IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKAURAU

[2022] NZEmpC 89
EMPC 49/2019

IN THE MATTER OF	proceedings removed in full from the Employment Relations Authority
AND IN THE MATTER	of an application for a stay of proceedings
AND IN THE MATTER	of an application for a strike out of proceedings
BETWEEN	BAY OF PLENTY DISTRICT HEALTH BOARD Plaintiff
AND	CULTURESAFE NEW ZEALAND LIMITED First Defendant
AND	ALLAN HALSE Second Defendant
AND	ANA SHAW Third Defendant

Hearing: (on the papers)

Appearances: M Beech and C McGregor, counsel for the plaintiff
A Halse, representative for the first defendant
A Halse, in person
C Sawyer, advocate for the third defendant

Judgment: 24 May 2022

INTERLOCUTORY JUDGMENT (NO 4) OF JUDGE B A CORKILL
(Applications for strike out and stay orders)

Introduction

[1] This judgment deals with two applications brought by the second defendant. The first seeks an order striking out the balance of the proceeding. The second seeks an order of stay of the balance of the proceeding.

[2] A brief summary of the procedural history is necessary before turning to the two applications.

[3] On 22 September 2020, I issued a judgment resolving a point which related to the scope of the jurisdiction of the Employment Relations Authority.[1] This issue arose in the context of a removed proceeding in which the Bay of Plenty District Health Board (the DHB) seeks declarations that the defendants obstructed, delayed, or prejudiced a proceeding of the Authority, were in contempt of the Authority, and breached the sub judice rule by failing to comply with multiple directions, and a compliance order, which it made. The DHB seeks declarations and orders imposing penalties.

[4] I concluded that the Authority had jurisdiction in respect of three of four directions; and that the Court therefore had jurisdiction to consider whether orders under s 134A and/or s 196 of the Employment Relations Act 2000 (the Act) should be made.[2]

[5] The defendants did not bring any application for leave to appeal that judgment within the timeframe allowed for under the Act.[3]

[6] Parallel to these steps, judicial review proceedings were brought against the DHB and other parties regarding a number of determinations of the Authority, and judgments of this Court, including the judgment that had been issued in this proceeding. The Court of Appeal struck out the judicial review proceeding on 4 October 2021.[4]

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1 *Bay of Plenty District Health Board v Culturesafe New Zealand Ltd* [2020] NZEmpC 149, [2020] ERNZ 367.
2 At [170] and [171].
3 Employment Relations Act 2000, s 214.
4 *H v Employment Relations Authority* [2021] NZCA 507.

[7] On 21 October 2021, an application for leave to appeal the Court of Appeal's strike out judgment was filed in the Supreme Court. That application was subsequently struck out.

[8] On 27 October 2021, Mr Halse brought an application for leave to appeal out-of-time this Court's judgment of 22 September 2020 in the Court of Appeal.[5] That application has yet to be determined.

[9] On 8 November 2021, Mr Halse applied to this Court for a stay of the balance of the proceeding in this Court. At the time, the application for leave to appeal the Court of Appeal judgment had yet to be resolved by the Supreme Court, so this fact was relied on as the first ground for stay of the proceeding in this Court.

[10] Subsequently, after the Supreme Court had dismissed the application for leave, the notice of application for stay was amended by referring to the pending application for leave to appeal to the Court of Appeal.

[11] The second ground relied on related to the fact that Mr Halse had brought an application for judicial review of the Authority's determination in this Court which remained outstanding: EMPC 381/2021.

[12] On 9 November 2021, Mr Halse applied for an order that this proceeding be struck out, on the basis that sufficient causes of action had not been pleaded by the DHB.

[13] It is necessary to resolve, first, the application for strike out, since if that order were to be granted, there would be nothing left to stay.

Application for strike out

[14] In his submissions in support of his application, Mr Halse referred to a number of issues which he says arise from this proceeding. The first relates to what he describes as a public concern as to the money spent on the proceeding. He says, in

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5 *Bay of Plenty District Health Board v Culturesafe New Zealand Ltd*, above n 1.

support of this point, that the sums involved are excessive, and that no legal basis has ever been given for the orders upon which the claim is based.

[15] Next, he says that there is a public concern over what he described as the "aggressive use of baseless proceedings". After commenting on what he believes the DHB's motivation is in bringing the proceeding, reference is made to an overseas phenomena of "strategic litigation against public participation" which is outlawed, he says, because it gives wealthy parties an advantage by exhausting the resources of less wealthy parties.

