REPRESENTATION:
Mrs K Apostolakis in person
Ms L Gilmor for defendant

DATE OF HEARING: **Heard on the papers**

DATE OF DECISION: **30 May 2018**

DECISION OF TRIBUNAL STRIKING OUT STATEMENT OF CLAIM[1]

BACKGROUND

[1] These proceedings were filed on 29 August 2017. On 27 October 2017 the Public Trust filed a strike-out application. In this decision the Tribunal gives its reasons for granting that application.

The statement of claim

[2] In her statement of claim Mrs Apostolakis alleges she made a request to the Public Trust for access to personal information held about her. The request was made under

[1] [This decision is to be cited as: *Apostolakis v Public Trust (Strike-Out Application)* [2018] NZHRRT 21.]

information privacy principle (IPP) 6. While giving no date for her request, it must have been in 2013 because the statement of claim alleges a reply was received on 17 September 2013. It is complained Mrs Apostolakis was not provided with the requested information. It is further complained that a correction request under Principle 7 (no particulars are given as to the date of the request or as to the correction(s) requested) was also not complied with. The statement of claim further alleges that the Public Trust refused other (unspecified) Principle 6 requests made in the period "2010-2015". No particulars are given of the dates on which these other requests were made. The complaint relating to 2013 has not, however, been pursued.

[3] The statement of claim further alleges the Public Trust "received trust moneys fraudulently" and does not have "clean hands". It is also alleged that Ms Jacinda Rennie, a Wellington-based lawyer, has made a false statement on oath. It needs to be explained that Ms Rennie represented Mr Damir De Polo in an application brought by him in the Family Court seeking a protection order against Mrs Apostolakis. Ms Rennie also acted for Mr De Polo in relationship property proceedings arising out of his relationship with Mrs Apostolakis. It must also be mentioned that proceedings were brought in this Tribunal by Mrs Apostolakis against Ms Rennie and against Jana De Polo (daughter of Damir De Polo) under the Human Rights Act 1993. Those proceedings were struck out by the Tribunal in a decision given on 2 November 2017. See *Apostolakis v Rennie (Strike-Out Application)* [2017] NZHRRT 42.

[4] In her statement of claim Mrs Apostolakis also alleges that the Public Trust breached IPPs 8, 10 and 11 as well as ss 120 and 127 of the Privacy Act 1993 (PA).

The statement of reply

[5] In the statement of reply filed on 11 October 2017 the Public Trust pointed out that it was not clear whether the alleged Principle 6 request relied on by Mrs Apostolakis to found her cause of action was the September 2013 request or a request made in the unparticularised period of "2010 to 2015".

[6] In addition, by application dated 27 October 2017 the Public Trust filed a strike-out application based on the following grounds:

> **[6.1]** The Tribunal has no jurisdiction to hear and determine the complaint that the Public Trust breached also IPPs 7, 8, 10 and 11 and also PA, ss 120 and 127.
>
> **[6.2]** A number of allegations in the statement of claim are unrelated to the matters investigated by the Privacy Commissioner or are incomprehensible.

The *Minute* issued on 31 October 2017

[7] To allow the challenge by the Public Trust to be meaningfully addressed the Chairperson by *Minute* dated 31 October 2017 directed that Mrs Apostolakis file a sworn affidavit providing particulars of the specific Principle 6 request relied on in these proceedings. The affidavit was required to exhibit the document said to contain the request. Mrs Apostolakis was also required to provide particulars of the date on which the request was served and of the circumstances of such service. The formal direction was in the following terms:

> **[11.5]** By 5pm on Friday 17 November 2017 Mrs Apostolakis is to file and serve an affidavit exhibiting the document which she asserts is the specific Principle 6 request (for personal information) on which she relies in these proceedings. Particulars of the date of service and of the circumstances of such service must also be provided.

[8] Mrs Apostolakis did not comply with this direction. Instead, on 1 December 2017, some 14 days after the time limit had expired, she filed a letter explaining that on 13 November 2017 she had consulted a registered medical practitioner (Dr Sophie Hodgins). In a certificate dated 13 November 2017 Dr Hodgins stated she had encouraged Mrs Apostolakis "to take a couple of weeks off from working on this court case":

> The above patient reported to me on the 13/11/2017 stating that she has been under severe stress related to an upcoming court case. She presents in a severe anxiety state and request a few weeks of respite from collaborating and documenting evidence. I would encourage Kathy to take a couple of weeks off from working on this court case as medically it appears to be exacerbating poor mental health and exacerbating her anxiety state.

