

NOTE: This determination contains an interim non-publication order prohibiting publication of certain information for 28 days of the date of this determination

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 3
3266539

BETWEEN LARISA ZHUKOVSKAYA
Applicant
AND US GLOBAL TAX LIMITED
Respondent

Member of Authority: Sarah Blick

Representatives: Helen Gilbert, counsel for the applicant
Erin Anderson, counsel for the respondent and Global
US Tax Limited

Information/submissions received: 29 November 2024, 16 May and 1 August 2025 from
the applicant
29 January, 4 July and 6 October 2025 from the
respondent

Investigation Meeting: On the papers

Date: 6 January 2026

PRELIMINARY DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Larisa Zhukovskaya applies for leave to join a proposed respondent, Global US Tax Limited (now MorrisLW2 Limited), and to file an amended statement of problem. US Global Tax Limited (now MorrisLW1 Limited) was the original named respondent.¹ Both companies oppose the applications.

¹Both companies have recently changed their names, on 11 December 2025.

[2] The statement of problem lodged on behalf of Ms Zhukovskaya included various claims against the respondent, including personal grievances for which compensation is sought, and damages in relation to alleged breaches of contract. Leave to lodge an amended statement of problem has been sought, expanding claims against the respondent and naming the proposed respondent as a party, seeking relief against both parties.

[3] Ms Zhukovskaya submits she has two arguable causes of action founded on alternate grounds against the proposed respondent, both of which would give the Authority jurisdiction to hear the claims. The first ground is that the Authority would have the right to exercise its equity and good conscience jurisdiction and pierce the corporate veil on the basis there is evidence of impropriety and/or actions taken by the respondent to avoid liability for Ms Zhukovskaya's claims. Alternatively, Ms Zhukovskaya says there is an arguable cause of action that she was jointly employed by the respondents from February 2023, when the proposed respondent was first incorporated and became part of the business structure in the employment environment.

Interim non-publication order

[4] Ms Zhukovskaya has sought an interim order preventing publication of her name, identifying details including her current and previously held positions, and her age, ethnicity and gender. The application is based on health, reputational and employment grounds. The application is opposed.

[5] I do not consider Ms Zhukovskaya has established (or that I am able to infer) that "specific adverse consequences could reasonably be expected to occur" if her name and identifying details are published.² Further, even if some adverse consequences could be reasonably expected to occur, I would not have been satisfied a departure from open justice was justified in this case. The Authority is not satisfied other factors which the Employment Court has said are relevant when considering non-publication weigh in favour of non-publication.³

[6] If there is other specific information or evidence Ms Zhukovskaya wishes to seek non-publication orders in relation to, she may do so during the course of the

²*MW v Spiga Ltd* [2024] NZEmpC 147 at [88].

³*Ibid* at [94].

Authority investigation. The ability to anonymise or summarise information without formal orders will also be open to the Authority as an alternative.

[7] To preserve Ms Zhukovskaya's position, I order that an interim non-publication order be put in place for Ms Zhukovskaya's name. This order will last for 28 days after the date of this determination. It will then lapse unless Ms Zhukovskaya notifies of a challenge, in which case it will continue until the outcome of that challenge is known, and any order by the Court made. This determination will not be published until the end of the 28-day period or further order of the Authority or Court.

The Authority's process

[8] The parties agreed that the applications could be dealt with on the papers, on the basis of affidavit evidence from Ms Zhukovskaya and the respondents' director and shareholder Lance Morris. Written submissions have also been received.

[9] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

Legal principles

[10] The application is made under s 221 of the Act. Section 221 of the Act gives the Authority power to join a party to proceedings in order to enable the Authority to more effectually dispose of any matter before it according to the substantial merits and equities of the case.⁴ The general rule is that it is for a plaintiff (or applicant) to decide who they will sue and for any person named as a defendant (or respondent) to take strike-out proceedings if they consider there is no arguable cause of action.⁵

[11] It is well established that the threshold for joinder is low and that the criteria should be construed liberally.⁶

⁴Employment Relations Act 2000, s 221(a).

⁵*Auckland Regional Services Trust v Lark* [1994] 2 ERNZ 135 (CA).

