

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

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

**[2024] NZEmpC 95  
EMPC 363/2021**

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

AND IN THE MATTER of an application to access Court documents

BETWEEN HOSEA COURAGE, DANIEL PILGRIM  
AND LEVI COURAGE  
Plaintiffs

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

AND HOWARD TEMPLE, FERVENT  
STEDFAST, ENOCH UPRIGHT, SAMUEL  
VALOR, FAITHFUL PILGRIM, NOAH  
HOPEFUL AND STEPHEN STANDFAST  
Second Defendants

AND FOREST GOLD HONEY LIMITED AND  
HARVEST HONEY LIMITED  
Third Defendants

AND APETIZA LIMITED  
Fourth Defendant

**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 to access Court documents

BETWEEN SERENITY PILGRIM, ANNA COURAGE,  
ROSE STANDTRUE, CRYSTAL 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 VALLOR,  
FAITHFUL PILGRIM, NOAH HOPEFUL  
AND STEPHEN STANDFAST  
Second Defendants

Hearing: On the papers

Appearances: B P Henry, counsel for plaintiffs  
A Boadita-Cormican, counsel for first defendant  
C Pearce, counsel for second, third and fourth defendants  
R Kirkness, counsel to assist the Court  
M McClenaghan for Crown Solicitor

Judgment: 5 June 2024

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**INTERLOCUTORY JUDGMENT (NO 14 FOR EMPC 363/2021 AND NO 35  
FOR EMPC 85/2022) OF CHIEF JUDGE CHRISTINA INGLIS  
(Application to access Court documents)**

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## **Introduction**

[1] An application has been made by the Crown to access Court documents in these proceedings, namely the notes of evidence relating to the evidence given under affirmation by Mr Howard Temple in two proceedings: *Courage v Attorney-General* and *Pilgrim v Attorney-General*.<sup>1</sup>

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<sup>1</sup> *Courage v Attorney-General* [2022] NZEmpC 77, (2022) 18 NZELR 746; *Pilgrim v Attorney-General* [2023] NZEmpC 105, [2023] ERNZ 454.

[2] The application arises in the context of a prosecution against Mr Temple. The Crown wishes to access the notes of evidence to assess them for possible use in the criminal trial.

[3] Mr Temple (a named second defendant in both proceedings) is content to abide the decision of the Court, as are the other parties in these proceedings.

### **Approach**

[4] The Employment Relations Act 2000 does not deal with access to documents held on the Court file, nor do the Employment Court Regulations 2000.

[5] It is well accepted that the Court may grant access to documents held on the Court file, and has an inherent power to control the use of information disclosed in proceedings, where such control is necessary for the due administration of justice. A balancing exercise is required, including having regard to each party's interests. In undertaking the analysis, the Court has previously found it helpful to have regard to the approach set out in the Senior Courts (Access to Court Documents) Rules 2017 (the Rules).<sup>2</sup>

[6] The Rules are made under the Senior Courts Act 2016. Section 173 of that Act provides that “[a]ny person may have access to court information of a senior court to the extent provided by, and in accordance with, rules of court.” Schedule 2 provides that court information includes the formal court record, the court file, information relating to particular cases and electronic records of hearings. Notes of evidence are held on the Court file. A person may ask to access any document under r 11 of the Rules.

[7] Rule 12 specifies a range of matters that must be considered when determining an application for access. These include the orderly and fair administration of justice; the right to bring and defend civil proceedings without the disclosure of any more information about the private lives of individuals, or matters that are commercially

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<sup>2</sup> Applied via reg 6 of the Employment Court Regulations 2000 and/or by way of helpful analogy.

sensitive, than is necessary to satisfy the principle of open justice; the protection of other confidentiality and privacy interests (including those of children and other vulnerable members of the community); the principle of open justice (including the encouragement of fair and accurate reporting of, and comment on, court hearings and decisions); and the freedom to seek, receive, and impart information.

[8] Rule 13 deals with the approach to balancing the matters to be considered under r 12. The balancing act requires regard to be had to what stage the proceedings are at. So, before the substantive hearing, the protection of confidentiality and privacy interests and the orderly and fair administration of justice may require that access to documents be limited; during the substantive hearing, open justice has greater weight than at other stages of the proceeding and greater weight in relation to documents relied on in the hearing than other documents; after the substantive hearing, open justice has greater weight in relation to documents that have been relied on in a determination than other documents, but the protection of confidentiality and privacy interests has greater weight than would be the case during the substantive hearing. In this case the application comes after the hearings.

### **Analysis and result**

[9] I accept that provision of access to the material sought is appropriate, having regard to the reasons underlying the request. The Crown, in its prosecutorial role, clearly has a legitimate and genuine interest in accessing the notes of evidence, and granting the application is consistent with the broader interests of justice.<sup>3</sup>

[10] There is no suggestion that Mr Howard's interests, or the interests of any of the other parties, would be unduly compromised by the grant of access.

[11] Accordingly, there is an order permitting access to the notes of evidence insofar as they relate to the evidence given under affirmation by Mr Howard Temple which are held on the Court's files in respect of the two proceedings, namely *Courage v Attorney-General* and *Pilgrim v Attorney-General*.<sup>4</sup>

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<sup>3</sup> See *Pilgrim v Attorney-General (No 12)* [2022] NZEmpC 98 at [5]-[6],

<sup>4</sup> Above n 1.

[12] No issue of costs arises.

Christina Inglis  
Chief Judge

Judgment signed at 3.30 pm on 5 June 2024