[9] In her letter dated 1 December 2017 Mrs Apostolakis did not explain the delay in filing the medical certificate but asserted she was unable to meet direction [11.5] "due to ill health on 17th November 2017". She sought an extension of time.

[10] On the same date (1 December 2017) Mrs Apostolakis also filed a document described as "Application for an order to strike out defence and pleadings under section 127 Privacy Act 1993" dated 1 December 2017 in which she alleged the Public Trust had committed an offence against the PA, s 127, that the statement of reply contained unspecified false statements in relation to a caveat over certain land and that "liars should not be given favours from our courts".

[11] Given the content of the medical certificate Mrs Apostolakis was given an extension of time to 11 December 2017 to comply with para [11.5] of the *Minute* dated 31 October 2017.

[12] Undeterred, Mrs Apostolakis by memorandum dated 11 December 2017 complained that it was "unrealistic" that she comply with the direction as she needed at least one week after receipt of the *Minute* (dated 7 December 2017) to file the affidavit. Her request for additional time did not explain the original default in meeting the filing deadline of 17 November 2017. By that stage Mrs Apostolakis had had almost six weeks within which to file the affidavit. It was not correct for her to assert that she had only been given "four hours notice". Nevertheless she was allowed a further extension to 10 January 2018. The Chairperson was of the view a period of 10 weeks would be more than sufficient and would provide Mrs Apostolakis with ample time to file her affidavit.

The affidavit sworn by Mrs Apostolakis on 10 January 2018

[13] Finally, on 10 January 2018 Mrs Apostolakis filed an affidavit sworn on that date. In this document she deposes:

> **[13.1]** Her request for access to her personal information held by the Public Trust was made by letter dated 16 September 2015. A copy of the request was exhibited to the affidavit and was in the following terms:
>
> > 16 September 2015
> >
> > The Privacy Officer
> > Public Trust Corporate Office
> > PO Box 5067
> > Wellington
> >
> > Dear Sir/Madam,
> >
> > **Official request under Privacy Act 1993**

> I am requesting my full information under Principle 6 of the Privacy Act 1993. I am looking forward to hearing from you.
>
> Yours faithfully

[13.2] She received a reply dated 24 September 2015 signed by Mr Paul Pasley, Area Manager, Greater Wellington. This document, also exhibited to the affidavit, stated the Public Trust had been unable to locate any customer records under her name:

> Dear Mrs Apostolakis
>
> **PRIVACY ACT REQUEST**
>
> Thank you for your letter we recently [received] dated 14 September 2015 requesting your full information under Principle 6 of the Privacy Act 1993.
>
> I have been unable to locate any customer records under your name. If you believe there should be records, please advise any other potential names these may exist under. If Public Trust does hold information about you, I will require proof of your identity before I am able to give this to you.

[13.3] On unspecified dates she made "further requests" addressed to Mr Pasley of the Molesworth Street Office of the Public Trust and to Mr John Donovan at the Willis Street Office. It is to be noted no information about these alleged requests is given.

[13.4] The following persons have committed fraud: Jana Pierrina De Polo, Scott Lindsay MacDonnell, the Public Trust, Gavin Cairns, solicitor, Mr Peter Channing Gilbert, solicitor and Mr Josh Dryden McBride "by refusing to amend the date year '2009' to year '2004'" in a notice of claim of interest under Property (Relationships) Act 1976 filed with Land Information New Zealand.

[13.5] These persons succeeded in "their criminal act" by violating the rights of Mrs Apostolakis under the International Covenant on Civil and Political Rights, 1966 art 17(2) [the right to protection against attacks on honour and reputation].

[13.6] The same persons unlawfully discriminated against Mrs Apostolakis on the grounds of family status "by being a relative of 'notorious criminals' by virtue of the fact that Johanna Scannell is my great grandmother".

[13.7] These persons attacked the "honour and reputation" of Mrs Apostolakis "by virtue of the fact that my great grandmother Johanna Scannell is related to John Scannell, (alias John Smith)".

