IN THE SUPREME COURT OF NEW ZEALAND
I TE KŌTI MANA NUI **SC 42/2024**

BETWEEN	**CHRISTINE FLEMING**
	Appellant
AND	**ATTORNEY-GENERAL**
	First Respondent
	JUSTIN JAMES COOTE
	Second respondent

SC 44/2024

BETWEEN	**PETER HUMPHREYS**
	Appellant
AND	**ATTORNEY-GENERAL**
	Respondent

SYNOPSIS OF SUBMISSIONS FOR AOTEAROA DISABILITY LAW DATED 7 FEBRUARY 2025

Next event date: Hearing, 29 and 30 April 2025

We certify that, to the best of our knowledge, the intervenor's submissions are suitable for publication and do not contain any information that is suppressed.

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SUBMISSIONS OF AOTEAROA DISABILITY LAW

1. These appeals ask whether the appellants who provide essential, publicly funded care to disabled adults in their homes are entitled to the protections of employment status. New Zealand's employment statutes have long extended the definition of "employee" to homeworkers in order to protect vulnerable workers who work in their homes outside of conventional employment relationships.[1] Both Ms Fleming and Mr Humphreys undertake essential caregiving work in their homes, for the benefit of the State. The Court of Appeal decision denies the appellants employment status based on technicalities imposed on them. These appeals present an opportunity to interpret the protective "homeworker" definition in a manner consistent with its purpose and New Zealand's obligations under the United Nations Convention on the Rights of Persons with Disabilities (**CRPD**).[2] The appellants are properly homeworkers, and are conducting "work" when working overnight, following the Court of Appeal's decision in *Idea Services Ltd v Dickson*.[3]

QUESTION 1: WERE MS FLEMING AND MR HUMPHREYS "ENGAGED, EMPLOYED OR CONTRACTED" BY THE MINISTRY OF HEALTH / MANATŪ HAUORA AS "HOMEWORKERS" UNDER S 5 OF THE EMPLOYMENT RELATIONS ACT?

Overview

2. First, Aotearoa Disability Law Inc (**ADL**) respectfully submits that the Court of Appeal erred in failing to apply the CRPD as an aid in interpreting the definition of homeworker in s 5 of the Employment Relations Act 2000 (**ERA**) as a matter of law.[4] The text, purpose and context of the

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1 These submissions focus on the two matters set out at [1]–[2] of the Judgment of the Court granting leave *Fleming v Attorney-General* [2024] NZSC 132 at [1]–[2]: Fleming Case on Appeal [**F CoA**] [05.0008].

2 Convention on the Rights of Persons with Disabilities 2515 UNTS 3 (opened for signature 30 March 2007, entered into force 3 May 2008) [**CRPD**].

3 [2011] NZCA 14, [2011] 2 NZLR 522.

4 *Attorney-General v Fleming* [2024] NZCA 92, [2024] 2 NZLR 245 [**CA Judgment**] at [58] and [82]–[86]: F CoA [101.0197] at [101.0219], [101.0228]–[101.0230]. The relevant principles of statutory interpretation are not controversial and are contained in Legislation Act 2019, s 10(1); *Commerce Commission v Fonterra Co-*

"homeworker" definition show that it is a flexible concept, designed to ensure that regard is had to substance as against technicalities, so that vulnerable workers in domestic settings are given the protections of employment status, regardless of how the person for whom they work seeks to structure their relationship.[5] This interpretation, detailed in the submissions of the Human Rights Commission, includes the obligation to take appropriate steps to safeguard and promote the right of disabled people to an adequate standard of living for themselves and their families.[6]

3. Second, although the Court of Appeal was right to hold that the CRPD is relevant to the application of the homeworker definition to the facts, ADL submits the Court of Appeal wrongly approached its relevance as turning on whether the CRPD creates an obligation for the State to directly fund the care of disabled people.[7]

