

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

**I TE KŌTI MATUA O AOTEAROA  
ŌTAUTAHI ROHE**

**CIV-221-409-000044  
[2021] NZHC 1557**

BETWEEN RAYMOND BRUCE SMITH  
Plaintiff

AND GEOFFREY KING  
First Defendant

ANTHEA KEENAN  
Second Defendant

Hearing: (Dealt with on the papers)

Judgment: 29 June 2021

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**JUDGMENT OF GENDALL J  
As to Costs**

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[1] In a decision I issued in this proceeding on 31 May 2021, I entered judgment by way of formal proof on the plaintiff's defamation claim against the defendants. In doing so, at para [49] I stated:

[49] There is judgment against Mr King and Ms Keenan [the defendants] for liability for reasonable solicitor-client costs pursuant to s 24(2) of the Defamation Act 1992. An updating memorandum in respect of costs is to be filed. Where solicitor-client costs are sought, the invoices containing a description of the work should be filed and the memorandum detailing costs should attach the invoices.

[2] Section 24(2) of the Defamation Act 1992 provides:

- (2) Where, in any proceedings for defamation,—
- (a) the plaintiff seeks only a declaration and costs; and
  - (b) the court makes the declaration sought,—

the plaintiff shall be awarded solicitor and client costs against the defendant in the proceedings, unless the court orders otherwise.

[3] On 2 June 2021, counsel for the plaintiff, Mr Russell, filed in this Court a memorandum relating to costs and disbursements. This memorandum confirmed that solicitor-client costs and disbursements totalling \$32,667.74 were sought by the plaintiff against the defendants on a joint and several basis. Mr Russell had attached to his memorandum five detailed Lane Neave solicitor-client tax invoices, dated 29 January 2021, 26 February 2021, 30 March 2021, 30 April 2021 and 28 May 2021, for legal fees and disbursements addressed to the Westland District Council. The invoices were all headed “Defamation Advice”.

[4] In response to a minute I issued in this matter on 25 June 2021 Mr Russell has filed a memorandum dated 28 June 2021 confirming that, although the tax invoices in question were addressed to the Westland District Council, (who had agreed to meet the costs of this proceeding on behalf of the plaintiff):

3. Each of the tax invoices referred to ... from the solicitors for the plaintiff to the Westland District Council, was issued in relation to attendances and costs of and incidental to this proceeding.

[5] Mr Russell in this 28 June 2021 memorandum outlined further details concerning the invoices in question and concluded by confirming in this memorandum at para 7 that:

7. Thus, the five invoices issued in 2021 are only in relation to this proceeding. They do not include legal costs incurred by WDC in attempting to obtain remedies against the defendants for statements other than the August 2020 and December 2020 publications which are the subject of this proceeding...

[6] In a minute I issued in this proceeding on 3 June 2021 I had directed that the defendants, Mr King and Ms Keenan, were to be served with my 31 May 2021 judgment, the memorandum from counsel for the plaintiff seeking costs dated 2 June 2021 and that minute of 3 June 2021. Counsel for the plaintiff has confirmed that the first defendant, Mr King, was served with these documents on 14 June 2021 and the second defendant, Ms Keenan, was similarly served on 15 June 2021. Affidavits of service were filed.

[7] This resulted in the first defendant and the second defendant filing in this Court by way of letter or email a “Memorandum of Response” dated 21 June 2021 and a further email dated 26 June 2021. I have now had an opportunity to carefully consider the matters raised in the 21 June 2021 Memorandum of Response and the 26 June 2021 email from the defendants. No pertinent issues concerning costs or their quantum as opposed to complaints about the general actions of the plaintiff appear to be raised.

[8] And I need to say also that, as I understand it, no application to set aside the formal proof judgment obtained by the plaintiff against the defendants pursuant to r 15.10 of the High Court Rules or otherwise has been filed or served by the defendants.

[9] That said, the formal proof judgment stands, and costs and disbursements need to be quantified at this point.

[10] I have also had an opportunity now to carefully consider the solicitor-client costs and disbursements sought by the plaintiff here and each of the tax invoices presented. Having done this, I am satisfied the costs and disbursements listed are properly incurred and claimed.

[11] An order is now made that the defendants, Mr King and Ms Keenan, are jointly and severally liable to pay to the plaintiff, Mr Smith, costs and disbursements on a solicitor-client basis of \$32,667.74 pursuant to s 24(2) of the Defamation Act 1992. (This order is made in line with my 31 May 2021 judgment against the defendants, Mr King and Ms Keenan, for liability for reasonable solicitor-client costs in this matter as outlined at para [49] of the judgment.)

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**Gendall J**

Solicitors:  
Lane Neave, Christchurch

Copies to:  
Geoffrey King – First Defendant  
Anthea Keenan – Second Defendant

