

**ORDER SUPPRESSING THOSE MATTERS SUPPRESSED BY ORDER OF
GRICE J DATED 16 DECEMBER 2019**

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

**I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-A-TARA ROHE**

CIV-2019-485-759

BETWEEN PQW
 Plaintiff

AND T C MALLARD
 Defendant

On the papers:

Counsel: M F McClelland QC and A J Romanos for Plaintiff
 L Clark and S Jones for Defendant

Minute: 10 March 2021

MINUTE OF CHURCHMAN J

Introduction

[1] On 24 February 2021, I issued a judgment granting a third party, Mr Chris Bishop, access to a redacted version of the defendant’s amended statement of defence in these discontinued defamation proceedings. Mr Bishop filed an application under r 11 of the Senior Courts (Access to Court Documents) Rules 2017 (the Rules) for that document.

[2] Mr Bishop’s reason for accessing the amended statement of defence is set out in my judgment of 24 February 2021.¹

¹ See *PQW v Mallard* [2021] NZHC 269.

[3] The more general factual and procedural background to these proceedings is set out in my judgment of 11 February 2021.²

[4] Mr Bishop has now filed a second application for access to documents under the Rules. Specifically, he seeks access to the plaintiff's statement of claim in these proceedings, on the basis that:

Access to the statement of claim is necessary to interpret the amended statement of defence. It is difficult/nearly impossible to understand the paragraphs in the amended statement of defence without reference to the statement of claim.

Position of the parties

[5] Both the plaintiff and defendant in these proceedings have signalled by way of memoranda that they will abide by the decision of the Court as to Mr Bishop's second application.

[6] However, both parties submit that if access is granted to Mr Bishop, it should only be to a version of the statement of claim that is anonymised, in order to take into account the permanent non-publication orders in respect of the plaintiff and complainant's identities.

[7] Counsel for the defendant noted that this Court has previously ordered the redaction of additional information about the complainant on the basis that its publication could lead to their identification – namely the date of the alleged conduct by the plaintiff and the period during which it was investigated. The defendant's position is therefore that if the anonymised statement of claim is to be provided, that additional information should be redacted, specifically in:

- (a) Paragraph 7: the date on which the alleged conduct occurred; and
- (b) Paragraph 7: the specific details of the complaint.

² See *PQW v Mallard* [2021] NZHC 126.

Decision and result

[8] In my judgment concerning Mr Bishop's first application for access to Court documents, I considered that the most appropriate way to balance the important principles of open justice and transparency with the privacy and sensitivity interests of the plaintiff and complainant was to grant Mr Bishop access to a redacted version of the amended statement of defence.³

[9] Mr Bishop's reason for requiring the statement of claim (on the basis that it is difficult to understand the statement of defence without that other document) is understandable and valid. The same principles of open justice and transparency apply to this second application, and equally as do the privacy and sensitivity interests of the plaintiff and the complainant.

[10] It is appropriate to take the same approach to this second application, upholding the principles of open justice and transparency by allowing Mr Bishop to access the statement of claim, but protecting privacy and sensitivity interests by restricting that access to an anonymised and partly redacted version of that statement of claim.

[11] I therefore partly allow Mr Bishop's application for access to Court documents, and order that access to an anonymised statement of claim is granted, following redaction of the material set out at (a) and (b) of paragraph [7] above.

A handwritten signature in black ink that reads "P.B. Churchman J". The signature is written in a cursive, flowing style.

Churchman J

³ *PQW v Mallard*, above n 1, at [27]-[30].