

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

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

**[2023] NZEmpC 50
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 document

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, 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

Judgment: 4 April 2023

**INTERLOCUTORY JUDGMENT (NO 32)
OF CHIEF JUDGE CHRISTINA INGLIS
(Application to access Court document)**

Introduction

[1] An application has been made to the Court by the Greymouth Star to access a certain document on the Court file, namely the expert report of Dr Norris dated 7 March 2023. Dr Norris prepared the report in her role as Court appointed expert and gave evidence at trial in respect of it.

[2] I directed that the application be provided to the parties. The plaintiffs, first defendant and second defendants have advised that they abide the decision of the Court; counsel to assist has no objection to the application.

Analysis

[3] The application is to be dealt with as an application to access a document held on the Court file. Neither the Employment Relations Act 2000 nor the Employment Court Regulations 2000 make express provision for such applications, and the Court accordingly looks to the Senior Courts (Access to Court Documents) Rules 2017 (the Rules).¹

[4] 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. The material sought in this case is on the court file. A person may ask to access any document under r 11 of the Rules.

¹ *Prasad v LSG Sky Chefs New Zealand Ltd* [2017] NZEmpC 160 at [4].

[5] The principle of open justice is fundamental.² The principle may need to be departed from in certain circumstances when it is in the interests of justice to do so.

[6] Rule 12 specifies a range of matters that must be considered when determining an application for access. Those factors include the nature of and reasons for the request; the principle of open justice; the freedom to seek, receive, and impart information; and any other matter that the Judge thinks appropriate. The timing of a request is also relevant to considering an application, which r 13 makes clear.

[7] The Greymouth Star is a media outlet. These proceedings have generated much public interest. The reasons for the request (namely to assist in covering the case) are consistent with the interests of open justice. Providing access to the report will support informed, fair and balanced reporting.

[8] As I have said, no party is opposed to access being granted. Dr Norris's report is expressed at a relatively high level, reflecting the questions the report writer was asked to express an expert opinion on by the Court. It does not identify any individuals and no confidentiality or privacy issues are engaged.³

[9] Standing back and considering the matters in rr 12 and 13, I consider it appropriate to grant the application, and I make orders accordingly.

Christina Inglis
Chief Judge

Judgment signed at 10.55 am on 4 April 2023

² See *Erceg v Erceg* [2016] NZSC 135, [2017] 1 NZLR 310 at [2] in relation to the principle generally; and in relation to access to Court documents, see the discussion in *Commissioner of Police v Doyle* [2017] NZHC 3049; and *Berry v Crimson Consulting Ltd* [2017] NZHC 3026 upheld on appeal in *Berry v Crimson Consulting Ltd* [2018] NZCA 460, [2019] NZAR 30.

³ A similar application was considered, and granted in *Re Cowie* [2021] NZHC 1617.