

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

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

**CIV-2021-485-527  
[2022] NZHC 1860**

BETWEEN

IAN ADAMSON  
Plaintiff/Respondent

AND

HUTT VALLEY DISTRICT HEALTH  
BOARD  
First Defendant/First Applicant

SHELLEY JAMES  
Second Defendant/Second Applicant

Hearing: On the papers

Appearances: Plaintiff in person  
D R La Hood and S B McCusker for Defendants

Judgment: 29 July 2022

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**JUDGMENT OF ASSOCIATE JUDGE JOHNSTON  
[Costs]**

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[1] In my judgment of 15 June 2022 I struck out Mr Adamson's defamation claim on three bases:

- (a) That it was not pleaded in accordance with s 37 of the Defamation Act 1992;
- (b) That it did not disclose an arguable claim; and

(c) That, in any event, in terms of the principles articulated in *Thornton v Telegraph Media Group Ltd*,<sup>1</sup> the resources that would be necessary to accommodate the case were not justified.

[2] I concluded by saying that on the face of things the defendants as the successful parties were entitled to a costs award.

[3] Apparently, the defendants' solicitors have attempted to engage with the plaintiff in relation to costs but have been ignored.

[4] By memorandum dated 27 July 2022 the defendants now seek costs. Counsel have calculated costs on a 2B basis, correctly as far as I can see, at \$13,264.50. There are also disbursements of \$610.

[5] However, Mr La Hood and Mr McCusker inform me that the defendants' actual costs were appreciably less. They total \$11,741.04. The principle is that costs are generally calculated in accordance with the scales provided for in the High Court Rules 2016, but that a party is not entitled to claim anything more than their actual costs. Accordingly, the defendants seek their actual costs, together with the disbursements already referred to.

[6] Mr Andrews has filed a memorandum in reply. He says that he cannot afford to pay costs. That is not a proper basis for resisting a costs order. In short there is nothing that Mr Andrews says in his memorandum that dissuades me from making the costs order that I anticipated making when issuing my original judgment.

[7] There will be a costs order in favour of the defendants against the plaintiff in the total sum of \$12,351.04 inclusive of costs and disbursements.

Associate Judge Johnston

Solicitors:  
Luke Cunningham Clere, Wellington for defendants

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<sup>1</sup> *Thornton v Telegraph Media Group Ltd* [2010] EWHC 1414, [2011] 1 WLR 1985 (QB).