[13.8] Mr Josh McBride, solicitor and Mr Gavin Cairns, solicitor for the Public Trust made offensive remarks about Mrs Apostolakis by association with the "Scannell" family name.

[13.9] There was an apprehension of bias by reason of the fact that Mr Cairns now works at Trustees Executors and Mr Robert Stannard, "a freemason and close friend of my mother, Mrs Dorothy Clare Kennelly also works there, or, is an inactive member of the board".

[13.10] Mr Gilbert is "an accomplice to fraud".

[13.11] Mr Gilbert and Mr Cairns have committed fraud.

[13.12] Mr McBride fraudulently signed a LINZ document.

[13.13] The parties mentioned relied on Ms Rennie's "violation of my honour and reputation". Ms Rennie also breached the Lawyers and Conveyancers Rules of Conduct and "compromised the dignity of the judiciary".

[13.14] Mr Simon Meikle has breached the same rule "with respect to the dignity of the judiciary and the plaintiff's great grandmother Johanna Scannell".

The strike-out application dated 24 January 2018

[14] Given the content of the affidavit sworn by Mrs Apostolakis the Public Trust has understandably renewed the application for an order striking out or dismissing the proceedings. The grounds of the amended application need not be recited at length. In essence they are:

[14.1] The IPP 6 request made by Mrs Apostolakis in 2015 was complied with well within the statutory time frames prescribed by PA, ss 40 and 66(4).

[14.2] The Tribunal does not have jurisdiction over the allegations in the statement of claim that the Public Trust breached IPPs 7, 8, 9, 10 and 11 and PA, ss 120 and 127.

JURISDICTION TO STRIKE-OUT

[15] For the purpose of deciding the present case we repeat our summary of the Tribunal's jurisdiction to strike out proceedings as set out in *Apostolakis v Rennie (Strike-Out Application)* [2017] NZHRRT 42 at [8] to [17].

[16] We begin by referring to HRA, s 115 which provides:

> **115 Tribunal may dismiss trivial, etc, proceedings**
>
> The Tribunal may at any time dismiss any proceedings brought under section 92B or section 92E if it is satisfied that they are trivial, frivolous, or vexatious or are not brought in good faith.

[17] In *Mackrell v Universal College of Learning* HC Palmerston North CIV-2005-485-802, 17 August 2005, Wild J held that this provision confers on the Tribunal a wide discretionary power to strike out or dismiss a proceeding brought before it:

> [45] Subject to observance of natural justice, fairness and reasonableness, and equity, the Tribunal has a wide discretion as to the procedure which follows: ss 104 and 105 of the Human Rights Act. Section 105 requires the Tribunal "to act according to the substantial merits of the case, without regard to technicalities". That section applies, with necessary modifications, to decisions of this Court on appeal against a decision of the Tribunal: s123(5).
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> [46] The Tribunal has an express power to dismiss proceedings, if satisfied that they are frivolous, vexatious or not brought in good faith: s115. As Mr Laurenson points out, the Tribunal deliberately did not exercise this power. It struck out Ms Mackrell's claim.
>
> [47] There are also the Human Rights Review Tribunal Regulations 2002 which place, in terms of the Tribunal's procedures, an emphasis on fairness, efficiency, simplicity and speed. I refer particularly to regulation 4.
>
> [48] Thus, the Tribunal has a wide discretionary power to strike out or dismiss a proceeding brought before it. This will be appropriate in situations similar to those contemplated by rr 186 and 477 of the High Court Rules which are the basis for the present application.

[18] The reference by Wild J to rr 186 and 477 of the High Court Rules is now to be read as a reference to High Court Rules, r 15.1 which provides:

15.1 Dismissing or staying all or part of proceeding

(1) The court may strike out all or part of a pleading if it—
   (a) discloses no reasonably arguable cause of action, defence, or case appropriate to the nature of the pleading; or
   (b) is likely to cause prejudice or delay; or
   (c) is frivolous or vexatious; or
   (d) is otherwise an abuse of the process of the court.

