



Employment Court of New Zealand

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Pilgrim v Attorney-General [2023] NZEmpC 107 (13 July 2023)

Last Updated: 19 July 2023

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA
ŌTAUTAHI

[\[2023\] NZEmpC 107](#)
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 access to in-court
video footage

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 VALOR,
FAITHFUL PILGRIM, NOAH
HOPEFUL AND STEPHEN
STANDFAST
Second Defendants

Hearing: On the papers

Appearances: BP Henry, D Gates and S Patterson, counsel for
plaintiffs
J Catran, G La Hood, K Sagaga and R Opie, counsel for
first defendant
C Pearce and S Wilson, counsel for second defendants R
Kirkness, counsel to assist the Court
P Rennie for Warner Bros

Judgment: 13 July 2023

SERENITY PILGRIM, ANNA COURAGE, ROSE STANDTRUE, CRYSTAL LOYAL, PEARL VALOR AND VIRGINIA COURAGE v THE
ATTORNEY-GENERAL SUED ON BEHALF OF THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT, LABOUR INSPECTORATE
[\[2023\] NZEmpC 107](#) [13 July 2023]

INTERLOCUTORY JUDGMENT (NO 34) OF CHIEF JUDGE CHRISTINA INGLIS

(Application for access to in-court video footage)

[1] Warner Bros International Television Production New Zealand Ltd (Warner Bros) has applied for access to in-court video footage, held by TVNZ and Newshub (Discovery NZ), of nine witnesses taken during the hearing of these proceedings. Warner Bros has secured funding, including through the NZ Film Commission's Premium Fund, to produce a documentary on the subject of the Gloriavale Community, its inception, and the impact of the proceedings. The footage is intended to be used in the documentary.

[2] The application was drawn to the attention of the parties. The plaintiffs abide the decision of the Court. The Attorney-General abides the decision of the Court. Counsel appointed to assist the Court raises no objections to the application but suggests (and counsel for the Attorney-General agrees) the imposition of certain conditions if the application is to be granted. The second defendants oppose the application but say that if the application is granted it should be on conditions.

[3] The application was filed as an application for access to Court documents. As such, the Court should be guided by the [Senior Courts \(Access to Court Documents\) Rules 2017](#) (the Rules). This entitles the applicant to request access to Court documents, which includes video recordings.¹ A number of matters must be considered in determining such a request, including:²

- (a) the orderly and fair administration of justice;
- (b)
- (c) 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;

¹ [Senior Courts \(Access to Court Documents\) Rules 2017](#), rr 4 and 11.

² Rule 12.

(d) the protection of other confidentiality and privacy interests (including those of children and other vulnerable members of the community) and any privilege held by, or available to, any person;

(e) the principle of open justice (including the encouragement of fair and accurate reporting of, and comment on, court hearings and decisions);

(f) the freedom to seek, receive, and impart information;

(g)

(h) any other matter that the Judge thinks appropriate.

[4] I agree with the second defendants that, given that the request is to view recorded video footage from Court proceedings, the In Court Media Coverage Guidelines 2016 (Media Guidelines) should also be considered.³ Those guidelines set out a number of relevant principles. The key underlying principle is the promotion of open justice. Other principles include the need for a fair trial; the principle that the media has an important role in the reporting of the trial as the "eyes and ears of the public"; and the interests, reasonable concerns and perceptions of the parties and witnesses.

[5] Warner Bros had earlier applied to film and record sound during the hearing of these proceedings in Greymouth, from 20 to 23 February 2023 inclusive. I granted that application in a judgment dated 18 February 2023.⁴ The Media Guidelines require, so far as possible, like cases are to be treated alike.⁵

[6] The second defendants have not sought to distinguish the earlier application but refer to information before the Court when deciding it. They submit that the Court did not have its attention drawn to the documentary film's proposed tagline: "What if your entire life was based on lies?". They say that the Court should infer from this tagline that the documentary will not be a fair and balanced report and thus no footage should be provided. A number of subsidiary submissions have also been advanced, which I deal with below.