[16] Mr Halse goes on to dispute the way in which the Authority performs its role and submits that the Court has effectively supported its approach, which has "progressively disabled" the dispute resolution process set out by Parliament.

[17] He submits that the Authority has accordingly given itself power to make random orders at the request of employers, and this has gone as far as legalising injustice and offences, which the Court has supported and validated.

[18] Then he states that in dealing with the issues arising in this case, the Court has bestowed powers on the Authority which were not granted by Parliament. In developing this submission, he says the employment institutions have "claimed to be able to do whatever they like, as though they were not restricted by the powers given to them by statute".

[19] Turning to the causes of action pleaded in this case, Mr Halse asserts that "no cause of action has been alleged in this case". He referred to the history of the directions made by the Authority which are the subject of this proceeding, asserting in essence that the Authority Member had no power to restrict fundamental freedoms of speech, which was the effect of the directions that were made. In short, he asserts that the allegations brought against himself and Ms Shaw were all to do with things they were permitted to do by law. The DHB, he says, has not pleaded otherwise.

[20] With regard to the DHB's claim in contempt, he says the statements made in support of this claim bear no relation to the statutory provisions relating to contempt. Rather, the DHB had filed evidence that was unclear in its effect.

[21] Mr Halse concludes by asserting that the actions of the DHB, its lawyers, the Authority, and this Court, have all been unlawful, and so are the proceeding which are before the Court. Consequently, he says it should be struck out.

[22] The application is supported by an affidavit from Mr Halse which focuses on what he says, in effect, is egregious expenditure by the DHB on these proceedings, and that the processes of the Court are being abused simply because he and Ms Shaw have exercised their fundamental rights to speak publicly about the underlying issues of Ms Shaw's case.

[23] Ms Sawyer filed submissions on behalf of Ms Shaw in support of Mr Halse's application. She too asserts that the Authority's purported directions were unlawful, and that "bogus directions" were made against Ms Shaw. All she had done was exercise her rights as a citizen of a democratic country. Consequently, the application to strike the proceeding out unless the DHB filed "a legally plausible cause of action" should be allowed.

[24] Mr Beech, counsel for the DHB, outlined the usual principles applying to an order for strike out, and then analysed what he discerned were the grounds being relied on for the defendants, that is, whether the claims are arguable, whether the proceedings are frivolous or vexatious, and whether they amount to being an abuse of process. He said that the various legal tests are not met. There was no relevant impropriety, and nor did the proceedings trifle with the Court's processes. They were valid and legitimate, based on repeated and admitted behaviours which were continuing.

Principles as to strike out

[25] Rule 15.1 of the High Court Rules 2016 applies, via reg 6 of the Employment Court Regulations 2000.[6] It provides:

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[6] As confirmed in *New Zealand Fire Service Commission v New Zealand Professional Firefighters' Union Inc* [2005] ERNZ 1053 (CA) at [13].

15.1 Dismissing or staying all or part of proceeding

(1) The court may strike out all or part of a proceeding 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.

[26] The Court of Appeal in *Attorney-General v Prince* outlined the standard principles which apply to such an application:[7]

a) Pleaded facts, whether or not admitted, are assumed to be true.

b) The cause of action or defence must be clearly untenable.

c) The jurisdiction is to be exercised sparingly, and only in clear cases.

d) The jurisdiction is not excluded by the need to decide difficult questions of law, even if extensive argument is required.

e) The Court should be particularly slow to strike out a claim in any developing area of the law, especially where a duty of care is alleged.

[27] It is important for present purposes to acknowledge the extent to which evidence may be used on a strike out application. The Court of Appeal dealt with this issue in *Attorney-General v McVeagh*:[8]

> The Court is entitled to receive affidavit evidence on a striking-out application, and will do so in a proper case. It will not attempt to resolve genuinely disputed issues of fact and therefore will generally limit evidence to that which is undisputed. *Normally it will not consider evidence inconsistent with the pleading, for a striking-out application is dealt with on the footing that the pleaded facts can be proved.* … But there may be a case where an essential factual allegation is so demonstrably contrary to indisputable fact that the matter ought not to be allowed to proceed further.

