



# Employment Court of New Zealand

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## Courage v Attorney-General [2024] NZEmpC 164 (30 August 2024)

Last Updated: 4 September 2024

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2024\] NZEmpC 164](#)

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,

HOSEA COURAGE, DANIEL PILGRIM AND LEVI COURAGE v THE ATTORNEY-GENERAL SUED ON BEHALF OF THE MINISTRY OF  
BUSINESS, INNOVATION AND EMPLOYMENT, LABOUR INSPECTORATE [\[2024\] NZEmpC 164](#) [30 August 2024]

PEARL VALOR AND VIRGINIA

COURAGE

Plaintiffs

AND

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  
P Skelton KC and C Pearce, counsel for second, third and fourth defendants  
R Kirkness, counsel to assist the Court G Baber for New Zealand Police  
Judgment: 30 August 2024

**INTERLOCUTORY JUDGMENT (NO 15 FOR EMPC 363/2021 AND NO 36 FOR EMPC 85/2022) OF CHIEF JUDGE CHRISTINA INGLIS**  
**(Applications to access Court documents)**

**Introduction**

[1] An application has been made by a member of the New Zealand Police to access Court documents in these proceedings, namely the notes of evidence for witnesses called during the course of the hearings in this Court in *Courage v Attorney-General* and *Pilgrim v Attorney-General*.<sup>1</sup>

1. *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 on-going Police investigations into the Gloriavale Christian Community relating to allegations of slavery and forced labour of persons under 18 years of age. The applicant notes that the information contained in the notes of evidence is not being sought to be used as evidence but to provide a basis for investigations to identify lines of inquiry. An earlier application by the Crown in respect of Mr Howard Temple was granted by the Court.<sup>2</sup>

[3] The parties in both proceedings advise that they are content to abide the decision of the Court; counsel appointed to assist the Court has no issues with the application.

**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>3</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.

<sup>2</sup> *Courage v Attorney-General (No 14)* [2024] NZEmpC 95.

<sup>3</sup> Applied via reg 6 of the [Employment Court Regulations 2000](#) and/or by way of helpful analogy.

[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 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.<sup>4</sup>

[9] In this case the application comes after the hearings relating to the existence of an employment relationship between the plaintiffs and defendants in each proceeding, but prior to other hearings between the same parties relating to alleged breaches of the employment relationships which have now been found to exist, and prior to the Court of Appeal determining an appeal in the *Pilgrim* matter.

## Analysis and result

[10] I accept that provision of access to the material sought is appropriate, having regard to the reasons underlying the request. The Police clearly have a legitimate and

4 For a useful summary of the approach, and the weighing exercise, see *Price* [2022] NZHC 3324

genuine interest in accessing the notes of evidence, and granting the application is consistent with the broader interests of justice.<sup>5</sup>

[11] As I have said, the Gloriavale defendants in both proceedings abide the decision of the Court, but have flagged potential issues that may arise depending on how the notes of evidence are used. The applicant has confirmed the basis on which the request for access is made; namely to assist in the investigative phase of the Police operation, rather than as evidence. In any event, I did not understand counsel to be suggesting that this is a factor to be weighed in the discretionary exercise; nor have any interests been identified that would be unduly compromised by the grant of access.

[12] Accordingly, there is an order permitting access to the notes of evidence in both proceedings, namely *Courage v Attorney-General* and *Pilgrim v Attorney-General*.<sup>6</sup> The access is granted on the basis that the applicant complies with all suppression orders.

[13] No issue of costs arises.

Christina Inglis Chief Judge

Judgment signed at 2.15 pm on 30 August 2024

5 See *Pilgrim v Attorney-General (No 12)* [2022] NZEmpC 98 at [5]- [6].

6 Above n 1.