

**IN THE WAITANGI TRIBUNAL**

**WAI 2374**

**WAI 996**

**IN THE MATTER OF** the Treaty of Waitangi Act 1975

**AND** a claim by Sir Graham Latimer on behalf of himself and the hapū of Te Paatu; Mr Haami Piripi on behalf of himself and the iwi of Te Rarawa; Mr David Potter and Mr Andre Paterson on behalf of themselves and hapū of Ngāti Rangitihī; Ms Michelle Marino and Mr Errol Churton for and on behalf of themselves and the descendants of Tāringa Kuri (Te Kaeaea); and Mr Russell Kemp on behalf of himself and the hapū, marae and whānau of Te Uri o Hau

**AND** claims by Russell Kemp on behalf of himself and on behalf of the hapū, marae and whānau of Te Uri o Hau.

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**AFFIDAVIT OF RUSSELL KEMP**  
**10 July 2012**

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Pacific Law Limited  
Barristers & Solicitors  
Level 13 Willbank House  
57 Willis Street  
PO Box 27400  
Wellington  
Solicitors Acting: Janet Mason

**RECEIVED**

Waitangi Tribunal

**16 July 2012**

Ministry of Justice  
WELLINGTON

**AFFIDAVIT OF RUSSELL KEMP**

I, **RUSSELL KEMP**, of Kaiwaka swear:

1. I hold the positions of:
  - a. Trustee of the Te Uri o Hau Settlement Trust (“the Settlement Trust”);
  - b. Trustee of the Otamatea Marae;
  - c. Vice Chairman of Taitokerau Trust Board; and
  - d. Trustee of CDL Hotel Waitangi.
  
2. I was previously the Chairperson of the Settlement Trust.
  
3. I am a named claimant for an Application for Urgency registered as Wai 996 - Te Uri o Hau (Latimer and Others) Contemporary Matters Claim (“the Contemporary Claim”). The other named claimants at the time that the Contemporary Claim was filed were:
  - a. Sir Graham Stanley Latimer;
  - b. Rawson Sidney Ambrose Wright;
  - c. Gabriel Oliver Bloy Thompson;
  - d. Thomas Benjamin De Thierry;
  - e. Ruku Lucy Waipouri (now deceased); and
  - f. Jamie Bruce Lloyd Paikea,as Trustees of the Te Uri o Hau Settlement Trust on behalf of the hapu of Te Uri o Hau.
  
4. I am also a named claimant for the Application for Urgency filed on 1 June 2012 in relation to a contemporary claim lodged by Sir Graham Latimer, myself and others in relation to the administration of legal aid by the Crown in the Treaty of Waitangi sector (“the Latimer and Piripi Claim”).
  
5. This Affidavit is provided in support of the Latimer and Piripi Claim.







16. On 1 November 2011, Leonie Short of the Agency emailed advising that invoices submitted to the Agency would not be considered because Ms. Mason was not the lead provider for the file and that if the Agency was to communicate further with Pacific Law regarding the file it would need to be reassigned by way of a request from either the current lead provider or the client (a copy is attached as Annex F). The Agency also sought the following information:

- a. the reason for the change in lead provider;
- b. a signed and dated authority to act from the client; and
- c. a prospective estimate.

The Agency also asked for confirmation that each client was willing and happy for a transfer of the legal aid to be made to the nominated new lead provider.

17. On 19 November 2011, Mr. Doogan wrote to the Agency advising that:

- a. the file had been reassigned to Ms. Mason;
- b. Pacific Law no longer acted for the Trustees of the Settlement Trust;
- c. Pacific Law continued to act on behalf of Sir Graham Latimer and Mr. Kemp, who were two of the original named claimants for the Contemporary Claim; and
- d. letters for Sir Graham and Mr. Kemp authorising reassignment were attached;

18. On 15 December 2011, Pacific Law wrote to the Agency advising that:

- a. they now only acted for Sir Graham Latimer and myself in relation to the Contemporary Claim;
- b. Sir Graham and myself were no longer Trustees of the Settlement Trust;
- c. some of the matters raised in the 9 April 2010 Agency Letter were no longer relevant; and
- d. addressing the remainder of the issues set out in the 9 April 2010 Agency Letter which were still relevant.



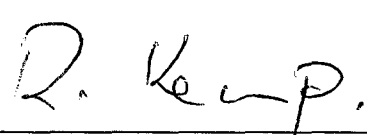
- 25. The Agency then goes to assess the merits of the claim. Again I am concerned with about the appropriateness and ability of staff to assess the merits of the claim. Once the Tribunal has requested and accepted a claim and issued a Section 44 Report without declaring it vexatious, as they have provision to do under section 7(1) (b) of the Treaty of Waitangi Act then surely this is a clear indication that the claim has merit.
- 26. I note that it is now well over two years since I first applied for legal aid and I appear to be no closer to obtaining aid. An awful lot of time has been wasted on needless correspondence and more and more requests for information.
- 27. I consider that the refusal to grant aid in a timely and efficient was is a breach of the principles of Te Tiriti/the Treaty.

SWORN at Kaiwaka  
 this 10<sup>th</sup> day of July 2012  
 Before me:




Solicitor of the High Court of New Zealand/Deputy Registrar

B.F. Jaques, QSM. JP.  
 Company Director  
 Kaiwaka  
 New Zealand

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 RUSSELL KEMP

## **CORRECT FOOTNOTE DESCRIPTIONS TO AFFIDAVIT OF RUSSELL KEMP**

### **Page 4 footnote (refer paragraph 9 of Affidavit):**

The application for Legal Aid for Waitangi Tribunal Proceedings had three attachments, however only one attachment has been included in Annex C. This is because the other two attachments namely the Statement of Claim for Wai 2196 and the Memorandum-Directions are attached as Annexures A and B respectively. In addition, some of the information in this attachment has been blacked out as it contains personal details.

### **Page 5 footnote (refer paragraph 12 of Affidavit):**

A copy of the Section 44 Report was included in the 9 April 2010 Letter, however a copy is not included in this Annex, as the Section 44 Report is already attached as Annex D.

### **Page 7 footnote (refer paragraph 21 of Affidavit):**

Some of the information in this attachment has been blacked out as it contains personal details.