ORDER PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF THE APPLICANTS.

IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY

I TE KŌTI MATUA O AOTEAROA
TE WHANGANUI-A-TARA ROHE

CIV-2021-485-474
[2021] NZHC 2337

UNDER	the Judicial Review Procedure Act 2016
IN THE MATTER	of a judicial review of the COVID-19 Public Health Response (Vaccination) Order 2021
BETWEEN	GF Applicant
AND	MINISTER OF COVID-19 RESPONSE First Respondent
	ASSOCIATE MINISTER OF HEALTH Second Respondent
	ATTORNEY-GENERAL Third Respondent

CIV-2021-485-509

BETWEEN	K, B, L and N First Applicants
	MB Second Applicant
	DG Third Applicant
AND	MINISTER OF COVID-19 RESPONSE First Respondent
	ASSOCIATE MINISTER OF HEALTH Second Respondent
	ATTORNEY-GENERAL Third Respondent

CIVIL AVIATION AUTHORITY
Fourth Respondent

Hearing via VMR: 6 September 2021

Counsel: A J Fechney (advocate by leave) for GF
S Grey for Applicants in CIV-2021-485-509
A Powell and K Bell for Respondents

Judgment: 7 September 2021

JUDGMENT OF CHURCHMAN J

Introduction

[1] Two separate sets of proceedings have challenged the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Order). A hearing was held by way of VMR on 6 September 2021 to address a number of preliminary issues. I will address each of these issues separately.

Background

[2] The Order was made under ss 9 and 11 of the COVID-19 Public Health Response Act 2020 and came into force on 30 April 2021. The purpose of the order is to prevent, and limit the risk of, the outbreak or spread of COVID-19 by requiring certain work to be carried out by "affected persons" who are vaccinated. That is, the Order requires certain "frontline" workers to be vaccinated in order to carry out certain work such as work in managed quarantine and isolation facilities, handling affected items in those facilities, affected airports, affected ports, and aircraft.[1]

[3] GF, the applicant in CIV-2021-485-474, was formerly an employee of the New Zealand Customs Service. She alleges that her employment was terminated as a result of the Order. GF challenges the lawfulness of that Order on two grounds. First, she says that the Order is ultra vires the COVID-19 Public Health Response Act 2020, as s 9 of that Act imposes conditions on the COVID-19 Response Minister making an

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1 COVID-19 Public Health Response (Vaccinations) Order 2021, cls 7 and 8, and sch 2.

order, and GF alleges one or more of those conditions was not met. Second, GF alleges that the Order is irrational, principally because of the consequences it has for unvaccinated employees.

Ms Fechney's leave application for representation

[4] Ms Fechney filed an application for leave to represent GF on 22 August 2021. In that application, she explained her legal background, current role in representing GF, and knowledge in terms of legal matters. In terms of her legal background, Ms Fechney says that she has completed LLB and LLM degrees, had been admitted as a barrister and solicitor of the High Court, and had previously held a practicing certificate while employed as a solicitor in the employment law team of Morrison Kent lawyers.

[5] Ms Fechney explained that she did not hold a current practising certificate because she worked solely in the area of employment law, and that she did not require one in her current role as an employment advocate. Ms Fechney also stated that she was a member of the Employment Law Institute of New Zealand and had been approved by the Ministry of Justice to provide legal aid services with respect to employment matters.

[6] In terms of her current role representing GF, Ms Fechney stated that as well as acting for her in these proceedings, she was also representing her in the Employment Court, as well as in other proceedings in the Employment Court involving related matters.

[7] Ms Fechney acknowledged that judicial review matters are inherently complicated, but that she believed that she had the requisite knowledge and experience to represent GF, noting her LLM and recent involvement in the *UXK v Talent Propeller Limited* case, which she described as a challenge to the minutes of the Employment Relations Authority, and a judicial review of the proposed actions of the Employment Relations Authority.

[8] Ms Fechney also noted that she was not charging GF to represent her, which reflected her commitment to the interests of justice. It seems that GF's financial position is such that she is not able to pay for representation.

The Crown's position

[9] While noting that the Courts approach their discretion under s 27(1)(b)(ii) sparingly, Mr Powell, for the respondents, indicated that they will leave the question of whether Ms Fechney ought to represent GF to the Court, accepting that there will need to be consideration of whether such permission may in exceptional circumstances be necessary to ensure access to justice.