4. For Ms Fleming, the question of whether she was a "homeworker" falls to be determined for the period from 2013, during which Ms Fleming was paid the Supported Living Payment (**SLP**) for caring for another person, and from 2021 when in receipt of funding under the Individualised Funding (**IF**) scheme.[8] For Mr Humphreys, this question falls to be determined for the period from August 2020 onwards when in receipt of funding under the IF scheme.[9]

The definition of "homeworker": the text

5. An "employee" is defined in the ERA as meaning a person employed by an employer to do work for hire or reward under a contract of service.[10] The homeworker concept is a deemed extension of the concept of

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operative Group Ltd [2007] NZSC 36, [2007] 3 NZLR 767 at [22]; and *TUV v Chief of the New Zealand Defence Force* [2022] NZSC 69, [2022] 1 NZLR 78 at [66], [92] and [94].

5 This is the approach of Elias CJ and Glazebrook J in *Lowe v Director-General of Health* [2017] NZSC 115, [2018] 1 NZLR 691 at [146].

6 CRPD, art 28.

7 CA Judgment at [79]–[87]: F CoA [101.0197] at [101.0227]–[101.0230].

8 CA Judgment at [1], [5], [24] and [26]: F CoA [101.0197] at [101.0200], [101.0201] and [101.0209]; *Fleming v Attorney-General* [2021] NZEmpC 77, (2021) 18 NZELR 67 [**Fleming EC Judgment**] at [44]: F CoA [101.0162] at [101.0175].

9 *Fleming v Attorney-General*, above n 1, at D: F CoA [05.0008] at [05.0009].

10 Employment Relations Act 2000 [**ERA**], s 6(1)(a).

"employee".[11] It encompasses a person who does work for another person, in the course of that other person's trade or business, in a dwellinghouse, whether "engaged, employed, or contracted" by that other person.[12] The definition extends to a person who is not employed or contracted but is "engaged," and is therefore flexible on its face.

The definition of "homeworker": purpose and context

6. The purpose of the extension of the concept of employment to include homeworkers is protective. The concept first appeared in s 2 of the Labour Relations Act 1987.[13] A Green Paper preceding the legislation sets out an intent to legitimise the status of homeworkers and ensure they are afforded adequate protection.[14] The flexible definition of homeworker has been retained as part of New Zealand's employment laws through successive legislative reforms.[15] By the time Parliament included it in s 5 of the ERA, it had been established by the Court of Appeal that the ordinary and natural meaning of the definition of "homeworker" extends to carers of elderly people and/or disabled people engaged by a health authority. Further, it had been established that home care workers fell squarely within the purposes of the definition, as vulnerable workers susceptible of manipulation if denied the rights of employees.[16]

7. The protective purpose of the homeworker definition is consistent with the object of the ERA as a whole, which includes building productive employment relationships through the promotion of good faith in all aspects of the employment environment and relationship. The ERA aims to do so by (amongst other things) recognising that employment relationships must be built on a legislative requirement for good faith, and

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11 Section 6(1)(b).
12 ERA, s 5.
13 *Lowe v Director-General of Health*, above n 5, at [11]–[12] and [34].
14 Ministry of Labour *Industrial Relations: A Framework for Review* (17 December 1985) vol 2 at 93. The Green Paper further acknowledged that there would be an increasing number of homeworkers across a diverse occupational range that may fall under this protection.
15 The definition was retained in s 2 of the Employment Contracts Act 1991, and again in s 5 of the ERA. See Employment Relations Bill 2000 (8-1) (select committee report) at 5.
16 *Cashman v Central Regional Health Authority* [1997] 1 NZLR 7 (CA) at 10–11 (ordinary meaning) and 13–15 (policy). The Court of Appeal suggested *obiter* that family members paid under a home support scheme to look after a person with a disability would not be homeworkers unless they make a living in whole or in material part from the provision of home care (at 14, lines 29–42). Here the appellants make their living as home carers.

