

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

**CIV-2016-404-001312
[2016] NZHC 2594**

UNDER the Defamation Act 1992

BETWEEN JOHN DOUGLAS SELLMAN
First Plaintiff

BOYD ANTHONY SWINBURN
Second Plaintiff

SHANE KAWENATA FREDERICK
BRADBROOK
Third Plaintiff

AND CAMERON JOHN SLATER
First Defendant

CARRICK DOUGLAS MONTROSE
GRAHAM
Second Defendant

... cont

Hearing: On the papers

Counsel: D M Salmon and D Nilsson for Plaintiffs
B P Henry for First Defendant
E J Grove for Second Defendant
W Akel for Proposed Fourth and Fifth Defendants

Judgment: 1 November 2016

**JUDGMENT NO 3 OF PALMER J
(INTERLOCUTORY COSTS)**

*This judgment is delivered by me on Tuesday 1 November 2016 at 10.00 am
pursuant to r 11.5 of the High Court Rules.*

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Registrar / Deputy Registrar

Counsel/Solicitors:
Lee Salmon Long, Auckland
B P Henry, Barrister, Auckland

E J Grove, Barrister, Auckland
Simpson Grierson, Auckland

FACILITATE COMMUNICATIONS
LIMITED

Third Defendant

KATHERINE RICH

Fourth Defendant

NEW ZEALAND FOOD & GROCERY
COUNCIL INCORPORATED

Fifth Defendant

[1] On 11 October 2016 I granted the plaintiffs' application for joinder of the fourth and fifth defendants.¹ It was opposed by the first, fourth and fifth defendants. The second defendant abided the court's decision.

[2] The plaintiffs seek costs in accordance with r 14.8(1) of the High Court Rules 2016 which provides costs on an opposed interlocutory application must be fixed when the application is determined unless there are special reasons to the contrary.

[3] The second and third defendants also seek costs, from the plaintiffs, in relation to their counsel's appearance at the joinder hearing. They say the plaintiffs should have named the fourth and fifth defendants at the outset.

[4] The fourth and fifth defendants submit costs should lie where they fall since they were earlier successful in opposing joinder without an application.

[5] I see no reason why costs should not be fixed now. The plaintiffs were successful. The fourth and fifth defendants insisted a formal application be made and opposed it. Costs follow the event. I award costs in favour of the plaintiffs from the first, fourth and fifth defendants as sought.

[6] I do not order costs in favour of the second and third defendants. Appearance by their counsel was not necessary.

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Palmer J

¹ *Sellman & Ors v Slater & Ors* [2016] NZHC 2415.