

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 5/08  
File 5108270

BETWEEN                      KAIKERI CORPORATION  
   LTD t/a MCDONALDS  
   KAITAIA, Applicant

AND                              MICHAEL DAVIS  
   Respondent

Member of Authority:      James Wilson

Representatives:            Eska Hartdegen for the applicant  
   Michael Davis in person

Determination:              14 January 2008

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**CONSENT DETERMINATION OF THE AUTHORITY**

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**Background**

[1] On 30 November 2007 the applicant, Kaikeri Corporation Ltd t/a Macdonald's Kaitaia (Kaikeri), lodged a statement of problem with the Authority seeking an urgent ex parte injunction against one of its employees, Mr Michael Davis, to restrain Mr Davis from posting any further information about his employer on an internet blog site. After reviewing the papers lodged with the Authority I agreed that the matter was urgent but declined the application for an ex parte injunction and required Kaikeri to serve the relevant papers on Mr Davis.

[2] On 4 December 2007 I convened a conference call with Kaikeri, its representative, Eska Hartdegen, and Mr Davis. At the commencement of the call I clarified with Mr Davis that he had had an opportunity to seek independent advice but that he did not wish to be represented. During the course of this conference Mr Davies advised that he had removed all information relating to Kaikeri and

Macdonald's Kaitaia from his blog and gave an undertaking that he would refrain from posting any further information. Also during this conference call the parties agreed that this undertaking should be incorporated into an order of the Authority. The parties have now provided the Authority with a written, signed statement incorporating Mr Davis' undertaking. **Accordingly, by consent of the parties, Mr Davis' undertaking, as set out below, becomes the order of the Authority.**

### **Order of the Authority by consent**

[3] The respondent, Mr Michael Davis, gives the following undertaking:

- i. He will refrain from making any written statements or posting any information on any blog against or about:
  - McDonald's,
  - the Kaitaia, Kerikeri or Kaikohe McDonald's;
  - the owner/operator of the three above named MacDonald's restaurants
  - any current or ex-members of staff of the Kaitaia, Kerikeri or Kaikohe McDonald's restaurants;
  - any aspect, knowledge or confidential information he gained about the business while being employed at Kaitaia Macdonald's, and
- ii. He will refrain from posting anything in any form of digital media against or about:
  - McDonald's,
  - the Kaitaia, Kerikeri or Kaikohe McDonald's;
  - the owner/operator of the three above named MacDonald's restaurants;
  - any current or ex-members of staff of the Kaitaia, Kerikeri or Kaikohe McDonald's restaurants;
  - any aspect, knowledge or confidential information he gained about the business while being employed at Kaitaia Macdonald's,

**Costs**

[4] Costs are reserved. Should the applicant wish to pursue the question of costs they should first discuss the issue with Mr Davis with a view to settling the matter. Should the parties not be able to reach agreement the applicant may file and serve submissions in respect to costs within 28 days of the date of this Determination. Mr Davis will then have 14 days in which to file a response.

**Status of application**

[5] The applicant has advised that, with the exception of costs, this undertaking and consent order will dispose of this matter.

James Wilson

Member of the Employment Relations Authority