

Attention is drawn to the order prohibiting publication of certain information (refer paragraph 12)

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2025] NZERA 447
3315180
3322080

BETWEEN	VLW First Applicant/Respondent
AND	VHO Second Applicant/Respondent
AND	NFK First Respondent/Applicant
AND	ADH Second Respondent First Applicant/Respondent

Member of Authority: Eleanor Robinson

Representatives: Michael Meyrick for the applicant.
David Fleming Counsel for the respondent.

Date: 25 July 2025

THIRD PRELIMINARY DETERMINATION OF THE AUTHORITY

[1] On 13 June 2024 VLW and VHO posted on its Facebook page a post which contained allegations against NFK (the Facebook Post).

[2] On 17 June 2025 I issued an interim non-publication order in which I ordered that:
no public commentary should be made by any of the parties on the evidence given, pleadings filed or the names of any party or witness. These are not to be the subject of public commentary or be published.

[3] It has been brought to my attention by counsel for NFK that since the interim non-publication order was issued, the Facebook Post remains on its Facebook page and there have been comments made on, and responded to, on it since I issued the interim non-publication order. These have included names and photographs of NFK and his wife, details of their business and allegations about NFK. Evidence has been provided to the Authority in support.

[4] In a case management conference call held on 22 July 2025 Mr Meyrick, counsel for GPQ, stated that the Facebook Post would be taken down. However VLW and VHO now oppose any order that it do so.

[5] The interim non-publication order ([2025] NZERA 349) did not specify that the Facebook Page be taken down, however it is clear that by remaining on the VLW and VHO Facebook page it is providing a forum for comment on the matter currently before the Authority.

[6] It is noted that there is no evidence that either VLW or VHO are responsible for the new posts, however by maintaining the posting, it is facilitating the ongoing comments and speculation on the case.

[7] It is also clear that VLW and VHO are aware of the new postings and comments since the interim non-publication was made and that a claim that they were in breach of the Authority's order was raised with the Authority. Despite that knowledge, it has persistently refused to take down the Facebook post.

[8] I have issued a determination which addressed issues of witness interference by VLW and VHO ([2025] NZERA 366. I regard the existence of the Facebook Post which is attracting public comment and speculation on the case to have the same potential for interference with the witnesses and the administration of justice in this matter.

[9] The interim non-publication order stated that the evidence, the pleadings filed or the names of any party or witness should not be the subject of public commentary or be published. The continuation of the existence of the Facebook post is the subject of public commentary.

[10] I find the VLW and VHO knew of the nature of the comments being added to its Facebook post and have both failed, and subsequently refused, to remove the Facebook post within a reasonable time in circumstances that give rise to an inference that it was taking responsibility for such statements.¹ In that sense I find that it is an ongoing publication and a breach of the Authority's interim non-publication order.

¹ *Murray v Wishart* [2014] NZCA 461

[11] To ensure that there are no further breaches of the interim non-publication order and the potential for interference with the administration of justice in this matter, I issue an order that VLW and VHO immediately take down the Facebook post it made on 13 June 2024.

[12] **I order that VLW and VHO take down the Facebook post on its Facebook post immediately pursuant to s 137(1)(b) and s 138 of the Employment Relations Act 2000 (the Act).**

Eleanor Robinson
Member of the Employment Relations Authority