[28] So, the focus must be on the plaintiff's pleading, to which I now turn.

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7 *Attorney-General v Prince* [1998] 1 NZLR 262 (CA). (Endorsed by the Supreme Court in cases such as *Couch v Attorney-General* [2008] NZSC 45, [2008] 3 NZLR 725 at [33] and *Carter Holt Harvey Ltd v Minister of Education* [2016] NZSC 95, [2017] 1 NZLR 78 at [10]).

8 *Attorney-General v McVeagh* [1995] 1 NZLR 558 (CA) at 566 (emphasis added).

The DHB's claim

[29] The DHB's statement of claim begins by reciting the circumstances which led the Authority to making the various procedural directions which are at the heart of the DHB's claim.[9]

[30] By way of background, the DHB alleges that on 23 May 2017, the Authority, in response to the alleged actions of Mr Halse when he contacted the DHB, directed him not to make contact with the organisation and said it would view very seriously any conduct which undermined its investigation in the matter. This was the first direction.

[31] Next, it is pleaded that on 23 March 2018, the Authority, in response to further alleged actions by Mr Halse, directed him to not make any public comment regarding the DHB and its staff on social media whilst the Authority's investigation was ongoing. This was the second direction.

[32] Then, the DHB alleges that at the conclusion of the investigation meeting of the Authority on 4 and 5 October 2018, it directed that the substantive proceedings remain sub judice, pending the determination of the Authority. This was the third direction.

[33] Finally, in light of subsequent breaches of the earlier procedural directions, the DHB asserts that the Authority made ex parte orders reinforcing those directions by way of a compliance order. I referred to this as the fourth direction in my earlier judgment ruling that it should not have been made.[10]

[34] Turning to the causes of action, the first asserts that the first and second defendants breached the procedural directions and the compliance order, and obstructed and delayed the proceeding. It is also alleged that several Facebook posts were put up in breach of the second direction. Finally, it is asserted the first and second

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9 I described and analysed these in detail in my earlier judgment: *Bay of Plenty District Health Board v Culturesafe New Zealand Ltd*, above n 1, at [10]–[37].

10 At [152].

defendants failed to take down the posts contrary to the compliance order/fourth direction.

[35] The DHB pleads in detail the factual assertions which are said to support that cause of action. It is alleged Mr Halse contacted the plaintiff's Chief Executive Officer directly, and copied an email sent to the Authority to the Chairperson of the DHB's Board, in breach of the first direction. The DHB goes on to seek a declaration that those defendants thereby breached the Authority's procedural directions and the compliance order; a penalty against them under s 134A of the Act; and an order that they were in contempt of the Authority and/or the Court pursuant to s 196 of the Act, as well as penalties.

[36] The second cause of action, also brought against the first and second defendants, pleads that they acted in a manner that obstructed, delayed, and/or prejudiced the proceedings, made scandalous allegations, breached the compliance order/fourth direction, and breached the rule of sub judice. It is alleged this occurred in a radio interview; further, that in an email sent to the Authority it was stated an employee of the DHB was stalking and harassing the third defendant. The plaintiff seeks a declaration as to the alleged breaches, a penalty, and a contempt order.

[37] Finally, a cause of action is raised against the third defendant, Ms Shaw. She is described as having acted in a manner that obstructed, delayed, and/or prejudiced the proceedings, made scandalous allegations, and breached the rule of sub judice. By way of particulars, it is alleged Ms Shaw made statements about the DHB in a radio interview; shared a link to that interview on her personal Facebook page; posted certain references to the proceedings which named the DHB; shared a link to a Givealittle page to help her fight the "DHB bullying culture in the [E]mployment [C]ourt" on her Facebook page, and again shared the radio interview on her Facebook page. A declaration is sought that the third defendant has obstructed, delayed, and/or prejudiced the proceeding, made scandalous allegations, and breached the rule of sub judice. A penalty is sought.

Analysis

[38] As a preliminary point, I note that certain findings as to the extent of the Authority's powers, whether they were valid and enforceable, and whether the Court can enforce them, were the subject of the judgment I issued on 22 September 2020. Some of the submissions which are now advanced appear to be an attempt to relitigate findings made on that occasion. I do not intend to reconsider the conclusions I have already reached. If the defendants wish to challenge those conclusions, then they need to have recourse to the options which are provided for in the Act, such as bringing an appeal.