…

[19] It is clearly established (and confirmed by High Court Rules, r 15.1(1)(a)) that abuse of process extends to proceedings where there is no arguable case and to proceedings which are seriously and unfairly burdensome, prejudicial or damaging or productive of serious and unjustified trouble and harassment. See *Waterhouse v Contractors Bonding Ltd* [2013] NZSC 89, [2014] 1 NZLR 91 at [30]-[32]:

> [30] We accept the submission of Mr Harrison that the power, under the High Court Rules or the inherent powers of a court, to stay a proceeding for abuse of process is not limited to the narrow tort of abuse of process. In any event, Mr Mills accepts the abuse of process ground would also be available in the circumstances set out by Lord Diplock in *Hunter v Chief Constable of the West Midlands Police*:
>
> > ... the inherent power which any court of justice must possess to prevent misuse of its procedure in a way which, although not inconsistent with the literal application of its procedural rules, would nevertheless be manifestly unfair to a party to litigation before it, or would otherwise bring the administration of justice into disrepute among right-thinking people. The circumstances in which abuse of process can arise are very varied; ... It would, in my view, be most unwise if this House were to use this occasion to say anything that might be taken as limiting to fixed categories the kinds of circumstances in which the court has a duty (I disavow the word discretion) to exercise this salutary power.
>
> [31] In Australia, a majority of the High Court in *Jeffery & Katauskas Pty Ltd v SST Consulting Pty Ltd* identified the following categories of conduct that would attract the intervention of the court on abuse of process grounds:
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> > (a) proceedings which involve a deception on the court, or those which are fictitious or constitute a mere sham;
> > (b) proceedings where the process of the court is not being fairly or honestly used but is employed for some ulterior or improper purpose or in an improper way;
> > (c) proceedings which are manifestly groundless or without foundation or which serve no useful purpose; and
> > (d) multiple or successive proceedings which cause or are likely to cause improper vexation or oppression.
>
> [32] The majority also said that, although the categories of abuse of process are not closed, this does not mean that any conduct of a party or non-party in relation to judicial proceedings is an abuse of process if it can be characterised as in some sense unfair to a party. It does, however, extend to proceedings that are "seriously and unfairly burdensome, prejudicial or damaging" or "productive of serious and unjustified trouble and harassment".
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> [Footnote citations omitted]

[20] Striking out on the grounds of prejudice and delay is often the appropriate course where the statement of claim is prolix and unintelligible. See *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* [2013] NZCA 53, [2013] 2 NZLR 679. At [84] the Court of Appeal set out the requirements of a statement of claim (High Court Rules, rr 5.17, 5.26 and 5.27). Those requirements apply equally in proceedings before the Tribunal. Specifically:

[20.1] The pleading must be accurate, clear and intelligible.

[20.2] Sufficient particulars must be given to enable the defendant to be fairly informed of the case to be met.

[20.3] While adequate particulars are required, the statement of claim must not stray into setting out the evidence relied upon.

[21] See also *Mackrell v Universal College of Learning* at [57] to [59]:

> [57] Parties seeking redress from Tribunals and Courts must state their claim in a way which enables the Court or Tribunal and parties responding to the claim to understand what the claim is about. Claims should be pleaded in the most succinct and concise way possible.
>
> [58] Tribunals and Courts, and responding parties, should not be left in the position of attempting to make sense of a "morass of information" (to borrow the Tribunal's description of Ms Mackrell's claim). To put Courts and respondents in the position of having to try and make sense of the incomprehensible is what is meant by the rather quaint terms "embarrass" and "prejudice" in relation to pleadings.
>
> [59] Due allowance is to be made for lay litigants such as Ms Mackrell, and it was made by the Tribunal here. But lay litigants, like litigants who are professionally represented, are required to comply with the pleading rules and procedures of Tribunals and Courts. They are not to be permitted to file incomprehensive claims, because that only visits prejudice and injustice upon the respondent, not to mention enormous inconvenience to the Court or Tribunal.