[10] However, the Crown has also suggested that this is not singularly a question of competence and knowledge/experience – lawyers are subject to professional obligations (including a paramount duty to the Court) that distinguish them from lay advocates, and that furthermore, the application for leave does not disclose whether any efforts have been made to instruct a lawyer.

[11] Finally, for completeness, the Crown noted that under r 5.3(2) of the High Court Rules 2016, Ms Fechney may only file documents with the Court if granted leave to do so. Without the leave of the Court, the proceedings will cease to have any effect.

Lay-advocate representation

[12] Section 27(1) of the Lawyers and Conveyancers Act 2006 provides:

> **27 Exceptions to sections 21, 22, 24, and 26**
>
> (1) Sections 21, 22, 24, and 26 do not prevent—
>
> (a) any person from representing himself or herself in proceedings before any court or tribunal; or
>
> (b) any person from appearing as an advocate, or representing any other person before any court or tribunal if the appearance or representation is allowed or required—
>
> (i) by any Act or regulations; or
>
> (ii) by the court or tribunal; or

(c) any person who may, in accordance with paragraph (b), appear in any proceedings as an advocate or representative from—

(i) giving advice in relation to those proceedings; or

(ii) giving assistance in drafting, settling, or revising documents for filing in those proceedings.

[13] Alongside the statutory power of the courts to grant leave to an advocate to represent a person before it under s 27(1)(b)(ii), this Court has the inherent jurisdiction to determine who may appear before it as an advocate.[2] As noted by the Court of Appeal in *Black v Taylor*, in making the assessment of who ought to appear before it, the Court should give due weight to the public interest that a litigant should not be deprived of their choice of counsel without good cause.[3]

[14] However, Ms Fechney cannot be classified as 'counsel' in these circumstances, as although she is admitted as a barrister and solicitor of this Court and holds a law degree, she does not have a current practising certificate. Therefore the first question is: what is the test for this Court to apply under s 27 in order to determine whether a lay advocate should represent a person in Court?

[15] Two Court of Appeal cases provide the foundation for this Court's assessment under s 27. The first is *Re G J Mannix*. In that case, the Court of Appeal considered whether Mr Russell, the secretary of a company that had successfully disputed an application for it to be wound up, had no right of audience before the Court when he sought costs, as he was not a barrister.[4] Cooke J (as he then was) held that it was "well settled" that a company has no right to be represented in the conduct of a case in Court except by a barrister; or by a solicitor in Courts or proceedings where solicitors have the right of audience.[5] However, he also observed that the courts maintained a "residual discretion" to allow unqualified advocates to appear before them, noting:[6]

> In general, and without attempting to work out hard-and-fast rules, discretionary audience should be regarded, in my opinion, as a reserve or

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2 See *Fairfax v Ireton* [2009] NZCA 100 at [77]; and *Black v Taylor* [1993] 3 NZLR 403 (CA) at 408–409.

3 At 409.

4 *Re G J Mannix Ltd* [1984] 1 NZLR 309 (CA).

5 At 310-311.

6 At 314.

> occasional expedient, for use primarily in emergency situations when counsel is not available or in straightforward matters where the assistance of counsel is not needed by the Court or where it would be unduly technical or burdensome to insist on counsel. Especially in minor matters, cost-saving could also be a relevant factor. A "one-man" company might be allowed to be represented by its owner if the Judge saw fit in a particular case. But it could not be right, for instance, to issue some sort of tacit continuing or general licence to an unqualified agent to appear in winding up or any other class of proceedings.

[16] The second is *Honda New Zealand Ltd v New Zealand Boilermakers Union*.[7] That case is perhaps more relevant to the current circumstances, as it concerned the dismissal of an employee. Honda New Zealand Ltd had dismissed an employee for taking a can of paint thinners, which the Labour Court had found to be an unjustified dismissal, ordering the employee's reinstatement. When the case was appealed to the Court of Appeal, the New Zealand Shipwrights and Boatbuilders, Moulders, Coachworkers, Boilermakers, Pulp and Paper Workers and Optical Technicians Union (who took the case on behalf of the employee) were represented by Mr Clarke, a lay advocate who was the general secretary of that Union. The Court of Appeal noted that while that type of representation was expressly permitted in the Labour Court under s 99 of the Labour Relations Act, the position in the senior Courts was different. Hardie Boys J, who delivered the judgment, explained there was no right of audience save by the litigant in person or by a qualified lawyer; and an incorporated body, such as a company or a union, being incapable in law of appearing in person, must necessarily be represented by counsel.[8]