No reasonably arguable cause of action?

[39] The first and second causes of action pleaded by the DHB in its statement of claim rely in part on the compliance order/fourth direction. I have already ruled that this direction should not have been made. It must follow there is no arguable claim that it has been breached, and the relevant references in the statement of claim to it must be struck out.

[40] Each of the remaining planks of the first three causes of action clearly describe and rely on statutory provisions, or in the case of the sub judice allegation, a common law rule. In my view, these are clearly spelt out in the pleading.

[41] By way of example, the first cause of action contains three elements.

[42] First, that the first and second defendants breached the procedural directions. The legality of this direction has already been ruled on in my first judgment.

[43] Second, it is alleged that those breaches amounted to obstruction and delay of the proceeding. This is an issue of fact which is to be considered in light of the particulars which follow.

[44] Third, remedies are sought. It is asserted that procedural directions have been breached, and that a penalty under s 134A of the Act should be imposed. That section states:

> **134A Penalty for obstructing or delaying Authority investigation**
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> (1) Every person is liable to a penalty under this Act who, without sufficient cause, obstructs or delays an Authority investigation, including failing to attend as a party before an Authority investigation (if required).
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> (2) The power to award a penalty under subsection (1) may be exercised by the Authority—
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> (a) of its own motion; or
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> (b) on the application of any party to the investigation.

[45] This aspect of the first cause of action is plainly based on a statutory provision which provides for the remedy sought.

[46] Also sought is an order that the first and second defendants are in contempt, reliance being placed on s 196 of the Act, which provides:

> **196 Application of Contempt of Court Act 2019**
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> (1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Employment Court and the Employment Relations Authority.
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> ...
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> (3) Those provisions apply to proceedings of the Employment Relations Authority as if—
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> (a) references to a judicial officer include the Employment Relations Authority; and
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> (b) references to disrupting the proceedings of a court or disobeying any order or direction of the court made in the course of the hearing of any proceedings include disruption of the proceedings of the Authority and disobedience of any order or direction of the Authority given in the course of the hearing of any proceedings; and
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> (c) a disruption of the proceedings of the Authority includes the disruption of an investigation meeting held by the Authority.
>
> ...

[47] Again, the Act provides a statutory basis for such a claim.

[48] The second cause of action against the first and second defendants also relies on s 134A and s 196 of the Act as a basis for the claim; as well as an assertion that the common law rule as to sub judice has been breached. The Court has already ruled on

the legitimacy of the directions to which it relates. The plaintiffs may proceed in respect of three of the four directions which are pleaded for the purposes of this cause of action. The facts are spelt out; the Court will need to assess whether those facts amount to breaches of the legal obligations referred to; and, if so, what, if any, remedies should be granted.

[49] The final cause of action against the third defendant relies on s 134A of the Act, as well as the rule of sub judice. A similar analysis applies to this cause of action as applies to the first two causes of action.

[50] The question, at this stage, is whether the proceeding thereby discloses a reasonably arguable cause of action, or case which is appropriate to the nature of the proceeding.

[51] I conclude that each cause of action has a reasonable foundation in law, save for the fourth direction, and is expressed with sufficient clarity as to advise the defendants of the allegations which are being brought against them.

[52] That is not to say that the Court will uphold them. Each allegation is strongly disputed by each defendant. But, as the authorities have made clear, a strike out application is not the place to resolve any such conflict. That will happen at the hearing.

Likely to cause prejudice or delay

[53] Although Mr Halse did not submit he was relying on this aspect of r 15.1 of the High Court Rules, some of his statements may perhaps be understood as raising a general concern as to undue prejudice.

[54] The case law indicates that this rubric requires an element of impropriety and abuse of the Court's processes.[11] Examples are an unnecessarily prolix pleading;[12] a

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

12 At [90] and [95].

scandalous and irrelevant proceeding;[13] a pleading of purely evidential material;[14] unintelligible pleadings;[15] and pleading of irrelevant material.[16]

[55] Whilst, as I have noted, the defendants take strong exception to the present proceeding on the basis, they say, that an illegal and expensive action is being brought against them, I consider that the proceeding brought by the DHB cannot be categorised as meeting the high threshold for claims of undue prejudice.

Frivolous or vexatious?

