

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

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

**[2023] NZEmpC 25
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, S Standfast and P Righteous, representatives for second
defendants
R Kirkness, counsel to assist the Court
P Rennie for Warner Bros.

Judgment: 23 February 2023

**INTERLOCUTORY JUDGMENT (NO 28)
OF CHIEF JUDGE CHRISTINA INGLIS
(Application to attend Gloriavale site visit)**

[1] A number of applications have been advanced by media organisations to attend and cover a site visit of the Gloriavale Christian Community on Friday 24 February 2023. I dealt with those applications in two previous judgments.¹ Warner Bros. International Television Production New Zealand (Warner Bros.) has now applied to attend the site visit. This judgment deals with this most recent application.

[2] The application comes at a late stage, although the second defendants have not sought to take issue with that. Their objection (recorded in written submissions filed before the most recent judgment was delivered) is based on three primary points. First, that the Court does not have the power to permit the media to attend a view against Gloriavale’s wishes. Second, the concession by the Gloriavale defendants in respect of other media organisations expressly did not include Warner Bros. Third, it would be unjust to permit Warner Bros. to use the view as a “Trojan Horse” by obtaining material for its documentary against the wishes of the Gloriavale Community.

[3] The plaintiffs abide the decision of the Court. The first defendant (the Attorney-General) opposes the application. Counsel assisting the Court has filed a helpful memorandum which sets out a number of factors submitted to be relevant to the assessment process.

[4] The purpose of the site visit is to enable the Court to better understand evidence given in these proceedings.² The Gloriavale defendants submit that the Court does not have the power to allow a member of a media organisation to attend a site visit on its property, absent its consent. I have previously concluded that the Court does have such a power.³ I consider the real issue, on an application such as this, boils down to

¹ *Pilgrim v Attorney-General (No 24)* [2023] NZEmpC 15; *Pilgrim v Attorney-General (No 27)* [2023] NZEmpC 23.

² *Pilgrim v Attorney-General (No 20)* [2023] NZEmpC 1.

³ *Pilgrim v Attorney-General (No 24)*, above n 1, at [4]-[5]; *Pilgrim v Attorney-General (No 27)*, above n 1, at [5].

an assessment of the factors relevant to the exercise of the Court's discretion and the weighting exercise that applies. While I exercised my discretion in favour of media attendance at the site visit, it was, as I observed at the time, finely balanced. One of the significant factors weighing in the mix was the fact that the view is to take place on private property that is home to a large number of residents, including each of the Gloriavale defendants and their families. The second defendants' position on any attendance (beyond those statutorily entitled to attend the view under s 82 of the Evidence Act 2006) is an important consideration.

[5] Applications by Radio New Zealand (RNZ), NZME, Stuff, Newshub and TVNZ have been partially granted, and on strict conditions. The Gloriavale defendants agreed to the latter four organisations being granted access on conditions – they are not agreeable to Warner Bros. being granted access on a similar basis. Each of the five media organisations whose applications have been granted are accredited, and are members of the media as defined in the Media guide for reporting the courts and tribunals.⁴ Warner Bros. is not an accredited media organisation as defined, and does not have accredited journalists. As also noted, increasing the number of attendees, along with the number of recording devices, may increase the level of interference with residents' privacy.

[6] As I observed in my judgment dated 18 February 2023, a better understanding by the public can be promoted through a variety of formats, including long-form documentaries of the sort Warner Bros. is producing.⁵ That is one of the reasons why I granted Warner Bros.' application to film during the trial. But attendance at a site visit by media differs from attendance at Court. And there are, as Mr Kirkness and counsel for the Attorney-General point out, differences between the interests implicated by the Warner Bros. application to attend the site visit and those of other media organisations. I agree that those differences are relevant to the balancing exercise when considering the application.

⁴ Ministry of Justice "4.0 Media in court" <justice.govt.nz>.

⁵ *Pilgrim v Attorney-General (No 25)* [2023] NZEmpC 17 at [7].

[7] I do not consider it appropriate to exercise my discretion to allow Warner Bros. to attend the site visit. In reaching that view I have had particular regard to the second defendants' position on the application. The application is accordingly declined.

[8] Warner Bros. proposed a fall-back option of accessing shared footage and recordings from the media organisations which have been approved to attend and cover the site visit. This was opposed by the second defendants. While I accept that it would represent less of an intrusion for those defendants, I am not satisfied that a power to make such an order exists. Even if I was, I would not have considered that the interests of justice required it to be made.

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

Christina Inglis
Chief Judge

Judgment signed at 4.05 pm on 23 February 2023