



# Employment Court of New Zealand

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## Pilgrim v Attorney-General [2023] NZEmpC 15 (16 February 2023)

Last Updated: 16 February 2023

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA  
ŌTAUTAHI

[\[2023\] NZEmpC 15](#)  
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 attend Gloriavale  
site visit

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  
STANDFAST  
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  
RK Stewart, counsel for RNZ

Judgment: 16 February 2023

SERENITY PILGRIM, ANNA COURAGE, ROSE STANDTRUE, CYSTAL 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 15](#) [16

February 2023]

INTERLOCUTORY JUDGMENT (NO 24) OF CHIEF JUDGE CHRISTINA INGLIS

(Application by Radio New Zealand to attend Gloriavale site visit)

[1] The Court is undertaking a site visit, at the parties' request, of the Gloriavale Christian Community at Haupiri on Friday 24 February 2023. The purpose of the site visit is to enable the Court to better understand evidence given in these proceedings.<sup>1</sup> Radio New Zealand (RNZ) has applied to attend and cover the site visit. The second defendants (who I will refer to as the Gloriavale defendants) and the first defendant (the Attorney-General) oppose the application. Counsel appointed to assist the Court has also raised concerns about the application. The plaintiffs are content to abide the decision of the Court. In the circumstances, I provided RNZ with the opportunity to respond to the points made in opposition to the application, and Mr Stewart (counsel for RNZ) has filed a further memorandum.

[2] RNZ is an accredited media outlet and member of the media as defined in the Media guide for reporting the courts and tribunals.<sup>2</sup> There are two aspects to RNZ's application – first, allowing Ms Edwards (a RNZ journalist who has been covering this proceeding in Court from the outset) to “attend and cover the view”. The second aspect is permission to film, record and photograph at the view (subject to conditions, such as in respect of restrictions on filming, photographing or recording certain individuals during the course of the view).

[3] The Gloriavale defendants' opposition to the application is predominantly focussed on privacy concerns. They note that Gloriavale is home for around 580 people, including around 350 children under 15 years of age, and say that filming the Community, living quarters, or people involved in the proceedings would represent an unwarranted intrusion onto their property and into their privacy which would not be in the public interest. The Gloriavale defendants also submit that the view will not take place in the courtroom and accordingly different rules apply. Counsel for the Attorney-General essentially echo the points raised by the second defendants, and

<sup>1</sup> *Pilgrim v Attorney-General (No 20)* [2023] NZEmpC 1.

<sup>2</sup> Ministry of Justice “4.0 Media in court” <justice.govt.nz>.

say further that it is not in the public interest for the media to attend the site visit and there is no public interest in the evaluative material likely to be recorded on the site visit. Both parties submit that if the application is granted it ought to be on strict conditions.

[4] No counsel has been able to identify any caselaw directly on point. And, while s 82 of the *Evidence Act 2006* makes provision for those who are entitled to attend a view it does not, as Mr Stewart points out, prohibit the Court from allowing members of the media to attend. I accept that the Court has a discretion to permit members of the media to attend a view and did not understand any of the representatives to suggest otherwise.

[5] In deciding an application of this sort the Court must be guided by the overall interests of justice. I agree with Mr Kirkness, counsel appointed to assist the Court, that media attendance at a site visit (including to film, photograph and record) may well engage different interests to those applying to a courtroom setting. The location in which a site visit occurs is not a courtroom, although a view is part of a proceeding.

[6] In this case important privacy interests are at play. The view will take place on a property that is home to a large number of residents, including each of the Gloriavale defendants and their families. Their position on the application, and the broader privacy interests that have been identified, are a significant factor in the weighting exercise.

[7] Also significant in the weighting exercise are the interests of open justice, which the common law has long recognised as fundamental. There is plainly a substantial public interest in these proceedings, of which the view will be a part. Attendance of the media would be a mechanism for ensuring that the interests of open justice are met – the media effectively being the eyes and the ears of the public on the view.

[8] While I accept that some photographic evidence is before the Court, and various witnesses have described the physical layout of the property and the location

and characteristics of various equipment and assets, the parties invited the Court to attend a view of Gloriavale for the purpose of enabling it to better understand that evidence. Media attendance at the view would (logically) enable the media (the eyes and ears of the public) to similarly better understand the evidence which would, in turn, support informed media coverage.<sup>3</sup>

[9] The Gloriavale defendants refer to concerns they have about negative media coverage they have endured to date as a further reason why they are opposed to the application. As Mr Stewart points out, no examples of such coverage in these proceedings have been identified. He notes too that RNZ remains obliged to comply with the Guidelines and are accountable to oversight by the New Zealand Media Council and the Broadcasting Standards Authority.

[10] Counsel for the Attorney-General cites two rulings of the Environment Court, in which media requests to attend a view were declined.<sup>4</sup> I agree with Mr Stewart that both are distinguishable – *Groome* refers to the Court's concerns about the potential for the media to record discussions between members of the Court during the view (including of an evaluative nature) and concerns that media personnel and equipment could not be accommodated; *King Salmon* centred on health and safety concerns. RNZ is not proposing that their journalist attend with filming equipment (rather she would use the

recording functions on her phone); concerns about the scope of any recording can be dealt with by conditions; and I do not understand any health and safety issues to arise.

[11] The application is finely balanced. Ultimately the Court must be guided by the overall interests of justice in exercising its discretion. The identified privacy interests are significant but these interests and the other concerns that have been raised can, to a reasonable extent, be met by other means (namely the imposition of conditions). I note too that the concerns about privacy must be viewed within the context of the Gloriavale defendants being otherwise supportive of the site visit, which will inevitably have privacy implications. The reality is that there is a

3 Ministry of Justice “10.8 In Court Media Guidelines 2016” <[justice.govt.nz](http://justice.govt.nz)> at [2].

4. *Groome v West Coast Regional Council* [2010] NZEnvC 61 at [13]- [14]; *Re New Zealand King Salmon Co Ltd* [2022] NZEnvC 81 at [7(b)].

significant public interest in these proceedings, and allowing an accredited member of the media to attend the view will, in my view, support the fundamental principle of open justice.

[12] In the circumstances I grant the application to allow Ms Edwards (or another RNZ journalist if Ms Edwards is not available), on behalf of RNZ, to attend and cover the view. The following conditions apply. Ms Edwards will be permitted to take sound recordings during the view but limited to the commentary that is to be provided during the course of the view. Ms Edwards will also be permitted to take still photographs during the view but limited to outdoors – no photographs are to be taken inside the premises. No photographs may be taken of any witness or resident of the Gloriavale Community who is not a party. During the view Ms Edwards is not to converse or engage in any exchange with any person other than a Court official and must at all times strictly comply with any direction of the Court. Ms Edwards will not be permitted to film during the view.

[13] For completeness, while I appreciate that the conditions that the Gloriavale defendants sought to have imposed if the application was granted were somewhat less restrictive, I consider the above restrictions reflect a more appropriate balance in the circumstances.

[14] Ms Edwards is to liaise with counsel appointed to assist the Court in the first instance concerning the administrative arrangements for the view, which are still in train.

[15] Leave is reserved to apply for any further directions or orders.

[16] I do not understand any issue of costs to arise.

Christina Inglis Chief Judge

Judgment signed at 8.45 am on 16 February 2023