[17] The Judge found that there were good reasons for this approach as espoused in *G J Mannix*, and opined that perhaps the most important reason was that under appeals brought on points of law, unqualified persons were unlikely to be of great assistance to the Court.[9] However, it was also acknowledged that the rule was not absolute. According to the Judge:[10]

> The Court has a discretion to allow lay representation, but it is a discretion that will be exercised sparingly, only for good reason, such as in an emergency situation where counsel is not available, or in particularly straightforward

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7 *Honda New Zealand Ltd v New Zealand Boilermakers Union* [1991] 1 NZLR 392 (CA).
8 At 397.
9 At 397.
10 At 397.

> matters where the assistance of counsel is not needed by the Court, or where it would be unduly technical, burdensome or costly to insist on counsel.

[18] Both of those cases have been cited with approval in more recent Court of Appeal decisions. For example, in *Bracewell v Richmond Services Ltd*, the Court of Appeal held that its general policy was not to allow lay representation, and although the rule was not absolute, the Court's discretion to allow lay representation was to be exercised sparingly and only for good reason, citing the reasons set out in *Honda*.[11] Furthermore, in *Petersons Global Sales Ltd v Peterson*, the Court of Appeal noted that the policy from *Honda* and *G J Mannix* of not allowing lay representation save for rare cases where the Court could exercise its discretion to allow it, "remains in force".[12]

[19] A number of the cases which have dealt with the issue before the Court in the current circumstances relate to the representation of companies by lay advocates. As will be apparent from above, this was the case in the two earlier Court of Appeal decisions, and the issue also arose in the two more recent Court of Appeal decisions of *Dreamtech Designs & Productions Pty Ltd v Clownfish Entertainment Ltd* and *Commissioner of Inland Revenue v Chesterfields Preschools Ltd*. These cases are of some relevance because they concern representation by lay advocates who had law degrees and had been admitted but were not currently practising in New Zealand.

[20] In *Dreamtech Designs & Productions Pty Ltd v Clownfish Entertainment Ltd*, the Court of Appeal declined an application by Ms Kelly to represent a company appealing the imposition of interim injunction relating to alleged copyright infringement.[13] Ms Kelly was a solicitor admitted in Queensland and had over two decades of legal experience. However, she was also married to the proprietor of the appellant company, and was the CEO and in-house counsel of that company.

[21] The Court of Appeal held that Ms Kelly's representation application should be declined for two reasons. Firstly, she had not established the sort of exceptional

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11 *Bracewell v Richmond Services Ltd* [2014] NZCA 629 at [17].

12 *Petersons Global Sales Ltd v Peterson* [2010] NZCA 56 at [23]-[24]. I note this approach was also affirmed in *New Zealand Cards Ltd v Ramsay* [2012] NZCA 285 and *Kai Iwi Tavern Ltd v The New Zealand Guardian Trust Company Ltd* [2013] NZCA 199.

13 *Dreamtech Designs & Productions Pty Ltd v Clownfish Entertainment Ltd* [2015] NZCA 491.

circumstances that might justify a departure from the *G J Mannix* rule: this was not an emergency situation dictated by urgency, legal counsel were available, and the company could certainly afford legal representation.[14] Secondly, the Court expressed concern that Ms Kelly's close association with the appellant company in various capacities did not sit well with the need for professional objectivity which underlies the *G J Mannix* rule.[15]

[22] In the long-running taxation dispute of *Commissioner of Inland Revenue v Chesterfields Preschools Ltd*, the Court of Appeal dealt with two applications for leave to represent the respondent by Mr Hampton, a lay advocate who held an LLB and LLM and had been admitted to the bar in New Zealand but did not hold a current practising certificate.

[23] The first application was heard by the Court of Appeal in 2009, and concerned Mr Hampton's application to represent the first to the fifth respondents in judicial review proceedings.[16] The Court of Appeal, although not without some hesitation, allowed the application, for three reasons:[17]

> In the end, although not without some hesitation, we allow Mr Hampton's application. Our essential reasons are that the Commissioner is the appellant, and assembling the Case on Appeal and getting the appeal on for hearing fortunately lies in the hands of experienced Crown counsel. Secondly, Mr Hampton is going to have to be involved for (at least) two of the respondents. Thirdly, there seems now to be absolutely no prospect of there being representation for the other respondents.

