

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

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

**[2022] NZEmpC 83
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 consequential orders

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

Hearing: On the papers

Judgment: 18 May 2022

**INTERLOCUTORY JUDGMENT (NO 2) OF
CHIEF JUDGE CHRISTINA INGLIS
(Application for consequential orders)**

[1] These proceedings involve a claim against the Attorney-General (sued on behalf of the Labour Inspectorate) and the second defendants, who are leaders within the Gloriavale Christian Community. The plaintiffs are ex-residents of the Community and say that they were employees during their time there (first cause of action). They also allege that the Labour Inspectors owed statutory duties to them which they breached (second cause of action).

[2] The second defendants have filed a statement of defence denying the claim against them. The Attorney-General has filed an appearance reserving rights in respect of the first cause of action and an appearance under protest to jurisdiction in respect of the second cause of action (based on the ground that the Employment Court does not have jurisdiction to determine the tort claim against the Labour Inspectorate and that the Employment Relations Act 2000 provides that only a Labour Inspector can apply to a Court for declarations of a breach and/or pecuniary penalties). A number of consequential orders are sought. The plaintiffs and the second defendants did not wish to be heard.

[3] Split hearing orders were previously made, directing that the cause of action against the second defendants (the preliminary, employee status, issue) be heard first, with issues relating to the Court's jurisdiction to hear and determine the breach of statutory duty claim to be dealt with subsequently. It is not alleged that the Attorney-General was at any time employer of the plaintiffs. In these circumstances it is appropriate for the first defendant to appear reserving rights, enabling the Labour Inspectorate to keep a watching brief in the event that a party takes steps adverse to it in the employee status claim.¹ In this regard leave is granted for counsel for the Attorney-General to appear at the hearing but not to take an active role unless (for example) a witness gives evidence contrary to the Labour Inspectorate's interests that requires testing in cross-examination; the Labour Inspectorate becomes aware of updating evidence relevant to determination of the issues; or it is considered appropriate for the Attorney-General to make closing submissions. It is also appropriate that consequential orders be made requiring the parties, and counsel to

¹ See, for example, *Justitiae Trustee Co Ltd v NZF Nominees Ltd* [2020] NZHC 1249.

assist the Court, to serve the Attorney-General with all documentation filed in the preliminary matter.

[4] I record that the Attorney-General is content for the parties to use discovery provided in earlier proceedings (*Courage v Attorney-General*), evidence filed by the Labour Inspectors and the notes of evidence taken during cross-examination of the Labour Inspectors in these proceedings.

[5] The following orders are accordingly made:

- Leave is granted for counsel for the Attorney-General to appear at the preliminary (employment status) hearing, but take no active role (unless appropriate to do so).
- The parties, and counsel to assist the Court, are to serve all documents filed in the preliminary (employment status) hearing on the Attorney-General.
- The parties may use the discovery provided in the *Courage v Attorney-General* proceedings, evidence filed by the Labour Inspectors and the notes of evidence taken during cross-examination of the Labour Inspectors in the preliminary (employment status) hearing.
- There is no need to deal with the Attorney-General's protest to jurisdiction at this stage, and in advance of the preliminary (employment status) issue.
- By reserving his rights on the preliminary (employment status) hearing the Attorney-General will neither be entitled to, nor liable for, costs.

[6] No issue as to costs arises.

Christina Inglis
Chief Judge

Judgment signed at 10.15 am on 18 May 2022