



# Employment Court of New Zealand

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## Courage v Attorney-General [2022] NZEmpC 98 (3 June 2022)

Last Updated: 10 June 2022

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA  
ŌTAUTAHI

[\[2022\] NZEmpC 98](#)  
EMPC 363/2021

IN THE MATTER OF	a declaration under <a href="#">s 6(5)</a> of the <a href="#">Employment Relations Act 2000</a>
AND IN THE MATTER OF	an application to share documents with Government agencies
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

Hearing: On the papers  
Appearances: B P Henry, D Gates and S Patterson, counsel for plaintiffs J Catran and A Piaggi, counsel for first defendant  
S G Wilson, J Hurren and H Rossie, counsel for second, third and fourth defendants  
R Kirkness, counsel to assist the Court  
Judgment: 3 June 2022

HOSEA COURAGE, DANIEL PILGRIM AND LEVI COURAGE v THE ATTORNEY-GENERAL SUED ON BEHALF OF THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT, LABOUR INSPECTORATE [\[2022\] NZEmpC 98](#) [3 June 2022]

INTERLOCUTORY JUDGMENT (NO 12) OF CHIEF JUDGE CHRISTINA INGLIS

(Application to share documents with Government agencies)

[1] The Attorney-General seeks the permission of the Court to share Court documents with a number of agencies. The request follows a judgment delivered on 10 May 2022.<sup>1</sup> The judgment identified a range of issues which may be of interest to these agencies and which the Attorney-General considers ought appropriately to be drawn to their attention to facilitate further investigation. The documents are:

- The briefs of evidence filed by the plaintiffs and the second to fourth defendants (not including the brief of evidence of a proposed witness who did not give evidence and the will-say statement of an individual who did not give evidence, and subject to redactions made pursuant to orders of the Court);
- The transcript of the hearing.

[2] The agencies which the Attorney-General wishes to provide the above documents to are:

- New Zealand Police | Ngā Pirihimana O Aotearoa;
- Ministry for Children | Oranga Tamariki;
- WorkSafe | Mahi Haumarū Aotearoa;
- Ministry of Social Development | Te Manatū Whakahiato Ora;
- Charities Service | Ngā Ratonga Kaupapa Atawhai;

1 *Courage v Attorney-General* [2022] NZEmpC 77.

- Inland Revenue | Te Tari Taake;
- Ministry of Health | Manatū Hauora;
- Ministry of Education | Te Tāhuhu o te Mātauranga;
- The Education Review Office | Te Tari Arotake Mātauranga; and
- New Zealand Qualifications Association | Mana Tohu Mātauranga O Aotearoa.

[3] The plaintiffs were initially opposed to the application. It was said that the police and other government agencies have known of the issues identified in the Court's judgment for some time and the impact of the alleged failure of some agencies to deal with the concerns identified by the plaintiffs has been significant. A concern was also raised about the potential impact on other proceedings which are before the Court, and which are set down for hearing starting 29 August 2022. Counsel for the plaintiffs has advised the Court that the application is not now opposed. The second, third and fourth defendants abide the decision of the Court.

[4] The Court may grant access to documents held on the Court file.<sup>2</sup> The Attorney-General was a party to the proceedings and is not seeking access to documents already held; rather permission is being sought to provide non-parties with copies of various documents held on the Court file. The Court 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.<sup>3</sup>

[5] A number of serious allegations, including in relation to the safety of children at the Gloriavale Community, were made during the course of the hearing. The allegations were of such a nature that Mr Kirkness, counsel appointed to assist the Court, submitted during the course of closing submissions that it would be appropriate for a copy of the judgment to be sent to various government agencies.

2 See the discussion in, for example, *Courage v Attorney-General (No 11)* [2022] NZEmpC 64.

3 *Attorney-General v J* [2019] NZCA 499, [2019] 2 NZLR 176 at [83]- [88].

[6] I accept the submission advanced by counsel for the Attorney-General, Ms Catran, that provision of the material sought is appropriate, having regard to the welfare of children who remain in Gloriavale and supporting full investigations by a broad range of relevant agencies, to facilitate further action if that is considered appropriate. The identified agencies all have a legitimate and genuine interest in certain of the allegations made by the plaintiffs.

[7] I do not consider that granting the request would undermine the matters that remain before the Court, both in respect of these proceedings and related proceedings. As Ms Catran points out, the claims before the Court are civil (not criminal) and while some factual findings (such as threats of force and restrictions on movement) may overlap with any issues for a criminal investigation, the standard of proof differs and there would be no issue of improper relitigation of the matter for the purpose of any future criminal trial. Nor do I consider that the second, third and fourth defendant's interests would be unduly compromised and none have been identified on their behalf

– as I have said, they are content to abide the decision of the Court.

[8] It is in the interests of justice that the Attorney-General's application is granted. Accordingly there is an order permitting the Attorney-General to share the briefs of evidence referred to in [2] above, and the transcript of the hearing in these proceedings, to the agencies listed in [3] above.

[9] No issue of costs arises.

Christina Inglis Chief Judge

Judgment signed at 3.20 pm on 3 June 2022

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