

**IN THE DISTRICT COURT
AT TAURANGA**

**I TE KŌTI-Ā-ROHE
KI TAURANGA MOANA**

**CIV-2019-070-000455
[2020] NZDC 3483**

BETWEEN

**DEGAN FARMS (BOP) LIMITED
(formerly known as TOKOROA
LANDSCAPING & TREE WORX
LIMITED)
Plaintiff**

AND

**JACK DANIEL WILLIAMS
Defendant**

T Refoy-Butler for the Plaintiff
D Weaver for the Defendant

Decision: 3 March 2020

DECISION OF JUDGE I D R CAMERON AS TO COSTS

[1] In my reserved decision of 31 January 2020, I granted summary judgment for the plaintiff against the defendant. I also made the order “costs on a solicitor/client basis in favour of the plaintiff”.

[2] The decision also stated that if there was no agreement as to the amount of costs then leave to apply to the Court was granted.

[3] I have received memoranda from both the solicitors for the plaintiff and the defendant as to costs. It is clear that the plaintiff’s solicitors have interpreted the order “costs on a solicitor/client basis” as an order that the defendant pay the full solicitor and client costs of the plaintiff of \$56,137.16. I accept that the order could be construed that way.

[4] However, it was not my intention to order indemnity costs in favour of the plaintiff. Rather, it was directed to having the parties agree on a reasonable sum, failing which the Court would exercise its discretion to determine the amount payable.

[5] I would not have intentionally made an order for full indemnity costs without hearing from the parties and determining whether the relevant thresholds had been met. Indeed, I do not consider that this is an appropriate case for indemnity costs to be awarded. While no serious arguable defence was identified, there were no grounds to conclude that the defendant had acted frivolously, improperly and unnecessarily.

[6] Having considered the memoranda filed, I order that costs be awarded to the plaintiff on a 2B scale basis plus disbursements as fixed by the registrar.

I D R Cameron
District Court Judge