acknowledging and addressing the inherent inequality of power in employment relationships.[17] The object of the ERA also includes promoting the effective enforcement of employment standards.[18]

8. Important context is provided by the Royal Commission of Inquiry on Abuse in State Care, which documents pervasive abuse, over decades, of disabled people.[19] The Royal Commission found the State to be at fault, including for giving insufficient emphasis on whānau-based alternatives to State care, and failing to address structural ableism and disablism.[20] The State comprehensively failed in disability policy settings, including by not always providing adequate support and resourcing to whānau and driving alienation of disabled people from whānau. ADL sees these failings continuing, including in relation to funding, support and the accessibility of information for whānau. Ableism, disablism and societal biases about welfare dependency contributed to abuse and neglect in care.[21] The grave lessons of the Royal Commission call for particular and careful scrutiny as to whether family carers of disabled people have been afforded the legal status to which they are entitled.

Relevance of the CRPD

9. ADL submits that the Court of Appeal was correct to conclude that "engage" in s 5 is flexible in the sense that it does not have a fixed meaning and must respond to the particular factual context.[22] ADL however says that this flexibility means that the term "engage" must be interpreted in a manner consistent with the CRPD. The CRPD contextualises the protective purposes of the homeworker definition in the ERA. As Justin Coote and Sian Humphreys' litigation guardian explains, without the Ministry of Health (**Ministry**) recognising the appellants as employees, the

17 Section 3(a)(i) and (ii).
18 Section 3(ab).
19 Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions *Whanaketia: Preliminaries* (24 July 2024) at [2], [7], [16], [18], [20], [22], [24] and [45]; and *Whanaketia: Part 4 – Nature and extent* at [671]–[672]. The inquiry period was from 1950 to 1999 but see for example *Whanaketia: Part 9 – The Future* at 275–277.
20 Royal Commission of Inquiry into Abuse in State Care *Whanaketia: Preliminaries* at [82]; and *Whanaketia: Part 5 – Impacts* at [291]–[292].
21 Royal Commission of Inquiry into Abuse in State Care *Whanaketia: Part 7 – Factors* at 32–33, 270, 294–297 and 319; and *Whanaketia: Part 5 – Impacts* at 96–97.
22 CA Judgment at [57]: F CoA [101.0197] at [101.0219].

appellants suffer financially from only receiving payment for artificially low hours and a lack of health and safety and genuine employment support.[23] ADL refers to the submissions of the Human Rights Commission, and in summary says that granting employment status to the appellants is consistent with New Zealand's obligations under the CRPD, including to:

(a) provide individualised support to disabled people so that they can participate as fully as they can in decision-making affecting their legal interests (Art 12). Justin and Sian, in this case, are in the group of disabled people who lack the mental capacity to enter into employment agreements;

(b) take effective and appropriate measures to facilitate the enjoyment by disabled people of the right to live in the community (Art 19). When family members do not receive the support they need, this greatly increases the risk of institutionalisation for the disabled person, creating the potential for neglect, violence and abuse;[24] and

(c) take appropriate steps to safeguard and promote the right of disabled people to an adequate standard of living for themselves **and** their families (Art 28).[25] The protections of employment status under the ERA, and specifically the "homeworker" definition, are the means by which New Zealand safeguards the rights of vulnerable working people to an adequate standard of living.

Bringing it together: Application of homeworker definition

10. ADL submits that it would be consistent with the protective purpose of the concept of "homeworker", and the context of the CRPD, to adopt the interpretive approach to the concept of "engaged" of Glazebrook J and Elias CJ in *Lowe*. Under this approach, the phrase "engaged, employed or

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23 Submissions for Second Respondents (Litigation Guardian) at [2], [87] and [92].

24 Catalina Devandas Aguilar *Report of the Special Rapporteur on the rights of persons with disabilities* UN Doc A/HRC/34/58 (20 December 2016) at [20]–[21].

