

**Attention is drawn to the order
prohibiting publication of certain
information in this determination**

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2026] NZERA 130
3338301

BETWEEN JHJ
 Applicant

AND IXX
 Respondent

Member of Authority: Philip Cheyne

Representatives: David Cain and Alex Kersjes, advocates for the Applicant
 The Director for the Respondent

Submissions received: 30 January 2026 from the Applicant
 2 March 2026 from the respondent

Date of Determination: 3 March 2026

COSTS DETERMINATION OF THE AUTHORITY

[1] In an earlier determination, I found that JHJ had a personal grievance and ordered IXX to pay him compensation and reimbursement.¹ Costs were reserved, with a timetable for submissions if parties could not agree.

[2] I received submissions on behalf of JHJ in accordance with the timetable.

¹ *JHJ v IXX* [2026] NZERA 2.

[3] IXX did not make submissions on costs, despite being reminded of the requirement and being offered some additional time to do so. However, the respondent applied late to continue the earlier temporary non-publication order.

[4] This determination resolves costs and the application for a non-publication order.

Non-publication order

[5] The respondent says it is considering whether to challenge the Authority's earlier determination under which a temporary non-publication lapsed after 28 days.² The director says that he is running the business alone and now recovering from health issues, presumably to explain why steps were not taken earlier.

[6] The respondent says that publication of its name would cause reputational and commercial prejudice. It also says that there is limited public interest in publication of names for a determination on costs.

[7] The grounds are similar to those advanced earlier. They were not persuasive then and I have not been referred to any change. There is no reason to defer deciding costs, to give the applicant an opportunity to respond to the application for non-publication.

[8] There is no evidence to support the respondent's contention that it risks extreme hardship and commercial prejudice or will suffer reputational and commercial prejudice. Grounds for a permanent non-publication order are not established.

[9] However, I will preserve any challenge to this and the earlier determination. I prohibit the publication of the parties' names and identifying details for 28 days following the release of this determination. Thereafter, this order lapses.

Assessing costs

[10] JHJ incurred legal fees in this case, he was successful and is entitled to costs.

² *JHJ v IXX*, above n 1, at [5].

[11] I agree that the respondent's engagement with this investigation can reasonably be described as "poor and non-constructive". It materially increased the costs incurred by the applicant. Some examples will suffice.

[12] The respondent did not comply with timetables and directions regarding statements of evidence. Much of the material that was provided in several tranches was duplicated.

[13] The respondent did not appear at the set time on the day of the investigation meeting. I deferred starting so an Authority Officer could phone the director. However, as he did not answer, a message was left for him. The meeting then started late. After a short while, I was notified that the director had responded to the message to say that he would attend within 15 minutes. I adjourned to accommodate that, but he still did not appear. After about 30 minutes, I continued with the investigation meeting in the absence of the respondent. The meeting concluded a little later.

[14] Following the meeting, the Authority received a call from the director to say that he was trying to find a park. He was told that the meeting had finished. Later that morning, he provided a medical certificate, apparently received by him the day before, to explain his absence. A request for an adjournment supported by the medical certificate when it was received would have avoided the wasted time.

[15] A new date was set to resume the investigation meeting. At the meeting, the respondent sought and was given time to provide submissions in writing, but did not comply with the timetable. Some of the late material was duplicated. Later still, the respondent sought a non-publication order which included duplicates of material provided earlier. The applicant's representative needed to review the submissions, material and application to be able to respond, but would have taken more time than was necessary because of delay, duplication and unclear presentation.

[16] Together the two meetings took a little under half a day. Applying a daily tariff approach, I would fix costs at \$2,250.00 plus the lodgement fee. Wasted time caused by the respondent would warrant a modest uplift.

[17] The applicant also relies on a Calderbank offer he made before the application was lodged in the Authority to settle his prospective claims. The settlement offer was less than half the amount the applicant was awarded by the Authority. If the respondent had accepted the offer, the parties would have avoided the costs involved in the Authority proceedings. That factor alone might warrant a 50% uplift to the daily tariff amount.³

[18] The applicant seeks costs of \$4,000.00 plus \$71.55 for the lodgement fee. Given the foregoing factors, the claimed amount is appropriate.

Order

[19] IXX is to pay costs of \$4,071.55 to JHJ within 28 days of the date of this determination.

Philip Cheyne
Member of the Employment Relations Authority

³ *Scott v E Cycles NZ Limited* [2023] NZERA 693.