

IN THE EMPLOYMENT COURT
AUCKLAND REGISTRY

IN THE MATTER

of an application for declaration,
proceedings removed from
Employment Relations Authority

AND

IN THE MATTER

of an application for interim
injunctions

BETWEEN

Maritime Union of New Zealand
Inc

Plaintiff

AND

Ports of Auckland Limited

Defendant

Court: Judge B S Travis

Appearances: Mr Carruthers QC, Mr Cranney and Mr Mitchell, counsel for plaintiff
Mr Haigh QC, Mr McIlraith and Ms Dunn, counsel for defendant

Minute: 15 March 2012

**MINUTE OF JUDGE B S TRAVIS
FOLLOWING A TELEPHONE DIRECTIONS CONFERENCE
HELD AT 2.30PM ON THURSDAY 15 MARCH 2012**

1. This telephone directions conference was convened at the request of the plaintiff's counsel.
2. Following the previous telephone conference on 13 March 2012, the parties had been discussing, but had been unable to agree on, undertakings to avoid the need for urgent interim injunctions.
3. Mr Haigh was able to present at the conference the following undertaking on behalf of the defendant which was given in terms of the interim interlocutory injunctions sought by the plaintiff in its notice dated 13 March 2012:

- a) Until the conclusion of a Judicial Settlement Conference, which will commence at **11am on Monday, 19 March 2012**, the defendant undertakes as follows:
- (i) The defendant will take no further steps to implement the proposal to make the plaintiff's members redundant.
 - (ii) The defendant will not dismiss the plaintiff's members.
 - (iii) The defendant will not employ or engage Drake Personnel Limited or Allied Workforce Limited, or any other person to perform the work of striking employees in breach of s 97 of the Employment Relations Act 2000.
 - (iv) This undertaking is conditional upon the advertisements booked by Drake Personnel Limited and Allied Workforce Limited, for Saturday, 17 March 2012, either proceeding or, at the election of the plaintiff, being cancelled at the plaintiff's cost.

4. That undertaking is satisfactory to the plaintiff.

5. As the wording of the undertaking demonstrates, the parties have agreed to a Judicial Settlement Conference to deal with the matters set down for hearing in the week commencing **Monday, 26 March 2012**.

6. To assist the Court in understanding the respective positions of the parties they will each file and serve either briefs of evidence, "will say" statements, or refer to affidavits already filed, to indicate the factual matters they consider to be in issue. They will also endeavour to provide a summary of the submissions they will wish to make if the matter does not settle, together with a list of the relevant authorities.

7. Counsel will continue to discuss the issue of the disclosure of relevant documents and will endeavour to agree on an amendment to the timetable for the filing of briefs of evidence for the substantive proceedings. If agreement cannot be reached, leave is reserved to apply for further directions.

8. Counsel are concerned to avoid any further media statements being made by their respective clients regarding the interim injunction application or its resolution by way of undertakings or the Judicial Settlement Conference, other than the fact that these are matters before the Court and are covered in the terms of this minute.

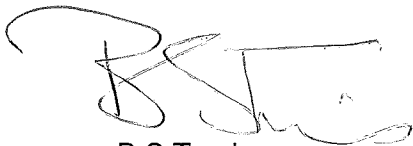
9. I share the concerns of counsel, who could have applied for suppression orders, but have not done so because there are matters of public interest involved. Adverse or speculative publicity will, however, not assist the parties in their genuine endeavours to resolve at least some aspects of the matters in issue before them.

10. This minute is to be approved by counsel, and if mutually agreed, may be released to the media.

11. Counsel and their clients are to be commended for agreeing to the voluntary process of submitting the substantive proceedings to an attempt to settle by the means of a Judicial Settlement Conference.

12. As noted above, the Judicial Settlement Conference will commence at **11am on Monday, 19 March 2012**. It is private and confidential to the parties and the public and the media cannot be admitted.

13. Leave is reserved to the parties to apply for further directions.

A handwritten signature in black ink, appearing to read 'B S Travis', with a large, sweeping flourish at the end.

B S Travis
Judge