

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

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

**[2019] NZEmpC 135  
EMPC 159/2018**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
BETWEEN	HAROLD MANI First Plaintiff
AND	ICON CONCEPTS 2012 LIMITED (IN LIQUIDATION) Second Plaintiff
AND	SUMIT SHARMA Defendant

Hearing: On the papers

Appearances: H Mani, no appearance  
P M Finnigan, liquidator representing the second plaintiff  
S Sharma, no appearance

Judgment: 4 October 2019

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**JUDGMENT OF JUDGE J C HOLDEN**

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[1] On 6 June 2018 the first and second plaintiffs filed a challenge to a determination of the Employment Relations Authority (the Authority).<sup>1</sup> The Authority ordered the second plaintiff to pay a total of \$27,536.57 for wages, holiday pay, interest and compensation.<sup>2</sup> The first plaintiff was ordered to pay a penalty of \$5,000 direct to the defendant.<sup>3</sup> The plaintiffs also were to pay \$4,500 to the defendant as a contribution to his costs.<sup>4</sup>

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<sup>1</sup> *Sharma v Icon Concepts 2012 Ltd* [2018] NZERA Auckland 154.

<sup>2</sup> At [57].

<sup>3</sup> At [58].

<sup>4</sup> At [59].

[2] In my interlocutory judgment dated 18 December 2018 I required the first and second plaintiffs to give security for costs by payment into the Court of \$8,000. That payment was to be made within 20 working days of the date of the interlocutory judgment.<sup>5</sup>

[3] No payment has been made in satisfaction of the order.

[4] The second plaintiff was placed into liquidation by its shareholder on 5 April 2019 and the liquidators have filed a memorandum with the Court. The liquidators do not intend to pursue the challenge and say that there are no funds available in the liquidation to make any payment to the defendant or to pay the security for costs. The liquidators advise the Court that the first plaintiff has told them that he does not intend to pay the security for costs either.

[5] The liquidators have asked that the Court strike out the second plaintiff's challenge against the defendant for failing to pay security for costs, with no order as to costs. This would enable them to finalise the liquidation and retire as liquidators.

[6] On 17 September 2019 I gave the first plaintiff and the defendant 14 days to file and serve any response to the liquidators' memorandum. No response has been received.

[7] In these circumstances, it is appropriate to dismiss the challenge in its entirety. No order for costs is made as between the second plaintiff and the defendant. Any application by the defendant for costs against the first plaintiff is to be filed and served within 20 working days. Any response to such an application is to be filed and served by the first plaintiff within a further 15 working days. I then will deal with it on the papers.

J C Holden  
Judge

Judgment signed at 2 pm on 4 October 2019

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<sup>5</sup> *Mani v Sharma* [2018] NZEmpC 155.