[24] The second application was heard by the Court of Appeal in 2013.[18] The issues on appeal in that case included an appeal against a strike-out application raising questions of law under the Tax Administration Act 1994, the Crown Proceedings Act 1950, and whether claims for alleged misfeasance in public office should be struck out. Mr Hampton had again applied to represent the first to the fifth respondents, but during the hearing of the application, had conceded that the proceeding was beyond his legal skillset and that he was "out of his depth".[19] The Court acknowledged that

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14 At [10]-[12].
15 At [9] and [13].
16 *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* [2009] NZCA 334.
17 At [18].
18 *Commissioner of Inland Revenue v Chesterfields Preschools Ltd* [2013] NZCA 53.
19 At [23].

this was a "difficult and complex case", and for this reason, the respondents should be represented by an experienced solicitor. The application was therefore denied.

[25] Finally, in the recent decision of *Keemati Ltd v Mr Civil Ltd*, Associate Judge Lester considered the relevant case law (including *G J Mannix, Dreamtech* and *Chesterfields*) and articulated the following relevant principles to be considered in the exercise of the Court's discretion to allow non-lawyers to appear on a company's behalf:[20]

> (a) the nature of the litigation;
>
> (b) the complexities of the case;
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> (c) the extent of the dispute;
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> (d) the point at which audience is sought;
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> (e) the importance of an understanding of the law and a dispassionate consideration of the circumstances;
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> (f) that the preliminary and interlocutory stages are important to the determination of litigation, and the filing of a compliant statement of claim assists this process; and
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> (g) the need for professional objectivity, including whether the person proposed to represent the company is closely associated with the applicant company and is also a witness.

[26] I note also that in recently adopting these criteria, Moore J observed in *Flow Control Ltd v Il Forno Ltd* added an additional consideration: whether or not the application is made in an emergency situation.[21]

[27] In applying the case law to the current circumstances, the first point to note is that this is obviously not a case concerning representation of a company. The *G J Mannix* rule has also arisen in other circumstances – for example, in *Bay of Plenty Regional Council v Waaka (No 1)*, Judge Wolff considered and declined an application for a lay advocate to appear on behalf of a defendant in a jury trial, on the basis of the now repealed s 345 of the Crimes Act, and the complex nature of the proceedings.[22]

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20 *Keemati Ltd v Mr Civil Ltd* [2021] NZHC 538 at [6] (footnotes omitted). Cited with approval by Moore J in *Flow Control Ltd v Il Forno Ltd* [2021] NZHC 1301 at *Flow Control Ltd v Il Forno Ltd* [2021] NZHC 946 at [19].

21 At [20].

22 *Bay of Plenty Regional Council v Waaka (No 1)* DC Tauranga CRI-2009-070-8232, 27 June 2009.

The Court of Appeal also applied the *G J Mannix* rule in declining an application for leave to represent in the aforementioned case of *Bracewell v Richmond Services Ltd*, where the lay advocate was representing an employee who had been dismissed as a community support worker.

[28] However, this case is somewhat different to those two proceedings. In this case, Ms Fechney does have relevant qualifications, and through the written material she has filed and her responses to the various questions asked of her in this matter, indicated that she has a good understanding of the legal issues and the obligations that counsel conducting proceedings in the High Court has. She has indicated a willingness to comply with all the obligations that counsel would be under.

[29] The substantive hearing can be accommodated later this month on 20 and 21 September. Although it will likely give rise to some complex issues in relation to the lawfulness of the vaccinations order, on its face the hearing does not seem to be as complex or lengthy as the 2013 *Chesterfields* proceeding, where the lay advocate admitted to being essentially out of his depth. Ms Fechney's qualifications as an admitted lawyer (albeit without a practising certificate) also go some way to allay the Crown's concern that lay advocates lack the professional obligations of qualified lawyers. While Ms Fechney is not a qualified lawyer, her admission and qualification for legal aid status mean that she has more obligations than a lay advocate with no legal qualifications.

[30] There is some urgency in having this application determined and Ms Fechney is able to undertake the necessary work to allow the matter to proceed on 20 and 21 September. If leave was not granted to Ms Fechney to appear, it is unlikely that counsel could be found to take the matter over and get up to speed within that short period of time. This is also a relevant factor.

