

Reference No. HRRT 008/2016

UNDER THE PRIVACY ACT 1993

BETWEEN KATHY APOSTOLAKIS

PLAINTIFF

AND PETER GILBERT

DEFENDANT

AT WELLINGTON

BEFORE:

Mr RPG Haines QC, Chairperson
Ms WV Gilchrist, Member
Hon KL Shirley, Member

REPRESENTATION:

Mrs K Apostolakis in person
Mr PC Gilbert in person

DATE OF HEARING: Heard on the papers

DATE OF DECISION: 28 March 2018

**DECISION OF CHAIRPERSON DISMISSING PLAINTIFF'S APPLICATION FOR
ADJOURNMENT¹**

BACKGROUND

[1] These proceedings, filed on 10 February 2016, were originally to be heard on 9 and 10 March 2017 but in the circumstances described in the *Minute* dated 10 March 2017 the hearing was adjourned at the request of Mrs Apostolakis to 29 and 30 November 2017.

[2] The hearing commenced on 29 November 2017 and continued into 30 November 2017. As it was not possible to conclude the hearing inside two days it was adjourned part heard. The Tribunal had offered to continue the hearing on the following day, being 1 December 2017, but this was resisted by Mrs Apostolakis and by Mr Gilbert.

¹ [This decision is to be cited as: *Apostolakis v Gilbert (Adjournment Application)* [2018] NZHRRT 8.]

[3] The reasons why the hearing could not be concluded within the two allocated days are explained in the Chairperson's *Minute* dated 30 November 2017 and in the subsequent decision of the Tribunal in *Apostolakis v Gilbert (Late Interlocutory Applications)* [2017] NZHRRT 54. In summary, time was diverted to deal with three late interlocutory applications filed by Mrs Apostolakis on the afternoon preceding the commencement of the hearing. In addition, her cross-examination (yet to be completed) of Mr Gilbert was lengthy, prolix and difficult to manage.

[4] On 15 February 2018 the Tribunal gave notice that the hearing would resume on 9 and 10 April 2018. By letter dated 19 February 2018 Mrs Apostolakis responded that that date was "unsuitable" for her. She did not elaborate.

[5] By email dated 20 February 2018 Mrs Apostolakis was advised that the Chairperson had dismissed the adjournment application and told that in the event of her not appearing before the Tribunal on 9 April 2018 at 10am, there would be a real risk of her proceedings being dismissed.

[6] Undeterred, by letter dated 28 February 2018 Mrs Apostolakis renewed her application for adjournment, stating that on 9 April 2018 she would be in Whanganui attending a family gathering of some importance to her.

[7] That application for adjournment was reluctantly granted but on the express basis that it would be the final adjournment in these proceedings and that any further application made by Mrs Apostolakis would not be entertained. Mrs Apostolakis was given notice that the resumed hearing would now commence on 14 May 2018. Formal notice of the hearing date was given to her and to Mr Gilbert.

THE ADJOURNMENT APPLICATION DATED 26 MARCH 2018

[8] On Monday 26 March 2018 Mrs Apostolakis filed a further adjournment application in the following terms:

1. I, the plaintiff, in the above proceeding make an application for an adjournment of the above proceeding due to new information received by me in relation to Judge Geoffrey Fraser Ellis (alias Geoffrey Griffith Ellis) and many more aliases, used for financial gain.
2. I spoke to Mr Peter Channing Gilbert on 22nd March 2018 re my application for adjournment.
3. Mr Peter Channing Gilbert gave me his sympathetic response that he would not oppose my application for adjournment, given the disturbing and disgraceful conduct of the retired Family Court Judge Geoffrey Fraser Ellis.
4. The behaviour of Judge Ellis has caused a rift in all my family relationships because I am a Roman Catholic and oppose Freemasonry, especially Freemasonry distress signals, and the number 13. The remedy lies against Jana Pierrina De Polo and spouse, Scott.
5. On further grounds that I have submitted further complaints to the Human Rights Commission about identity fraud committed by Judge Geoffrey Ellis and by Jana De Polo, JPDP Ltd and Scott MacDonnell Jiggy's Fishing Ltd.

[9] Mr Gilbert by email dated 27 March 2018 advised he neither consented to nor opposed the application.

[10] On 27 March 2018 Mrs Apostolakis, without explanation, filed in support of her adjournment application a document comprising nine pages downloaded from Ancestry.com. These pages relate to various persons who share (or shared) the surname of "Ellis" or who were married to spouses with that surname. It is impossible to see the relevance of this information in the context of a claim Mr Gilbert allegedly failed to comply with information privacy principle 6.

Discussion

[11] The application dated 26 March 2018 is declined for the following reasons:

[11.1] The issue in these proceedings is whether Mr Gilbert interfered with Mrs Apostolakis' privacy by failing to comply with an information privacy request made by her under Principle 6. That issue has nothing to do with the complaints now made by Mrs Apostolakis against Judge Ellis. In addition those complaints are of a scandalous and vexatious nature. No weight can be given to them.

[11.2] The circumstances giving rise to the claim by Mrs Apostolakis against Mr Gilbert occurred in January 2011. Since filing these proceedings in February 2016 Mrs Apostolakis has declined almost every opportunity to have the matter heard. It was on her application that the hearing scheduled to commence on 9 March 2017 was adjourned.

[11.3] It might be thought that the hearing having commenced on 29 and 30 November 2017 Mrs Apostolakis would be anxious to complete the hearing and obtain a decision from the Tribunal. Yet she has continued to make successive adjournment applications to postpone the resumption of the hearing.

[11.4] There is also the fact the resources of the Tribunal are presently under sustained pressure. The reasons are set out in *Wall v Fairfax New Zealand Ltd (Delay)* [2017] NZHRRT 8. Briefly, in 2015 the number of new cases filed with the Tribunal increased 113% over 2014 and in 2016 that increase was 145%. Owing to legislative oversight, the Human Rights Act does not allow the appointment of a deputy chair (or chairs) to assist the Chairperson to keep pace with a large inflow of new cases. Consequently the Tribunal has a backlog of cases awaiting hearing as well as a backlog of cases awaiting determination. Because the Tribunal's resources are limited it has a responsibility to all litigants to ensure those resources are employed effectively and not needlessly wasted.

[12] It follows there is no basis whatsoever for the adjournment application which, in the circumstances, can properly be described as vexatious.

DECISION

[13] The application for adjournment dated 26 March 2018 is dismissed. The hearing is to recommence as scheduled at 10am on Monday 14 May 2018.

[14] Once again, Mrs Apostolakis is put on notice that if she does not appear before the Tribunal at 10am on that date, there is a real risk her proceedings will be dismissed.

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Mr RPG Haines QC
Chairperson