[56] The criteria relating to the striking out of a claim which is frivolous and vexatious were discussed in *Gapuzan v Pratt & Whitney Air New Zealand Services*.[17]

[57] A frivolous claim is one where there is a significant lack of legal merit so that it is impossible for the claim to be taken seriously.[18]

[58] A vexatious one involves conduct that has no reasonable or probable cause or excuse or is harassing or annoying.[19]

[59] The claim brought by the DHB cannot be characterised as invoking these concepts. There is no doubt the pleaded assertions are strongly disputed, but that does not mean the claims meet the test of being either frivolous or vexatious.

[60] A key concern raised by the defendants in their submissions relates to whether the Authority was in fact able to make the directions and/or compliance order which it did. However, these issues have already been considered and resolved.

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13 *Van der Kaap v Attorney-General* (1996) 10 PRNZ 162 (HC).
14 *Commissioner of Inland Revenue,* above n 11, at [91] and [95].
15 At [90] and [95].
16 At [91] and [95].
17 *Gapuzan v Pratt & Whitney Air New Zealand Services* [2014] NZEmpC 206 at [52]–[58] and [66]–[67]. See also *Lumsden v SkyCity Management Ltd* [2015] NZEmpC 225, [2015] ERNZ 389 and *Maharaj v Wellesley Wellington Mission Inc* [2016] NZEmpC 129.
18 *Gapuzan*, above n 17, at [58].
19 At [66].

[61] Then, the question is whether the remedies sought by the DHB should in fact be granted. I do not consider that these various claims meet the high test of impropriety required for an order of strike out.

Abuse of process

[62] As was explained in *Commissioner of Inland Revenue v Chesterfields Preschools Ltd*, this category extends beyond the other grounds and captures all other instances of misuse of the Court's processes.[20]

[63] In *Moevao v Department of Labour*, Richardson J held:[21]

> The concern is with conduct on the part of a litigant in relation to the case which unchecked would strike at the public confidence in the Court's processes and so diminish the court's ability to fulfil its function as a court of law. As it was put by Frankfurter J in *Sherman v United States* ... "Public confidence in the fair and honourable administration of justice, upon which ultimately depends the rule of law, is the transcending value at stake".

[64] So, examples have involved claims where there are attempts to relitigate matters already determined;[22] suing with an improper motive or the aim of obtaining a collateral advantage beyond that legitimately gained from a court proceeding;[23] duplication of proceedings;[24] or commencing or pursuing a proceeding in relation to a claim so stale that a fair trial is now impossible, so that justice could no longer be done.[25]

[65] A party alleging abuse of process must show that the proceeding has been brought for an improper purpose. The onus is a heavy one, and it is to be exercised only in exceptional circumstances.[26]

[66] Although Mr Halse has asserted that the proceedings are being pursued in an aggressive and elaborate fashion by a well-endowed public organisation against

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20 *Commissioner of Inland Revenue*, above n 11, at [89].
21 *Moevao v Department of Labour* [1980] 1 NZLR 464 (CA) at 482 (footnotes omitted).
22 *Hunter v Chief Constable of West Midlands Police* [1982] AC 529 (HL) at 541.
23 *Wallersteiner v Moir* [1974] 1 WLR 991 (CA).
24 *Otis Elevator Co Ltd v Linnell Builders Ltd* (1991) 5 PRNZ 72 (HC).
25 *Bank of New Zealand v Savril Contractors Ltd* [2005] 2 NZLR 475 (CA).
26 *Williams v Spautz* (1992) 174 CLR 509 at 529; *Goldsmith v Sperrings* [1977] 1 WLR 478 (CA) at 498.

parties who do not possess anything like the same resources as it does, I do not consider that this particular proceeding crosses the line to the point where it should be considered abusive.

[67] Moreover, it is evident that one or more of the defendants have chosen to contest the propositions raised in multiple fora, and by multiple means. In that respect, the defendants have to some extent been the authors of the problem of having to contend with extended litigation.

[68] In the result, I am not satisfied that the DHB's claim is an abuse of process.

Conclusion

[69] All references to the fourth direction should be struck out. I decline to strike out the balance of the proceeding, since the necessary high threshold for doing so is not met. The plaintiff is to file and serve an amended statement of claim within 21 days. The defendants are to file amended statements of defence within 21 days thereafter.