³ Ministry of Justice "10.8 In Court Media Guidelines 2016" www.justice.govt.nz.

⁴ *Pilgrim v The Attorney-General (No 25)* [2023] NZEmpC 17.

⁵ Media Guidelines at [2.2].

[7] I accept that film recordings of Court proceedings must be used to provide or assist in providing an accurate, fair and balanced report and must not be used or published out of context. This is a mandatory requirement of the Media Guidelines.⁶ Warner Bros has explained that the tagline was always intended to be temporary and would not be part of the final documentary. I am not, in any event, persuaded that the tagline implies what the second defendants suggest. I make two general observations. First, a fair and balanced report does not necessarily mean that neither party should be criticised, nor even that they should be equally criticised. Second, what might be described as a sensational headline does not necessarily reflect an intention to produce sensationalised reporting.

[8] The application must be viewed in context. The applicant has set out express assurances that if the application is granted

any footage used in the documentary will be presented in a way which presents a fair and balanced picture of the proceedings. This is, as it notes, a condition of its funding and one it intends to comply with. These assurances and the requirements contained within the Media Guidelines (and which the applicant is obliged to meet), adequately meet the concerns raised by the second defendants.

[9] The second defendants also note that a number of objections were raised in respect of evidence given during the course of proceedings. This gives rise to obvious concerns in respect of the use of footage which involves such evidence. In my view such concerns can be adequately addressed through the imposition of conditions.

[10] As I have said, the Court granted a previous application by Warner Bros to access footage taken during the course of part of the hearing. I have been unable to identify any circumstances unique to the Greymouth portion of the hearing such that a different approach should be applied to the current application.

[11] The second defendants raise a number of other arguments, including that Warner Bros is not an accredited member of the media, that it is not seeking to provide contemporaneous coverage, and that it is seeking to profit commercially from the

6 Media Guidelines at [2.1].

footage it applies for access to. I have dealt with these issues in the previous interlocutory judgment. In short, the Court has a discretion to allow media coverage even for entities that are not members of the media; open justice needs may be met by non-contemporaneous coverage, including a documentary; and a work can be both commercially lucrative and entertaining while also being informative.⁷

[12] The second defendants also note that the Media Guidelines require applications to be made at least 10 working days before the trial is due to start. The same requirement, however, is not contained within the Rules and would not, in any event, require the application to be declined having regard to the Court's discretionary powers.

[13] Having regard to the requirements in the Rules and the Media Guidelines, in particular the principle of open justice, I am satisfied that it is appropriate to grant the application. Conditions on access will provide an appropriate assurance that the documentary provides a fair and balanced picture of the proceedings,⁸ and that other concerns raised by the application are adequately addressed.

[14] Warner Bros is to be provided access to the shared in-court video footage of the evidence of Sharon Ready, Pearl Valor (31 August 2022), Howard Temple (27 February 2023), Rosanna Overcomer (7 September 2022), Clem Ready, Faithful Pilgrim (18-21 February 2023), Purity Valor, Samuel Valor and Stephen Steadfast. The shared footage is to be made available by TVNZ and Newshub (Discovery NZ) on the standard conditions contained within the Media Guidelines (where applicable) and the non-publication and suppression orders already in place. Further, and as requested by the second defendants, I order that the documentary must provide an accurate, fair and balanced report of the hearing, and the footage granted access to must not be used or shown out of context. Finally, I remind Warner Bros that parts of the evidence recorded in the footage to be provided was admitted on a provisional basis.⁹ This context must be kept in mind in the production of an accurate, fair and balanced report.

⁷ See *Pilgrim*, above n 2, at [4], [7], and [9].

⁸ At [5] and [11].

⁹ *Pilgrim v Attorney-General (No 6)* [2022] NZEmpC 145, [2022] ERNZ 622 at sch A.

[15] No issue of costs arises.

Christina Inglis Chief Judge

Judgment signed at 3.50 pm on 13 July 2023