⁶*Newhaven Waldorf Management Ltd v Allen* [2015] NZCA 204 at [46]; *Zara's Turkish Ltd v Kocaturk* [2019] NZEmpC 139 at [42]; *Lanigan v Fonterra Brands (New Zealand) Ltd (No 2)* [2024] NZEmpC 60 at [3]; *GF v Comptroller of the New Zealand Customs Service (No 5)* [2022] NZEmpC 71 at [11].

Affidavit evidence

[12] Mr Morris has sworn an affidavit in opposition to the joinder application. He has acknowledged that he is the director of both companies and they have the same address and shareholding. The companies both trade under the same banner and are part of a group structure. Mr Morris has provided business reasons for the decision to incorporate the proposed respondent, how it fits within the group structure, and how staff and clients were informed of changes. He explains that all clients of the respondent were migrated over time to the proposed respondent, on notice to clients. Mr Morris has said that Ms Zhukovskaya “never worked for Global US Tax Ltd”.

[13] Ms Zhukovskaya’s evidence is that the respondent did not tell her that her clients had been transferred to the proposed respondent, and that the company she was employed by no longer contracted directly with those clients. She points to a client invoice from 2023 that is before the Authority, which is issued on the respondent’s letterhead, and while its name and address had not changed, the GST number and bank account identified that of the proposed respondent. She says she found out indirectly about the change via client query in July 2023. Further, her evidence is that at no time did she witness clients being expressly advised of this change.

[14] Ms Zhukovskaya further deposes that sometime around the end half of 2022, she discussed with Mr Morris about not overwhelming employees with work as it may lead to personal grievances. She says Mr Morris privately said that if anyone tried to come after him, that he would set up a new company and close down the respondent to avoid any liability. Mr Morris disputes this claim.

Submissions of the parties and proposed respondent

[15] The application to join the proposed respondent is opposed on the following grounds:

- (a) The proposed respondent was established and operates for genuine commercial reasons and not for any ulterior purpose as is alleged. It is said the joinder application can only have been made to attempt to undermine Mr Morris’s professional reputation by making serious, but unsupported, claims about the commercial integrity of the group and operations of the companies. The companies say they were lawfully entitled to take the actions complained of, which were not misleading or deceptive.

- (b) The addition of a further party will not assist with the expedient and effective disposal of this matter.
- (c) The application is without merit and the evidence relied upon does not sufficiently demonstrate that an arguable claim exists.
- (d) The allegation regarding the proposed respondent was raised late and follows a pattern of Ms Zhukovskaya seeking to increasingly expand the scope of her claim.
- (e) The application is brought for an ulterior motive, being to include another party due to Ms Zhukovskaya's concerns that recovery of any judgment sum (in the event she is successful) from the respondent may be difficult.
- (f) The proposed respondent's presence is not necessary to adjudicate on and settle all questions involved in the proceeding.
- (g) At no time did Ms Zhukovskaya become party to an employment relationship (either implicitly or expressly) with the proposed respondent and no relief is available against it.
- (h) The inclusion of the proposed respondent is inconsistent with the principles of efficient and cost-effective disposal of employment relationship problems.
- (i) The proposed respondent's inclusion would create an injustice by putting it to the cost and inconvenience of participating in this process.

[16] On behalf of Ms Zhukovskaya, it was submitted if her evidence is accepted by the Authority, then there would be evidence that the respondent engaged in misleading and/or deliberately deceptive conduct and thus falling within the applicable principles for piercing or lifting the corporate veil. She submits that its conduct would also breach ss 9, 12 and 13(b) of the Fair Trading Act 1986. Ms Zhukovskaya claims:

- (a) She was unaware she was undertaking work on behalf of propose respondent, and therefore both companies engaged in conduct that was misleading or deceptive or was likely to mislead or deceive on any matter relating to employment (s 12); and/or
- (b) While engaging in trade, the companies' conduct was misleading and/or deceptive, or amounted to false or misleading representations, as invoices did not disclose that client payments were being made to the proposed respondent (ss 9 and/or 13(b)).

