

**IN THE EMPLOYMENT COURT OF NEW ZEALAND  
CHRISTCHURCH**

**I TE KŌTI TAKE MAHI O AOTEAROA  
ŌTAUTAHI**

**[2023] NZEmpC 17  
EMPC 85/2022**

IN THE MATTER OF a declaration under s 6(5) of the  
Employment Relations Act 2000

AND IN THE MATTER OF an application for in-Court media  
coverage

BETWEEN SERENITY PILGRIM, ANNA  
COURAGE, ROSE STANDTRUE,  
CYSTAL LOYAL, PEARL VALOR  
AND VIRGINIA COURAGE  
Plaintiffs

AND THE ATTORNEY-GENERAL SUED  
ON BEHALF OF THE MINISTRY OF  
BUSINESS, INNOVATION AND  
EMPLOYMENT, LABOUR  
INSPECTORATE  
First Defendant

AND HOWARD TEMPLE, SAMUEL  
VALOR, FAITHFUL PILGRIM, NOAH  
HOPEFUL AND STEPHEN  
STANDBAST  
Second Defendants

Hearing: On the papers

Appearances: BP Henry, D Gates and S Patterson, counsel for plaintiffs  
J Catran, K Sagaga and A Piaggi, counsel for first defendant  
S Valor and P Righteous, representatives for second defendants  
R Kirkness, counsel to assist the Court  
P Rennie for Warner Bros

Judgment: 18 February 2023

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**INTERLOCUTORY JUDGMENT (NO 25)  
OF CHIEF JUDGE CHRISTINA INGLIS  
(Application by Warner Bros for in-Court media coverage)**

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[1] An application has been made by Warner Bros International Television Production New Zealand (Warner Bros) to film and record sound during the hearing of these proceedings in Greymouth (set down for 20 to 23 February 2023 inclusive). The application was drawn to the attention of the parties. The plaintiffs abide the decision of the Court. The second defendants and counsel appointed to assist the Court raised a number of concerns about the application (as did the first defendant, although abiding), and the sufficiency of the information provided in support of it. In the circumstances I directed that Warner Bros be given an opportunity to respond and a further memorandum was filed. Counsel appointed to assist the Court has advised his view that the further information and clarification provided by Warner Bros meet the concerns earlier raised; the second defendants remain opposed to the application for reasons set out in a memorandum dated 17 February 2023.

[2] The approach to applications such as this is well established and has been applied in dealing with similar applications for in-Court media coverage in these proceedings. The approach can be summarised as follows. Court proceedings are generally open to the public and the media. There are, however, restrictions on filming and recording in Court. Anyone wishing to do so must obtain prior judicial permission. That permission involves the exercise of a broad discretion.

[3] The In-Court Media Guidelines 2016 (Media Guidelines) have been developed to assist.<sup>1</sup> Those guidelines set out a number of principles which are relevant. The key underlying principle is the promotion of open justice. Other principles must also be weighed in the mix, including the need for a fair trial; the principle that the media has an important role in the reporting of trials as the “eyes and ears of the public”; and the interests, reasonable concerns and perceptions of the parties and witnesses.

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<sup>1</sup> Ministry of Justice “10.8 In Court Media Guidelines 2016” <[justice.govt.nz](https://www.justice.govt.nz)>.

[4] Warner Bros is not a member of the media as defined in the Media Guidelines, and does not have accredited journalists. Despite this, and as the Guidelines make clear, the Court still has discretion to allow it to cover the hearing.<sup>2</sup>

[5] Warner Bros has secured funding, including through the NZ Film Commission's Premium Fund, to produce a documentary which is said to "[chronicle] the story of the Gloriavale Community from its inception, development and growth through to examining what impact the current court case will have on the future of the community, and the people involved, both inside and outside Gloriavale." One of the conditions of funding is that the documentary will be broadcast in New Zealand,<sup>3</sup> and it will be subject to New Zealand's Broadcasting Standards and Guidelines.

[6] Concerns were raised by counsel for the Attorney-General as to whether the applicant would be in a position to provide balanced and fair coverage by only recording the second defendants' portion of the case (given the stage at which the application is advanced). These concerns were echoed by the second defendants. The applicant says that it has already conducted numerous interviews with former residents who have provided their version of life in the Community and that the in-Court coverage sought provides an opportunity to include the second defendants' perspective. I see some force in this submission, while noting that sound recording and filming are not necessary to achieve this end.

[7] Counsel for the Attorney-General expressed the view that a long-form documentary cannot perform the function of being the "eyes and ears of the public" and, I infer, cannot be said to support the important objective of open justice. The second defendants have made a similar point, namely that the applicant would not be providing contemporaneous coverage and so access would be less relevant in considering the interests of open justice. It seems to me that while the timing of coverage may be relevant to the weighting exercise, open justice needs may still be met by non-contemporaneous coverage, for example via a documentary. The operations of the Court and the legal system are complex, and it is logical that a variety

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<sup>2</sup> In-Court Media Guidelines at [4]-[5].

<sup>3</sup> See New Zealand Film Council "New Zealand Screen Production Grant Criteria for New Zealand Productions" (1 July 2017) <nzfilm.co.nz>.

of formats, including long-form analytical documentaries, can equally contribute to public understanding and thus promote open justice.

[8] The second defendants note that in *Ready v Christian Church Community Trust*<sup>4</sup> the High Court declined an application by Wandering Films International Pty to film part of the proceedings. In that case Associate Judge Lester observed that the applicant was a film company and not a media outlet within the definition of the Guidelines and that there was “something in the argument” that the company’s interest in the case was from an entertainment rather than a reporting point of view.

[9] Filming in chambers (as was sought in *Ready*) only occurs in exceptional circumstances. The filming in this case is in open court. While the points made about the nature of the company’s interest in filming (in that case arguably less about reporting the proceedings and more about entertainment) have some relevance in this case, I do not see that the two are mutually exclusive (in the sense that a documentary can be both entertaining and informative). And there have been previous cases in which permission has been granted to a media company to record a hearing for the purposes of producing a documentary.<sup>5</sup>

[10] I accept, however, that the second defendants’ concerns and perceptions about the underlying purposes of the application cannot be dismissed as wholly unreasonable and that they are relevantly weighed in the mix.

[11] It is indisputable that these proceedings engage issues of significant public interest. And, as I have said, the principle of open justice is fundamental. Many of the concerns identified by the second defendants will be met by the restrictions that apply when an application of this sort is granted, including the requirement for balanced reporting, and the protections that apply in respect of the proposed production, including the conditions of the applicant’s funding arrangements.

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<sup>4</sup> *Ready v Christian Church Community Trust* [2021] NZHC 120. See too *Courage v Attorney-General* [2022] NZEmpC 16.

<sup>5</sup> See for example *Chisholm v Auckland City Council* (2000) 15 PRNZ 129 (HC) at [16]; and *Jackson v CanWest TVWorks Ltd* [2005] NZAR 499 (CA).

[12] Having regard to the matters set out in the Guidelines, I am satisfied that it is appropriate to grant the application subject to the standard conditions (which the applicant has agreed to comply with). The Guidelines anticipate one camera only in Court,<sup>6</sup> which has occurred to date, with sharing arrangements in place.

[13] The application is granted subject to the standard conditions, the non-publication and suppression orders already in place, and any further order of the Court.

Christina Inglis  
Chief Judge

Judgment signed at 1.30 pm on 18 February 2023

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<sup>6</sup> At sch 1(1).