Application to stay

Background

[70] I referred earlier to the background to Mr Halse's application for stay of the balance of this proceeding.[27]

[71] Mr Beech, on behalf of the plaintiff, opposes the application for stay. Essentially, it is submitted that it is high time the balance of this proceeding went ahead so that the issues as to whether a penalty, or other outcomes, should be imposed against the defendants can be dealt with. He also says the plaintiff is prejudiced by the delays which have arisen because of the various procedural steps I have outlined.

[72] I note that the grounds relied on for the plaintiff are very similar to those which I considered in an earlier stay judgment, issued on 16 August 2021.[28]

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[27] Above at [5]–[7].
[28] *Bay of Plenty District Health Board v CultureSafe New Zealand Ltd (No 2)* [2021] NZEmpC 131.

[73] At that stage, the judicial review proceedings in the Court of Appeal had yet to be determined. A stay was accordingly sought for the defendants. This was strongly opposed by the plaintiff, which, as it does now, desires the balance of the proceeding to be advanced.

[74] In that judgment, after referring to conventional principles relating to applications for stay where an appeal or similar proceeding is brought, I said:

> [14] As a preliminary point, I express no view as to the potential merits of the judicial review proceedings which relate, as the Court understands it, not only to the findings made by the Court in this proceeding but to other judgments of the Employment Court and to determinations of the Employment Relations Authority. The judicial review proceedings are potentially complex, and prospects of success are not clear on the materials before the Court.
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> [15] I am satisfied that if no stay is granted, the right to bring judicial review proceedings will not be rendered ineffectual. However, the outcome of the Court of Appeal proceedings could impact on the way in which the balance of the proceedings in this Court should be heard.
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> [16] A potentially dysfunctional situation could arise were this Court to proceed on a different basis from that ultimately sanctioned by the Court of Appeal.
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> [17] Whether prejudice would arise, were the Court to consider the balance of the proceedings in the near future, again depends on the question of whether the Court of Appeal's conclusions may impact on issues to be considered in this proceeding. Needless expense might arise for both parties if this Court were to proceed in the meantime. That said, the Court is in no position to make an assessment as to the likelihood of this occurring.
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> [18] Next, I consider whether the judicial review proceedings are being pursued in good faith. I have no evidence that this is not the case; accordingly, I do not regard it as a material factor in the present application.
>
> [19] With reference to the novelty and importance of the questions which arise, it is arguable that significant observations may be made by the Court of Appeal in the course of its deliberations. This factor may indicate it is preferable for the Court not to proceed, at least in the meantime.
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> [20] Finally, I recognise that the grant of any order of stay will lead to delay in the resolution of the issues in this Court. But this factor is not straightforward either. On the one hand, the plaintiffs are entitled to have the present litigation resolved, since it has been on foot for some time. On the other hand, the issues are important insofar as they may impact on the defendants, being proceedings involving potential punitive outcomes.
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> [21] Standing back, I consider that the interests of justice are best addressed by granting an interim order of stay until such time as the interlocutory

applications in the Court of Appeal have been resolved. I will review the position further at that time.

Analysis

[75] This application relates to an application for leave to appeal this Court's judgment in the Court of Appeal, rather than a pending judicial review proceeding as was the case previously.

[76] However, the remarks made in my earlier judgment continue to apply since, if leave were to be granted, and ultimately an appeal allowed, there would be no basis for determining the balance of the proceeding in this Court.

[77] Whilst I recognise the concerns the plaintiff has at the delays which have arisen, for so long as there are outstanding rights in the Court of Appeal, I consider that the interests of justice require an application for stay to be granted, essentially for the same reasons as outlined in my earlier stay judgment.

[78] Accordingly, I grant an interim order of stay until the interlocutory application for leave to appeal has been resolved. I will review the position further at that time.

[79] That being the case, it is unnecessary for me to consider at this stage the status of the judicial review proceedings brought by Mr Halse in this Court.

[80] There are other interlocutory applications which need to be determined before the balance of the proceeding could be heard, relating to the defendants' application for recusal of the solicitors and counsel for the plaintiff, and with regard to witness summonses issued by the defendants. It is inappropriate to deal with these issues whilst the proceedings are stayed.

[81] The parties are asked to keep the Court informed as to the outcome of the application for leave to appeal in the Court of Appeal.

Costs

[82] I reserve costs on both the applications dealt with in this judgment.

B A Corkill
Judge

Judgment signed at 1.00 pm on 24 May 2022