25 See also Preamble, cl (x) of the CRPD which recognises that family members should receive the necessary protection and assistance to enable them to contribute towards the full and equal enjoyment of the rights of disabled persons.

contracted" is a composite one designed to cover all means of getting a person to do work for an employer and to ensure that regard is had to substance as against technicalities.[26]

11. The relevance of the CRPD is not simply as to whether it *requires* the State to fund Justin or Sian's care. The appellants *were* in fact paid by the State, and the State benefits "inestimably" from their work.[27] It is settled that work done by home carers of disabled people engaged by the Ministry is in the course of the Ministry's trade or business, and that it is work done "for" the Ministry.[28] It would be consistent with the CRPD to recognise Ms Fleming and Mr Humphreys as amongst the class of vulnerable "homeworkers" who receive employment status, thereby safeguarding and promoting their rights to an adequate standard of living and facilitating the rights of Justin and Sian to live in the community. Without the appellants' care, Justin and Sian would need to be in residential care at the cost and responsibility of the Ministry.[29]

12. The approach of the Court of Appeal in requiring the appellants to pinpoint a single event from which they became engaged unduly focusses on technicalities which are under the control of the Ministry.[30] In Ms Fleming's case, the Court of Appeal places weight on the availability of the SLP benefit and on the possibility that Justin's care could have been provided by external carers or other mechanisms.[31] This analysis overlooks the historical context and devalues family care.

13. The reasons that the appellants were not formally "contracted" derive from historical biases about the operation of a parental duty to provide for their

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26 *Lowe v Director-General of Health*, above n 5, at [146].

27 Paraphrasing *Chamberlain v Minister of Health* [2018] NZCA 8, [2018] 2 NZLR 771 at [18]–[19]; see also Submissions for Second Respondents (Litigation Guardian) at [33]–[34].

28 Fleming EC Judgment at [82]: F CoA [101.0162] at [101.0188]; *Humphreys v Humphreys* [2021] NZEmpC 217, (2021) 18 NZELR 668 [**Humphreys EC Judgment**] at [84]: Humphreys Case on Appeal [**H CoA**] [101.0045] at [101.0072], citing *Cashman v Central Regional Health Authority* [1997] 1 NZLR 7 (CA); *Lowe v Director-General of Health*, above n 5, at [16]. The work by the appellants was undertaken in a dwellinghouse: Fleming EC Judgment at [85]: F CoA [101.0162] at [101.0188]; Humphreys EC Judgment at [87]: H CoA [101.0045] at [101.0073].

29 See the cost comparison in Submissions for Second Respondents (Litigation Guardian) at [56]–[57].

30 "…the mechanisms have been designed to keep the level of control exerted by the Ministry to a minimum and to create distance between it and the provision of care to the" disabled person: Humphreys EC Judgment at [7]: H CoA [101.0045] at [101.0047]. See *Prasad v LSG Sky Chefs* [2017] NZEmpC 150, (2017) 15 NZELR 178, upheld by the CA in [2018] NZCA 256, as relied on in Submissions for Second Respondents (Litigation Guardian) at [21]–[22].

31 CA Judgment at [67], [85] and [86]: F CoA [101.0197] at [101.0222], [101.0229] and [101.0230].

children that saw the work of family carers not recognised.[32] Ms Fleming began to receive the SLP—a mere subsidy—at a time when the Ministry excluded family members from payment for providing various disability support services. After *Atkinson*, the State failed to recognise the work of the appellants in a way consistent with its obligations under the CRPD.[33] Ms Fleming did not know about the Funded Family Care (**FFC**) model until 2018; it was Ministry policy not to disclose its existence or availability in needs assessments.[34] ADL strongly supports the submissions from the litigation guardian on behalf of the Second Respondents regarding the Ministry's good faith bargaining requirements.[35] Under the FFC model, the Ministry required Ms Fleming to accept only 22 hours of funding per week for around the clock care, seven days a week, less than the amount she was receiving on the SLP, and Justin would have been forced to act as her employer, despite lacking the capacity to do so.[36] It is not safe to assume that adequate funding would have been made available for external carers, given it was not offered for Ms Fleming. Nor is it safe to assume that there are other suitable options available for care for someone with high and complex needs.[37]