[31] I also note that Ms Fechney does not appear to have the same sort of conflicts of interest that hindered Ms Kelly's application in *Dreamteach* (indicating that principle (e) espoused in *Keemati* is in her favour), she also has some experience in the area of judicial review. I conclude that in considering principles (a) through (d) as

set out in *Keemati* at [25] above, Ms Fechney likely has the ability and experience to handle the complexities and represent GF in a case of this nature.

[32] However, the current application does not rest on that point. Instead, the underlying policy reasons which seem to influence a number of the cases where the *G J Mannix* rule has been applied is, as noted by Moore J in *Flowtech*, whether this is an emergency or exceptional situation where departure from the standard approach of refusing law advocate representation ought to be granted. In particular, it is critical to ascertain in this case whether:

(a) this case is of such urgency that it would be difficult for GF to engage qualified legal counsel within the time available; and

(b) GF is or is not able to afford qualified legal counsel, and if she can, whether she is willing to do so.

[33] In terms of (a), I note that in her minute of 27 August 2021, Grice J observed that the relevant date in which GF was seeking the proceedings to have been completed was 30 September 2021, because there would be a number of other employees affected by the vaccinations order at that point.[23] Grice J noted that while both Ms Fechney and Mr Powell acknowledged that having the proceedings dealt with by that day would be a challenge and probably unrealistic given the importance of the proceedings and the need to have the relevant documentation and information before the Court, Mr Powell also submitted that given the application related to the lawfulness of the vaccinations order which affected the New Zealand public, the Crown would co-operate in bringing the matter to an early hearing.

[34] Given that the substantive hearing has been set down to start on 20 September 2021, there is at present, certainly some urgency in the proceedings. Therefore, the element of urgency of these proceedings favours Ms Fechney's application.

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[23] Under sch 2, cl 3 of the vaccinations order, affected persons that are not defined as "service workers" who were not vaccinated before 11:59pm on 14 July 2021 must have had their first injection of the Pfizer/BioNTech COVID-19 vaccine before the close of 30 September 2021and have their second injection of the Pfizer/BioNTech COVID-19 vaccine no later than 35 days after their first injection.

[35] The fact that Ms Fechney is undertaking this work pro bono, is also relevant. Kós J, as he then was, observes in *Gee v Plumbers, Gasfitters and Drainlayers Board* that the Court will be most unlikely to approve participation of a lay advocate who is being paid for doing so, as it is entitled to assistance from remunerated representatives who are properly trained in the law.[24]

Result

[36] The particular combination of facts in this case, including the urgency amount to a sufficiently "exceptional situation" to depart from the *G J Mannix* rule, and allow the application. Ms Fechney is granted leave to appear and leave to file documents in this matter.

Non-publication

[37] Ms Fechney seeks a non-publication order in respect of the identity of the applicant. She notes that, in parallel proceedings, the Employment Court has made such an order. Unlike criminal proceedings, it is rare for an order to be made suppressing the identity of an applicant in civil proceedings. There is a significant public interest in open justice. This leads to a presumption of disclosure of all aspects of civil Court proceedings.[25] As to the general principles, see *Y v Attorney-General*[26] and *Erceg v Erceg*.[27]

[38] The justification for the order sought in this case is that the applicant is likely to suffer public opprobrium at least from certain segments of the public. The Court of Appeal dealt with a similar situation in the case of *Nottingham v Ardern*.[28] On the facts in that case, the Court held that there was no factual basis upon which it could be concluded that the applicants would suffer physical harm if the public knew they were the individuals who had initiated these proceedings. It identified the only possibility as being that the applicants might receive some unwelcome comments.

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24 *Gee v Plumbers, Gasfitters and Drainlayers Board* [2012] NZHC 377 at [37].
25 See the observations of Woodhouse J in *Commissioner of Police v F(L)C* [2016] NZHC 2852 at [15].
26 *W v Attorney-General* [2016] NZCA 474.
27 *Erceg v Erceg* [2016] NZSC 135, [2017] 1 NZLR 310.
28 *Nottingham v Ardern* [2020] NZLR 207.

[39] However, the situation in the present case is somewhat different. Public feelings are very high about the issue of COVID-19 vaccination. There have been public demonstrations and significant social media activity. I have therefore concluded that, at least on an interim basis, the applicant's identity should be anonymised and she is to be referred to as "GF". At the conclusion of the hearing in this matter, I will consider whether this interim order should be extended.