[22] A statement of claim drafted in compliance with these requirements gives both the Tribunal and the defendant notice of what is being alleged and against whom. Pleading should not be permitted to be a means of oppressive conduct against opposing parties. See *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* at [87]:

> [87] If a statement of claim has been drafted in compliance with the above requirements, then both the court and the defendant parties should have a clear understanding of what is being alleged and against whom. However, verbose, ill-drafted pleadings may defeat the purpose of a statement of claim to such an extent that it is an abuse of process. This principle is intended, as *Odgers* suggests, to "prevent the improper use of [the court's] machinery". Pleading should not be permitted to be a means of oppressive conduct against opposing parties.
> [Footnote citation omitted]

[23] If there has been such abuse, the statement of claim may be struck out. See *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* at [89]:

> [89] The grounds of strike out listed in r 15.1(1)(b)–(d) concern the misuse of the court's processes. Rule 15.1(1)(b), which deals with pleadings that are likely to cause prejudice or delay, requires an element of impropriety and abuse of the court's processes. Pleadings which can cause delay include those that are prolix; are scandalous and irrelevant; plead purely evidential matters; or are unintelligible. In regards to r 15.1(1)(c), a "frivolous" pleading is one which trifles with the court's processes, while a vexatious one contains an element of impropriety. Rule 15.1(1)(d) – "otherwise an abuse of process of the court" – extends beyond the other grounds and captures all other instances of misuse of the court's processes ….
> [Footnote citations omitted]

[24] On the facts the Court of Appeal found the statement of claim filed by Chesterfields Preschools Ltd an abuse of process because it was pleaded in a highly prolix and diffuse way in relation to material facts spread throughout the pleadings in an incomprehensible way.

[25] As noted in *Parohinog v Yellow Pages Group Ltd (Strike-Out Application No. 2)* [2015] NZHRRT 14 at [30] and [31] two important qualifications must be added.

[25.1] First, the jurisdiction to dismiss is to be used sparingly. If the defect in the pleadings can be cured, an amendment of the statement of claim will normally be

ordered. See *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* [2013] NZCA 53, [2013] 2 NZLR 679 at [89].

[25.2] Second, the fundamental constitutional importance of the right of access to courts (and tribunals) must be recognised. Such right of access must, however, be balanced against the desirability of freeing defendants from the burden of litigation which is groundless or an abuse of process. See *Heenan v Attorney-General* [2011] NZCA 9, [2011] NZAR 200 at [22].

[26] The ordinary rule is that a strike-out application proceeds on the assumption that the facts pleaded in the statement of claim are true. See *Attorney-General v Prince and Gardner* [1998] 1 NZLR 262 (CA) at 267. However, where the factual allegations are plainly incorrect it is not appropriate to assume their truth. There must be an objective factual basis for the allegations. A court or tribunal is not required to assume the correctness of factual allegations obviously put forward without any foundation. See *Collier v Panckhurst* CA 136/97, 6 September 1999 at [19].

Vexatious

[27] In the context of the present case it is not necessary to engage in a comprehensive survey of the case law interpreting the term "vexatious". It is well-established that a vexatious proceeding is one which contains an element of impropriety. See *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* at [89] and *Burchell v Auckland District Court* [2012] NZHC 3413, [2013] NZAR 219 at [16]. To this may be added:

[27.1] A proceeding may be vexatious, notwithstanding that it may contain the germ of a legitimate grievance or may disclose a cause of action or a ground for institution. See *Attorney-General v Hill* (1993) 7 PRNZ (CA) at 23.

[27.2] The subjective intention of the party is not determinative of vexatiousness, which is a matter to be objectively assessed. See *Attorney-General v Collier* [2001] NZAR 137 at [35].

[27.3] The issue is not whether the proceeding was instituted vexatiously, but whether it is a vexatious proceeding. See *Attorney-General v Brogden* [2001] NZAR 158 at [58] (appeal dismissed in *Brogden v Attorney-General* [2001] NZAR 809).

Or are not brought in good faith

[28] This ground for striking out proceedings captures other circumstances in which the Tribunal's processes are misused and is perhaps best understood as a different way of expressing the grounds for striking out set out in High Court Rules, r 15.1(1) namely circumstances where there is no reasonably arguable cause of action or where the proceedings are otherwise an abuse of the process of the Tribunal.