14. The system had been set up by the Ministry, who periodically checked that Ms Fleming was providing the care that Justin needed to an adequate standard. The ongoing compulsory needs assessments amounted to a continuous engagement process rather than a single event.[38] Granting the appellants employee status is consistent with the State's obligations under

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32 *Ministry of Health v Atkinson* [2012] NZCA 184, [2012] 3 NZLR 456 at [168]. Prior to *Atkinson*, the Ministry excluded some family caregivers from funding, apparently on an assumption that family caregivers could be expected to provide free care for their disabled children in line with what were regarded as family obligations: Humphreys EC Judgment at [13]: H CoA [101.0045] at [101.0048]. See also CA Judgment at [13] and [86]: F CoA [101.0197] at [101.0205] and [101.0230].

33 Submissions for Second Respondents (Litigation Guardian) at [7]–[10] and [35]–[36].

34 The NASC is only required to provide information about FFC should the disabled person request it: F CoA [305.0940] at [305.0955]. Ms Fleming never discussed FFC with her NASC and only became aware of it in 2018 after talking with her advocate Jane Carrigan: F CoA [201.0001] at [201.0011], CA Judgment at [3], and F CoA [101.0197] at [101.0201]. On 25 September 2018 she completed a full review needs assessment specifically to make an application for FFC: F CoA [201.0011].

35 Submission for Second Respondents (Litigation Guardian) at [61]–[[67].

36 CA Judgment at [13]: F CoA [101.0197] at [101.0205]. Fleming EC Judgment at [11]–[13]: F CoA [101.0162] at [101.0165]–[101.0167].

37 Fleming evidence as to residential care F CoA [201.0001] at [201.0010], and see Submissions for Second Respondents (Litigation Guardian) at [53].

38 The Ministry was aware from at least 1997, by means of needs assessments, that Justin needed full time care and Ms Fleming was providing that care: CA Judgment at [12]: F CoA [101.0197] at [101.0205]. There were nine needs assessments: F CoA [Tab 117], [310.2149] and [2194].

Arts 12, 19, 23 and 28 of the CRPD. Seen in this context, the factors relied on at [79] of the EC Judgment establish that Ms Fleming was engaged by the Ministry.[39]

15. During the IF period, the Ministry gave Mr Humphreys a choice of employment by a Home and Community Support Service, or by Sian.[40] Mr Humphreys' choice of the latter has seen the Court of Appeal find that no one employed him *at all* in the IF period, and so has resulted in Mr Humphreys not having the safeguards or status of employment.[41] The Court of Appeal found that Mr Humphreys must have known that acting as Sian's agent would leave him without an employer.[42] Implicit in this finding is the proposition that if Sian had a third party agent, that person would have been Mr Humphreys' employer. However, Sian would retain ultimate responsibility and liability, including for the agent's conduct. That would result in employment duties, which are personal in nature, being imputed to Sian, who does not have the capacity to fulfil the obligations of an employer.[43] The Court of Appeal's conclusion of a lack of employment status is a result of technicalities introduced by the Ministry in the IF scheme, rather than the choice of Mr Humphreys, and does not reflect the substance of the relationship.[44]

QUESTION 2: THE TEST FOR "WORK"

16. What constitutes "work" has been the subject of a significant body of case law, culminating in the Court of Appeal's decision in *Idea Services Ltd v Dickson*.[45] This sets out a broad, fact specific test for what constitutes work, identifying the following factors as ordinarily relevant:[46]

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39 ADL supports, in the alternative, the submissions for Ms Fleming that the deficient offer made to her in 2018 can constitute a pinpoint: Fleming Appellant's Submissions at [84]–[90].