[40] The issue of anonymising the name of an applicant was recently discussed by the Supreme Court in *D v New Zealand Police*.[29] Anonymisation of a judgment, unlike suppression, does not require the Court to make a suppression order.

[41] However, there are some matters relating to the identity of the applicant that are necessary to be in the public domain. These are matters such as her prior occupation, the identity of her employer and the basis upon which she is said to have been affected by the Order. Anonymising her name does not limit reference to those matters.

Discovery

[42] Unlike other civil proceedings, discovery is not available as of right in judicial review proceedings.[30]

[43] Counsel for the respondents has helpfully set out a list of the types of document considered relevant and which will be provided. All counsel are agreed that these are relevant documents.

[44] Counsel discussed when the respondents might be able to provide the relevant documents and agreed that 48 hours after the conclusion of the hearing would be suitable. If there is any difficulty, then such documents as are available should be disclosed as soon as possible, and the balance no later than five working days after the conclusion of this hearing. Should there be unforeseen developments that mean that these time limits cannot be met, the respondents have leave to request an urgent telephone conference.

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29 *D v New Zealand Police* [2021] NZSC 2 at [147], [159], [265], [267], and [314].
30 At *Chatfield & Co Ltd v Commissioner of Inland Revenue* [2016] NZCA 614 at [20]-[21].

Timetable orders

[45] There are some difficulties with the statement of claim around matters such as an allegation of bias and reference to the Border Executive Board. Ms Fechney accepted that the matters brought to her attention were at best only relevant as background. She undertook to file an amended statement of claim within two working days of the hearing. The respondents will file a statement of defence within two working days from receipt of the amended statement of claim. The respondents' affidavits will be filed and served no later than 5.00pm on 13 September 2021.

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[46] Ms Grey filed these proceedings late on Friday afternoon. These proceedings also seek judicial review of the COVID-19 Public Health Response (Vaccinations) Order 2020. Ms Grey seeks to have these proceedings heard at the same time as CIV-2021-485-474. There are two problems with this.

[47] The first is that the proceedings filed by Ms Grey go well beyond simply seeking judicial review. There is also a cause of action under the New Zealand Bill of Rights Act, and much of the material in the statement of claim appears to address issues such as the efficacy of the Pfizer vaccine. If the Court was required to determine all these matters, then there is no realistic prospect of this case being able to proceed on 20/21 September, or of it taking only two days.

[48] Ms Grey accepted the reality of this and expressed the preference that the proceeding should be amended so as to only contain the judicial review cause of action so as to enable it to be heard with the other proceedings and not have to wait a much longer time for a more extensive hearing to be arranged.

[49] On the basis that the proceedings are amended as indicated, I grant leave for them to be heard alongside the other proceedings on 20 and 21 September. The same time limits apply in relation to discovery, the filing of a statement of defence and affidavits.

[50] The second issue with these proceedings was the question of representation. Two of the applicants purport to represent other persons. No representation application has been made. There is also no obvious need for the multiple applicants. If all the Court is determining is an application for judicial review, there may need only be one applicant who has standing. In other words, one applicant who is directly affected. The Court will then make a legal ruling which will apply for all purposes and in respect of all people. Either the legislation will be invalid or it will not.

[51] Ms Grey will therefore have to determine which applicant she wishes to continue with. It cannot be the third applicant as he does not have standing merely because he represents people who are affected by the Order.

[52] Ms Grey has two working days from the date of the hearing to file an amended statement of claim which relates solely to the application for judicial review, and also nominates an applicant who has standing.

[53] Depending on who the applicant is, it may be that there is an application for anonymisation. In the meantime, the names of the current applicants are anonymised. If, once the final applicant is identified, there is to be an application for anonymisation, it should be done on the papers, and this interim order will continue until the Court orders otherwise.

Leave

[54] These proceedings are being progressed as a matter of urgency and at a time when New Zealand is subject to COVID-19 lockdown, Levels 3 and 4. Unforeseen developments may well arise and leave is reserved for any party to seek an urgent telephone conference to address them.

[55] If Wellington is still at COVID-19 Level 3 lockdown as at 20 September 2021, the hearing will take place by way of VMR or alternative electronic means.

Churchman J

Solicitors:
Crown Law, Wellington for Respondents

cc: Ashleigh the Advocate, Leeston for Applicant in CIV-2021-485-474
Sue Grey, Nelson for Applicants in CIV-2021-485-509