

advised the parties that we proposed to grant leave on the question of law set out above.

[2] In order to minimise the costs to the parties in respect of the appeal, counsel agreed that the substantive appeal could be dealt with on the papers. To assist the Court further, and to provide any submissions additional to those canvassed in argument at the hearing, counsel will each provide further written submissions of not more than three pages. Such submissions will be directed to the factors that ought to be considered in the exercise of the discretion under s 128(3) of the Act to award a sum greater than an amount equal to three months ordinary time remuneration as provided in s 128(2) of the Act.

[3] The applicant is to file and serve its submissions by 4 October 2011 with the respondent to answer by 11 October 2011. There is no provision for a reply by the applicant.

[4] As discussed at the hearing, the parties are encouraged to endeavour to resolve their differences by agreement. But if the parties have not otherwise resolved the amount of remuneration in excess of three months ordinary time remuneration payable to the applicant, a judgment fixing the amount payable will be issued by the Court.

Solicitors:
M J Burney, Auckland for Applicant