40 Note that Mr Humphreys had previously had unsatisfactory experience with an external agency who employed him under interim arrangements following the Atkinson litigation. The agency was not prepared to do more than make sure his wages were paid on time: CA Judgment at [175] and [256]: F CoA [101.0197] at [101.0260] and [101.0289].

41 CA Judgment at [255]–[258]: F CoA [101.0197] at [101.0289]–[101.0290].

42 At [256].

43 Humphreys EC Judgment at [54]: H CoA [101.0045] at [101.0061], quoting Fleming EC Judgment at (in particular) [30].

44 See also Humphreys Appellant's Submissions at [67]–[80].

45 *Idea Services Ltd v Dickson*, above n 3.

46 At [7]–[10].

(a) the constraints placed on the employee's freedom;

(b) the nature and extent of the employee's responsibilities; and

(c) the benefit to the employer of the employee performing the role.

17. *Idea Services* has been applied in a broad range of situations.[47] However, in this case, the Court of Appeal concluded that the Employment Court erred in finding that *Idea Services* applied to work by a homeworker.[48] The Court of Appeal also stated:[49]

> *We think it is undeniable that the position of a family carer who lives with a disabled person and provides full-time care during the day and intermittent care during the night occupies a different position to those who must work, or be available for work, away from their own residence…*

18. It is submitted that the Court of Appeal erred in this regard, and *Idea Services* test should apply without modification to family carers.

19. First, there is no logical reason for a conclusion that the *Idea Services* test does not apply in this situation. It is a methodology for determining whether an employee's activities are work.[50]. There are not different categories of employees. If an individual meets the test of a "homeworker", then they are an employee for all statutory purposes. They have the same entitlements as all other employees, including the entitlement to be paid for work performed. There is no good reason to find that a different definition of work should apply to one category of employees.

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47 Applied to sleepovers shifts by boarding school matrons (including some who lived on site) in *Law v Board of Trustees of Woodford House* [2014] NZEmpC 25, [2014] ERNZ 576; anaesthetists who were provided accommodation during sleepover shifts in *South Canterbury District Health Board v Sanderson* [2017] NZEmpC 127, [2017] ERNZ 749; employees who attended meetings before the start of shifts in *Labour Inspector of the Ministry of Business, Innovation and Employment v Smiths City Group Ltd* [2018] NZEmpC 43, [2018] ERNZ 124 and doffing and donning as work in *Ovation New Zealand Ltd v New Zealand Meat Workers and Related Trades Union Inc* [2018] NZEmpC 151 and [2019] NZCA 146.

48 CA Judgment at [263(b)] and [263(i)]: F CoA [101.0197] at [101.0292] and [101.0293]. Note that at [121] the Court of Appeal also stated that it did not have sufficient information on which to express a view as to the basis on which family carers should be remunerated for overnight hours: [101.0243].

49 At [120] (emphasis added): F CoA [101.0197] at [101.0242].

50 Which in turn entitles the employee to payment for the time they spent working.

20. Second, factors such as the location of the work and the nature of the constraints on the employee can be (but as set out below, should not be) considered as part of the *Idea Services* test.

21. Third, it is submitted that the location of the work (inside or outside of the employee's residence) and the relationship of the worker to the location of work (for example, homeowner) or the person being cared for (for example, guardian) should not be relevant.[51] It is the nature of the activities performed that should be central to the analysis. The Court of Appeal's conclusion on this point devalues care work conducted in the family home, failing to recognise the importance of whānau-based alternatives to State care.

22. If drawing such distinctions, it is submitted that this Court should be mindful of an outcome which concludes that the definition of "work" (and therefore the trigger for payment) is not met in circumstances where the labour is (or historically was) predominantly performed by women and is currently (or historically has been) undervalued in accordance with s 13F of the Equal Pay Act 1972.[52] The work performed by a family carer of an adult disabled person squarely fits within this description.

