

**IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY**

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CIV-2018-404-001122  
[2018] NZHC 1425**

UNDER The Privacy Act 1993

BETWEEN THE RIGHT HONOURABLE WINSTON  
RAYMOND PETERS  
Plaintiff

AND PAULA LEE BENNETT  
First Defendant

PETER HUGHES  
Second Defendant

ANNE MERILYN TOLLEY  
Third Defendant

THE ATTORNEY GENERAL sued on  
behalf of the MINISTRY OF SOCIAL  
DEVELOPMENT  
Fourth Defendant

BRENDAN BOYLE  
Fifth Defendant

Hearing: (On the papers)

Judgment: 14 June 2018

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**JUDGMENT OF VENNING J  
Access to documents**

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**This judgment was delivered by me on 14 June 2018 at 2.15 pm, pursuant to Rule 11.5 of the High Court Rules.**

**Registrar/Deputy Registrar**

**Date.....**

Solicitors: Clifton Killip Lyon, Auckland  
Counsel: B Henry/C Foster, Auckland  
Radio New Zealand

[1] The Right Honourable Winston Peters has commenced proceedings in this Court alleging that the five named defendants have breached his privacy by their actions which led to the publicity of overpayment of National Superannuation to him.

[2] Ms Robson of Radio New Zealand has sought access to “All documents currently held on the court file, including the statement of claim.” The purpose of the application is stated to be “For accuracy of media reporting in this ongoing court case”.

[3] The application is made under r 11 of the Senior Courts (Access to Court Documents) Rules 2017.

[4] The plaintiff has no objection to the application. Statements of defence have not yet been filed as the proceeding is at a very preliminary stage. It is impractical to require the notice of application to be served on the defendants.<sup>1</sup>

[5] Rule 12 provides for the matters to be considered on such an application and r 13 provides for the approach to balancing matters.

[6] At this early stage in the proceedings the protection of confidentiality and privacy interests and the orderly and fair administration of justice may require access to documents to be limited.<sup>2</sup> In the present case the plaintiff alleges a breach of his privacy but he has no objection to the disclosure of the documents on the Court file.

[7] The following considerations under r 12 have relevance.

*The orderly and fair administration of justice*

[8] The Court expects the defendants will in due course enter defences. There is no reason to consider that disclosure of the details in the statement of claim at this stage will affect the defendants nor will it have any impact on the orderly and fair administration of justice and the ability of the Court to independently and fairly determine this case in due course.

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<sup>1</sup> Senior Courts (Access to Court Documents) Rules 2017, r 11(4).

<sup>2</sup> Senior Courts (Access to Court Documents) Rules 2017, r 13(a).

*Right to bring and defend civil proceedings without disclosing private information any more than is necessary to satisfy the principle of open justice*

[9] As noted, the plaintiff, who has brought the proceeding alleging breach of privacy, does not object to disclosure. The statement of claim alleges the defendants took certain steps, some or all of which may be denied in due course, but at present there is no suggestion that disclosure of the details of the plaintiff's claim will lead to the disclosure of any private information of the defendants.

*Protection of privacy interests*

[10] The same point applies.

*Principle of open justice (including encouragement of fair and accurate reporting of, and comment on, court hearings and decisions)*

[11] The proceedings are a matter of public interest. They concern allegations by Mr Peters who will shortly be the acting Prime Minister of New Zealand. They relate to allegations against senior public servants and senior members of the National Party who were former cabinet members. There have already been media reports which identify all five defendants, the amount claimed and the general basis to the claim. Disclosure of the further detail in the statement of claim will assist the aim of ensuring fair and accurate reporting.

*The freedom to seek, receive, and impart information*

[12] The application is brought by a responsible member of the media. As noted, there is public interest in the proceedings. It is important that any further reporting of the matter be informed and accurate.

## **Result**

[13] Having regard to the above, the application is granted. The applicant may have access to the statement of claim filed in the proceeding.

[14] Access is limited to the statement of claim at present. While it may be unlikely, issues raised in documents filed later in these proceedings, including the statements of

defence may raise issues of privilege or confidentiality. For that reason the application is granted, but restricted to access to the statement of claim at present.

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Venning J