

Attention is drawn to the order prohibiting publication of certain information (refer paragraph 9)

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 246
3402186

BETWEEN	MARC PAUL Applicant
AND	MOVE FUEL LIMITED Respondent

Member of Authority:	Eleanor Robinson
Representatives:	Kara Orviss, advocate for the Applicant Claire Mansell, counsel for the Respondent
Investigation Meeting:	On the papers
Submissions and/or further evidence	26 February 2026 from the Applicant 4 March 2026 from the Respondent
Determination:	24 April 2026

PRELIMINARY DETERMINATION OF THE AUTHORITY

[1] Move Fuel is seeking interim orders under clause 10(1) Schedule 2 of the Employment Relations Act 2000 (the Act) prohibiting the publication or distribution of (i) the name of a specific customer in connection with these proceedings; (ii) the terms, structuring, pricing, and any identifying details of the parties' commercial contracting arrangements concerning that customer; and (iii) any evidence, submissions, or documents that would tend to reveal the above details.

[2] Mr Paul does not oppose the application for interim non-publication orders.

[3] The Authority may order that the name of any party or witness or other person not be published, subject to any conditions it thinks fit.

[4] In the recent case of *MV v Spiga* the Employment Court has outlined the approach to take.¹ The starting principle is open justice. The Authority may depart from open justice to the extent necessary to serve the ends of justice or where the administration of justice weighs against full openness.

[5] The Court described a two-step approach to take when considering non-publication. First, there must be reason to believe specific adverse consequences could reasonably be expected to occur from publication. This step focuses on the evidence, with reasonable inferences allowed based on the specific circumstances of the case when considered in context.

[6] Second, the Authority must consider whether those consequences justify departing from open justice in the circumstances of the case. This is a weighing exercise that looks at relevant factors. Relevant factors include the circumstances of the case, the interests of the person or entity applying for the order, the interests of the other party or any third party, the public interest (including the rights of media), any issues of equity and good conscience and tikanga and its principles, values or concepts.

[7] Ms Mansell, on behalf of Move Fuel, submits that the following grounds support the departure from open justice in this matter:

- A. Its commercial relationship with the specific customer is highly commercially sensitive. Disclosure of its contractual relationship would cause specific adverse commercial consequences by revealing a unique contractual structure, pricing, and allocation of risk, which would materially prejudice the Move Fuel's competitive position in the market;
- B. The specified customer is publicly known to be a customer of the Respondent. Publication of the parties' identities in connection with these proceedings, coupled with the evidence to be adduced, would enable competitors and the market to infer details of the contract; and
- C. It is submitted that tailored interim orders confined to names/identifiers concerning the customer and the contracting arrangements strike the appropriate balance by genuinely protecting sensitive commercial information while maintaining transparency in all other respects.

¹ *MW v Spiga* [2024] NZEmpC 147.

[8] I accept that identifying the specified customer and the details of its commercial relationship with the Respondent could result in adverse consequences and harm to the reputation of the Respondent's business and its commercial relationship with that customer. To that extent interim non-publication orders are granted.

[9] **I order that at this interim stage, the name of the customer involved in the circumstances of this matter be referred to as JKC, initials bearing no relationship to its actual name; the terms, structure, pricing, and any identifying details of the parties' commercial contracting arrangements between JKC and Move Fuel, and any evidence, submissions, or documents that would tend to reveal the same are not to be published.**

[10] **This order is made under Schedule 2 clause 10(1) of the Employment Relations Act 2000.**

Eleanor Robinson
Member of the Employment Relations Authority