

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

CIV 2008-488-000752

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| BETWEEN | CRAIG BUSCH Plaintiff |
| AND | ZION WILDLIFE GARDENS LIMITED First Defendant |
| AND | COUNTRY DEVELOPMENTS LIMITED Second Defendant |
| AND | PE BUSCH Third Defendant |
| AND | WILDLIFE PICTURES LIMITED Fourth Defendant |
| AND | PRIMAL PRODUCTIONS LIMITED Fifth Defendant |
| AND | MICHAEL ERNEST BAILEY Sixth Defendant |

Hearing: 3 November 2009

Appearances: R Bowden for Plaintiff
S H Barker for Defendants

Judgment: 4 November 2009

ORAL JUDGMENT OF ASSOCIATE JUDGE ROBINSON

Solicitors: Ulrich McNab Kilpatrick, PO Box 633, Whangarei
Barter & Co, PO Box 197, Albany, Auckland

[1] The plaintiff seeks orders requiring the defendant to provide discovery. The plaintiff's application being filed on 2 October 2009. Since the filing of that application the defendants have filed a memorandum pointing out the extent of discovery that will be provided and explaining the delays. Counsel for the defendant points out that there are something like 16,000 documents contained in 43 Eastlight files and that the defendants have spent a considerable amount of time attempting to complete discovery. At one stage it was anticipated that discovery would have been completed by 16 October 2009. Unfortunately the defendants have been unable to meet that time frame. Possibly because their time estimate was over optimistic. Be that as it may the defendants with full knowledge of the extent of the task will now consent to a direction requiring discovery by 13 November 2009. In the circumstances I am satisfied that such an order must be made.

[2] Following discovery there is an order that the plaintiffs will have until 30 November 2009 for inspection. I would anticipate that any interlocutory applications that may flow from discovery can be brought in time for consideration by me at the next judicial case management conference to be held on 2 December 2009.

[3] Following the making of these orders the plaintiff seeks costs. The defendant raises no opposition. It must be accepted that the defendant must share some blame for the delay. Accepting that discovery involving as it does such a number of documents will take a considerable amount of time and possibly more time than would normally be the case. It must also be accepted that the defendant in changing solicitors has caused delays which have justified the plaintiff in bringing this application for discovery.

[4] I am satisfied therefore that the defendants must pay the plaintiff's costs assessed on a 2B basis which will include a hearing time of half a day. If there is any dispute as to the extent of those costs then I will hear from counsel at some future time.

[5] I also direct that the defendant shall have until 30 November 2009 to inspect the documents discovered by the plaintiff.

Associate Judge Robinson