

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

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

CIV-2018-409-361

BETWEEN

BRENDAN MILES ROSS and
COLLEEN ANNE ROSS
Plaintiffs

AND

SOUTHERN RESPONSE EARTHQUAKE
SERVICES LIMITED
Defendant

Hearing: On the paper

Appearances: P G Skelton QC, K M Quinn and C B Pearce for Plaintiffs
T C Weston QC and K M Paterson for Defendant

Date of Minute: 11 October 2021

MINUTE OF DUNNINGHAM J

[1] The parties have filed a joint memorandum advising that agreement as to settlement has been reached and are seeking orders by consent, albeit there are some issues which still require a decision from this Court.

[2] Regrettably, Osborne J, who heard the proceedings and issued the relevant judgments is away on leave until 26 October 2021, and on his return he has a two day civil hearing. He is probably better placed to deal with the disputed issues and my directions accommodate this possibility. Nevertheless, it is clear there is some desire to progress matters urgently.

[3] In the circumstances, I make the following orders by consent:

(a) The notification judgment [2021] NZHC 2452 is stayed in its entirety.

- (b) The judgment in respect of the defendant's amended communications application [2021] NZHC 2453 is stayed to the extent that the defendant will not proceed with the radio and print media advertising (Appendix 8) and the Further Communications will not be sent.
- (c) For the avoidance of doubt, Southern Response is free to place the webpage content (Appendix 6) of judgment [2021] NZHC 2453 (with approved amendments to Southern Response's webpage content to reflect the change in circumstances. Southern Response is also free to continue to negotiate and/or settle any claims with individual class members in the proceeding, through legal representatives or directly (where unrepresentative).
- (d) The plaintiffs are to file an application for leave to discontinue the proceeding by 13 October 2021.
- (e) The stay of judgment [2021] NZHC 2452 and [2021] NZHC 2453 (partial) is to remain until further order of the Court.

[4] The parties have also sought that a directions conference be allocated as soon as possible after 13 October 2021 to:

- (a) seek directions as to who should be given notice of the proposed discontinuance;
- (b) if notice is to be given to all class members, to seek Court approval as to the form and content of the Court Approved Notice;
- (c) for directions to be made as to how the Court Approved Notice should be sent/published; and
- (d) obtain a fixture for the hearing of the application for leave to discontinue the proceedings and dates by which any class member can file written submissions in support of, or in opposition to the granting of leave to discontinue.

[5] In my view, that directions conference is best allocated to Osborne J who has a full understanding of the background issues. If so, that will proceed on Thursday, 28 October 2021 at 2.15 pm.

[6] If an earlier date is required for the directions conference, counsel are to advise and it will be allocated to an appropriate duty judge in the next two weeks.

Solicitors:
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Copies To:
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