

- (1) ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS AND IDENTIFYING PARTICULARS OF PLAINTIFF
- (2) ORDER PREVENTING SEARCH OF THE TRIBUNAL FILE WITHOUT LEAVE OF THE TRIBUNAL OR OF THE CHAIRPERSON
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IN THE HUMAN RIGHTS REVIEW TRIBUNAL

[2016] NZHRRT 12

	Reference No. HRRT 015/2015
UNDER	THE PRIVACY ACT 1993
BETWEEN	NML
	PLAINTIFF
AND	KIN CREATIONS INTERNATIONAL LIMITED
	DEFENDANT

AT AUCKLAND

BEFORE:

Mr RPG Haines QC, Chairperson
Dr SJ Hickey MNZM, Member
Mr RK Musuku, Member

REPRESENTATION:

Mr G Aulakh for plaintiff
Mr S Bhardwaj for defendant

DATE OF HEARING: 29 March 2016

DATE OF DECISION: 29 March 2016

DECISION OF TRIBUNAL IMPLEMENTING AGREED TERMS OF SETTLEMENT¹

¹ [This decision is to be cited as: *NML v Kin Creations International Ltd (Publication of Apology)* [2016] NZHRRT 12. Note publication restrictions.]

Background

[1] The defendant publishes a newspaper known as *Kuk Punjabi Samachar Newspaper (Kuk Punjabi)*. In the 2 August 2013 issue it carried a notice which the plaintiff says was inaccurate and misleading and in breach of information privacy Principle 8. The defendant accepts the notice was advertised in the newspaper and further accepts there was an error on its part.

[2] Following the making of a complaint under the Privacy Act 1993, the Privacy Commissioner conducted an investigation, concluding Principle 8 had been breached. The present proceedings before the Tribunal followed on 26 March 2015.

[3] At a case management conference held on 17 June 2015 a direction was made these proceedings be heard at Auckland on 29, 30 and 31 March 2016.

The settlement agreement

[4] On 29 March 2016, the first day of the hearing, the parties reached agreement on the terms of a settlement agreement which they then signed. The Tribunal was asked to make formal orders implementing the terms of that signed agreement.

[5] The settlement agreement (as signed) included the following provisions relating to the publication by the defendant of an apology to the plaintiff:

2. The defendant will publish an apology in the following community newspapers:
 - i. *Tasveer*
 - ii. *Kuk Punjabi*
 - iii. *Punjab Express*

The apology to be published in English. The wording of the apology to be as follows:

“The *Kuk Punjabi* newspaper in its issue dated 2 August 2013 published a notice, without authority, that identified an Indian lady and depicted her in bad light. The newspaper apologises that it did not check the accuracy of the notice before publication. The newspaper has compensated the lady for the harm caused to her by this notice. Accordingly, a settlement has now been reached between the parties.”

The font size of this publication to be Aerial 12.

The publication of this apology in *Kuk* is a must by the defendant.

The defendant will make its best endeavours to publish the apology in the other two newspapers.

Should any difficulty arise, the plaintiff is at liberty to publish the above mentioned apology in the other 2 newspapers by seeking assistance from the Tribunal.

[6] The balance of the settlement terms remain confidential to the parties.

Non-publication order

[7] At the request of the parties a permanent order is made under the Human Rights Act 1993, s 107(3) and the Privacy Act 1993, s 89 prohibiting publication of the plaintiff's name or of any details which could lead to her identification.

FORMAL ORDERS

[8] At the request of the plaintiff and of the defendant the Tribunal orders:

[8.1] The defendant is to publish an apology in the community newspapers known as *Tasveer*, *Kuk Punjabi* and *Punjab Express*. The apology is to be in English in the font size known as Arial 12 and worded as follows:

The *Kuk Punjabi* newspaper in its issue dated 2 August 2013 published a notice, without authority, that identified an Indian lady and depicted her in bad light. The newspaper apologises that it did not check the accuracy of the notice before publication. The newspaper has compensated the lady for the harm caused to her by this notice. Accordingly, a settlement has now been reached between the parties.

[8.2] The defendant must publish the apology in its own newspaper (*Kuk Punjabi*) and must employ its best endeavours to have the apology published in *Tasveer* and *Punjab Express*. Should any difficulty arise the plaintiff is at liberty to cause the publication of the apology in these latter two newspapers and may seek the assistance of the Tribunal in this respect.

[8.3] Publication of the name or of any details which could lead to the identification of the plaintiff to these proceedings is prohibited and there is to be no search of the Tribunal file without leave of the Chairperson or of the Tribunal. The plaintiff and defendant are to be notified of any request to search the file and given opportunity to be heard on that application. In the publication copy of this decision the plaintiff is to be referred to as NML.

[8.4] Apart from the clause relating to publication of the apology, the terms of the settlement are to be confidential between the parties.

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Mr RPG Haines QC
Chairperson

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Dr SJ Hickey MNZM
Member

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Mr RK Musuku
Member