[17] In relation to the alternative ground - that there is an arguable cause of action that Ms Zhukovskaya was jointly employed by the companies from February 2023 - Ms Zhukovskaya further submits:

- (a) One of the objects of the Act is to build productive relationships through the promotion of good faith in all aspects, not just of the relationship but of the “environment” within which the relationship subsists.
- (b) As sole director of both respondents Mr Morris had direct control over the day-to-day operations undertaken by Ms Zhukovskaya. He was the mind of and acting on behalf of both companies.
- (c) She was clearly undertaking work for the benefit of both companies.
- (d) The respondent did not have the right to assign all Ms Zhukovskaya’s work to another company without her concurrence, as if she were a chattel.
- (e) Mr Morris has provided no evidence that clients were expressly informed that Ms Zhukovskaya was not employed by the company issuing their invoices. Clients would therefore have assumed that she worked for the company to whom payment was made.
- (f) It would be inequitable to allow the proposed respondent to present itself as having this connection with Ms Zhukovskaya while then permitting it to hide behind the corporate veil for the purpose of avoiding liability.
- (g) There was an artificiality in the arrangements which should not be ignored by the Authority, thus creating a situation where the corporate veil should be lifted and both parties determined to be the employer.

[18] In terms of the nature of the proposed claim against the proposed respondent, Ms Zhukovskaya is seeking joint and several liability for remedies with the respondent.

[19] She further says the law should be vigilant to ensure permissible complexity in corporate structures does not work as an injustice in the realm of employment law. Ms Zhukovskaya further notes the respondent in its notice of opposition to the joinder application claimed the application had an ulterior motive. Older authority was cited as support for the proposition that the corporate veil may be lifted where the establishment of a company is to seek to render ineffective any claim for relief.⁷

⁷*NZ Seamens IUOW v Shipping Corp* [1989] 1 NZILR 6.

Assessment

[20] Prima facie, Ms Zhukovskaya has the right to select her respondents. The factual basis of the claims against both companies are yet to be tested, investigated and determined. While Ms Zhukovskaya's claims are certainly novel, her claim in relation to becoming jointly employed by the proposed respondent is at least arguable. The respondent and proposed respondent have incorporated some complexity of the corporate structure within their group of companies. The affidavit evidence filed in opposition to the application indicates a degree of interconnectedness between the two respondents and possibly some uncertainty as to where the boundaries might lie.

[21] While the law regarding joint employment is unsettled, the Employment Court has acknowledged the possibility that an employee may have joint or multiple employers.⁸ Although the evidence is untested, and full submissions would need to be received, if established, relief may be available in this case.

[22] Although some additional evidence will need to be provided, the joinder of the proposed respondent is unlikely to significantly impact the scope of the evidence that is required and, accordingly, the scale of the investigation meeting.

[23] There would be no substantial prejudice to the proposed respondent being joined, with it being part of the same group of companies. It is represented by the same counsel.

[24] In all the circumstances, I am satisfied that the proposed respondent's presence as a party would assist the Authority to more effectually dispose of the matters before it. I accordingly order that Global US Tax Limited (now MorrisLW2 Limited) be joined as the second defendant to these proceedings.

[25] Having made that finding in relation to the alternative ground of joint employment, the Authority has not made assessment of the ground advanced based on misleading or deceptive conduct. It is not clear whether that ground will impact the remedies sought but if it continues to have relevance, Ms Zhukovskaya can be expected to provide substantive submissions as to matters of jurisdiction.

⁸*E Tu Inc v Raiser Operations BV* [2021] NZEmpC219 at [12], a conclusion which was not disturbed on appeal.

Outcome

[26] Global US Tax Limited (now MorrisLW2 Limited) is joined as second respondent in this matter. Additionally, leave is granted to lodge the amended statement of problem.

[27] The Authority will be in contact with the parties regarding next steps in the investigation shortly.

Costs

[28] Costs are reserved. The Authority notes joinder of the proposed respondent as a party does not come without risk, of course. If unsuccessful, Ms Zhukovskaya will be bound directly by an adverse outcome, and exposed to costs or an adjustment of costs.

Sarah Blick
Member of the Employment Relations Authority