Abuse of process

[29] The scope of this ground in High Court Rules, r 15.1(1)(d) was set out in *Air National Corporate Ltd v Aiveo Holdings Ltd* [2012] NZHC 602 at [30] as follows:

> The ground of abuse of process is said to extend beyond the other grounds set out in r 15.1(1) to catch all other instances of misuse of the Court's process, including where a proceeding has been brought with an improper motive or to seek a collateral advantage beyond that legitimately gained from a Court proceeding. [Citations omitted]

DISCUSSION

[30] In our opinion the strike-out application by the Public Trust must succeed for the following reasons:

> **[30.1]** The jurisdiction of the Tribunal is confined to determining whether a plaintiff has proved an interference with his or her privacy as defined in PA, s 66. Only if such is established on the balance of probabilities is there jurisdiction to award a remedy. See PA, s 85(1). The evidence of Mrs Apostolakis as set out in her affidavit sworn on 10 January 2018 is that in response to her access request dated 16 September 2015 she was advised by the Public Trust on 24 September 2015 that no customer records under her name could be located. She has advanced no other documentation to support her claim. It is clear from the evidence she has produced that there has been no interference with her privacy. An access request made on Wednesday 16 September 2015 was answered the following week on Thursday 24 September 2015. The Privacy Act, s 29(2)(a) and (b) expressly provide that an agency may refuse a Principle 6 request if the information requested is not readily retrievable or if the information requested does not exist or cannot be found.
>
> **[30.2]** The Tribunal has jurisdiction only over those matters investigated by the Privacy Commissioner. See *Director of Human Rights Proceedings [NKR] v Accident Compensation Corporation* [2014] NZHRRT 1, (2013) 10 HRNZ 279 at [18] to [42]. The Certificate of Investigation dated 27 November 2015 issued by the Privacy Commissioner and attached to the statement of claim records that the matter investigated by the Commissioner related only to a possible breach of Principle 6. The following claims made by Mrs Apostolakis were not investigated by the Privacy Commissioner and are therefore outside the jurisdiction of the Tribunal:
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> > **[30.2.1]** Claims that the Public Trust contravened IPPs 7, 8, 10 and 11 and PA, ss 120 and 127.
> >
> > **[30.2.2]** Claims that the Public Trust did not collect information when requested.
> >
> > **[30.2.3]** Claims regarding the disclosure of fees charged under the Public Trust Act 2001, s 70(1) and (2).
> >
> > **[30.2.4]** Claims about refusing to provide Mrs Apostolakis with information between "2010 and 2015".
>
> **[30.3]** The context in which the allegations of fraud, discrimination, bias and attacks on honour and reputation are made make it clear that the alleged privacy breach is but in truth a vehicle to create an opportunity for Mrs Apostolakis to reargue and relitigate matters which have been resolved otherwise than to her satisfaction. Those other matters relate to decisions of the Family Court in respect of a protection order and in respect of relationship property. There is also the removal of a caveat placed by Mrs Apostolakis over property owned by Mrs Jana De Polo. The relitigation of issues already determined by judicial process is well recognised as an abuse of process. See *Hunter v Chief Constable of the West Midlands Police* [1982] AC 529 at 541 (HL) and *Apostolakis v Kolich* [2012] NZHC 212 at [51].

[30.4] There is also the question of delay. Mrs Apostolakis was provided with the Certificate of Investigation on or about 27 November 2015. She did not file her proceedings until one year and nine months later on 29 August 2017. Even then she procrastinated in complying with the 31 October 2017 direction that she file her affidavit. This step was not taken until 10 January 2018.

[30.5] These points, whether taken separately or in combination, satisfy us that these proceedings are vexatious or not brought in good faith. To allow them to continue would be an abuse of process. There is no arguable case and the extravagant allegations made by Mrs Apostolakis against a wide circle of professional persons show that these proceedings will be unfairly burdensome and will expose all persons named in the statement of claim and in the affidavit to serious and unjustified trouble and harassment.

CONCLUSION

[31] For the reasons given we conclude that the statement of claim is an abuse of process. It is accordingly struck out in its entirety.

Costs

[32] Costs are reserved. Unless the parties are able to reach agreement on the question of costs, the following procedure is to apply:

[32.1] The Public Trust is to file its submissions within 14 days after the date of this decision. The submissions by Mrs Apostolakis are to be filed within a further 14 days with a right of reply by the Public Trust within seven days after that.

[32.2] The Tribunal will then determine the issue of costs on the basis of the written submissions without an oral hearing.

[32.3] In case it should prove necessary, we leave it to the Chairperson of the Tribunal to vary the foregoing timetable.

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Mr RPG Haines QC **Chairperson**	**Ms GJ Goodwin** **Member**	**Mr BK Neeson JP** **Member**