EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN [SQUARE BRACKETS].

IN THE DISTRICT COURT
AT NAPIER

CRI-2017-041-001123
[2017] NZDC 28419

NEW ZEALAND POLICE
Prosecutor

v

GRACE HADEN
Defendant

Hearing:	11 December 2017
Appearances:	Sergeant D Goodall for the Prosecutor Defendant appears in Person
Judgment:	11 December 2017

ORAL DECISION OF JUDGE A J ADEANE

---

[1] Ms Haden faces five charges, each in identical terms that while a suppression order was in place published the name of a person who had been granted name suppression contrary to the provisions of s 241(c) and 263(1) and (2) Lawyers and Conveyancers Act 2006. There are five charges because similar conduct is alleged to have taken place on five consecutive occasions, in order: 18 April, 9 May, 17 May, 22 May and 24 May.

[2] The charges have their simple meaning. The onus is on the prosecutor to prove the charges beyond reasonable doubt. Each matter has to be considered separately, although there is a great deal of overlay in the case.

[3] In November 2016, the New Zealand Lawyers & Conveyancers Disciplinary Tribunal finally disposed of a complaint concerning a practitioner anonymised as "Mr M." In the course of so doing, at para (58) the Tribunal held, "Given that there is no risk to the public exposed by this practitioner in the future, we consider that the combination of factors referred to above do, in this unusual set of circumstances, justify the permanent name suppression of the practitioner, his former client and any details." That order was made subsequent to an earlier order on 25 July 2016 where an interim order to the same effect had been made.

[4] It is a plank of Ms Haden's defence of matters that no formal order has ever actually been made, but in my view it is the appropriate interpretation both of the interim order and the subsequent final order that indeed the Law Society had exercised its powers under s 240(1)(c) to prohibit the publication of the name of a particular person charged before it.

[5] In fact, the person charged was [name deleted – the practitioner]. [identifying details deleted]. Ms Haden now blames him for the loss of her business and her marriage and she is forthright, almost to a point where some might think unhealthily so, in her dislike for [the practitioner], the fact that in her view he has brought her reputation down and that she then became aware of a publication of the New Zealand Law Society which, to use her own words, was gratifying to her.

[6] It was a publication of the proceedings of the Lawyers & Conveyancers Disciplinary Tribunal. It did not name a practitioner, but gave sufficient details about him that Ms Haden immediately recognised this person as [the practitioner]. She interpreted this as vindication in her own position in many disputes over many years. As I say, the word she used was "gratified" to see exposed; however, the item which informed her in this respect is published with a New Zealand Society heading, it is dated 28 November 2016 and it is boldly headlined "Name Suppression Granted to Censured Lawyer."

[7] It is the evidence of Ms Haden that it was the information she gained from this source that was the catalyst for five postings, each of which she admits to having made. They are interlinked, so that each successive one makes available for reiteration what

has been said earlier and the effect of the first of these publications made on 18 April 2017 was to clearly associate [the practitioner] on the one hand with the lawyer whose name had been suppressed in connection with the Tribunal proceedings on the other. The publications are highly subjective, they are ongoing and each of them has the effect of exposing [the practitioner's] identity as the person dealt with by the Tribunal.

[8] Ms Haden now reasons that she was never specifically told of the provision under which the order for suppression had been made. I am quite satisfied that that order is to be deduced from the text of the Tribunal's decision. What else could it possibly mean? Ms Haden chose to ignore it on the semantic basis that an order was something which was presumably reduced into a formal certificate and had to be served to be effective (against whom is less clear).

[9] The long and short of it is that on all the evidence, however, the content of her first posting was in response to the publication by the New Zealand Law Society of which she was aware. The plain ordinary meaning of that publication conveyed the fact that it had exercised its powers to suppress. And it is perfectly clear that in vindication of her own reputation, which she essentially saw as being achieved by bringing down [the practitioner's] reputation, Ms Haden then chose to make very public what the Law Society had exercised its powers to suppress, namely the name of a person who had been before it in disciplinary proceedings. This was done repeatedly and for the clearest of motives of putting into the public arena suppressed material.

[10] It now suits Ms Haden to reason that she was not aware of specifically what the Law Society had done. What had been done, of course, was a public act. It is clear that Ms Haden undertook some legal research and did some legal reasoning of her own before deciding to go ahead. To the extent that if she made any error of law, of course, she cannot avail herself of that.

[11] The long and short of it is that, with clear knowledge that the Lawyers & Conveyancers Tribunal had restricted the public dissemination of material which had come before it, Ms Haden defied that restriction by making matters public

as she did. Those matters being established, the charges are proved to the required standard.

[12] A difficult situation, Ms Haden, in that I have before me a matter that is fineable only, but punishable by in total $125,000 worth of fines. I know nothing of your financial circumstances.

[13] These matters are fineable only. They involve matters of considerable public importance and the maximum fine has been pitched accordingly at $25,000 per offence. The ability to defy suppression orders in the electronic age is at the fingertips of virtually anybody computer literate. And it is perfectly clear that this defendant has a borderline obsessive desire to bring down the now deceased subject of her publications.

[14] I impose fines on each matter of $1000, Court costs of $130 and if those are beyond your means, Ms Haden, you do have some remedies that you are able to take. There will be witnesses' expenses of $500.00 toward the cost of producing the Tribunal's Registrar.

[15] Application for suppression of defendant's name and suppression of proceedings is declined as being water long under the bridge. The media have a legitimate interest in the matter. In fact, there have been media coverage orders made. [Thank you, this is justice in New Zealand, Your Honour, you are actually doing a very good thing here because it shows you how corrupt our system is.]

[16] I do not think it would be advisable for you to say anything more along those lines Ms Haden. Fine and costs and witnesses expenses accordingly.

A J Adeane
District Court Judge