Dated 7 February 2025

S P Pope | K M Dunn
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[51] Note that *Idea Services* has been applied (and the relevant time considered "work") where an individual resided at their place of work (see *Law v Board of Trustees of Woodford House*, above n 47). In *Idea Services*, Mr Dickson was responsible for property security (at [5] ([18] in quote)). It is unclear why the Court of Appeal considered that home ownership made a difference in whether activities constituted "work". It is also unclear whether an individual would be considered "work" if performing the same activities in rented accommodation, or if the work was performed while residing at the home of another, without payment. The nature of the activities performed should be central, not the location of those activities.

[52] While the Equal Pay Act only applies to the remuneration of "work" performed by employees, it is submitted that an assessment of what constitutes "work" should take account of the fact that the Equal Pay Act recognises that some work is systemically undervalued and underpaid. It is not much of stretch to go from underpaid to unpaid. The common law definition of work should not be used to perpetuate systemic undervaluation.

List of Authorities referred to in Submissions

Legislation

1. Employment Contracts Act 1991, s 2.
2. Employment Relations Act 2000, ss 3, 5 and 6.
3. Equal Pay Act 1972, s 13F.
4. Labour Relations Act 1987, s 2.
5. Legislation Act 2019, s 10(1).

Cases

6. *Attorney-General v Fleming* [2024] NZCA 92, [2024] 2 NZLR 245.
7. *Cashman v Central Regional Health Authority* [1997] 1 NZLR 7 (CA).
8. *Chamberlain v Minister of Health* [2018] NZCA 8, [2018] 2 NZLR 771.
9. *Commerce Commission v Fonterra Co-operative Group Ltd* [2007] NZSC 36, [2007] 3 NZLR 767.
10. *Fleming v Attorney General* [2021] NZEmpC 77, (2021) 18 NZELR 67.
11. *Fleming v Attorney-General* [2024] NZSC 132.
12. *Humphreys v Humphreys* [2021] NZEmpC 217, (2021) 18 NZELR 668.
13. *Idea Services Ltd v Dickson* [2011] NZCA 14, [2011] 2 NZLR 522.
14. *Labour Inspector of the Ministry of Business, Innovation and Employment v Smiths City Group Ltd* [2018] NZEmpC 43, [2018] ERNZ 124.
15. *Law v Board of Trustees of Woodford House* [2014] NZEmpC 25, [2014] ERNZ 576.
16. *Lowe v Director-General of Health* [2017] NZSC 115, [2018] 1 NZLR 691.

17. *Ministry of Health v Atkinson* [2012] NZCA 184, [2012] 3 NZLR 456.

18. *Ovation New Zealand Ltd v New Zealand Meat Workers and Related Trades Union Inc* [2018] NZEmpC 151.

19. *Ovation New Zealand Ltd v New Zealand Meat Workers and Related Trades Union Inc* [2019] NZCA 146.

20. *Prasad v LSG Sky Chefs* [2017] NZEmpC 150, (2017) 15 NZELR 178.

21. *Prasad v LSG Sky Chefs* [2018] NZCA 256.

22. *South Canterbury District Health Board v Sanderson* [2017] NZEmpC 127, [2017] ERNZ 749.

23. *TUV v Chief of the New Zealand Defence Force* [2022] NZSC 69, [2022] 1 NZLR 78.

Texts

24. Catalina Devandas Aguilar *Report of the Special Rapporteur on the rights of persons with disabilities* UN Doc A/HRC/34/58 (20 December 2016).

25. Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions (24 July 2024).

26. Ministry of Labour *Industrial Relations: A Framework for Review* (17 December 1985) vol 2.

Parliamentary Materials

27. Employment Relations Bill 2000 (8-1) (select committee report).

International Materials

28. Convention on the Rights of Persons with Disabilities 2525 UNTS 3 (signed 30 March 2007, entered into force 3 May 2008).