

NZTSOS Media Release

## NZTSOS Heads Back to Court

A year after the teachers' group NZTSOS were in the High Court of New Zealand challenging the COVID-19 vaccine mandate, they are getting ready to go back to Wellington and appear in the Court of Appeal.

"This case is about ordinary, everyday New Zealanders who are concerned about rights guaranteed by New Zealand Bill of Rights being unjustifiably limited" said NZTSOS spokesperson Mike Shaw.

Shaw said "We still hold those concerns about our fundamental rights. We will not be silenced. We are heading back to Wellington and to the Court of Appeal in April".

### **What is this Appeal about?**

In March 2022 a group of teachers and medical professionals were in the Wellington High Court seeking a judicial review of the COVID-19 Public Health Response (Vaccinations) Order 2021. The group of teachers and doctors challenged the lawfulness of a vaccine mandate for workers in the health and disability, and education sectors. A few days before the High Court ruled on the challenge, the government dropped the mandates in the education sector.

The Crown accepted that the measures imposed by the vaccine mandate did limit the fundamental rights of affected persons, particularly the right to refuse to undergo medical treatment as provided under s 11 of the Bill of Rights. However, Justice Cooke ruled that this limitation was justified.

Affidavits were presented in the High Court from a large numbers of teachers. One teacher said he was harmed by his first vaccination in November 2021. He was admitted to hospital in December with pericarditis. He then applied through his GP for an exemption in early December but this was denied. Other people described similar adverse reactions in their evidence. For example, one school principal had suffered three heart attacks and did not wish to be vaccinated. He applied for and was declined an exemption.

"Frankly put, this is terrifying. When a man gets hospitalised with pericarditis because he is coerced into receiving an mRNA injection and then you tell him he must get another one, or lose his job, you have to question whether our New Zealand Bill of Rights is worth anything anymore. This is just one of the reasons why we are appealing the Court's ruling" says Shaw, "If we don't stand up for section 11 of our Bill of Rights now we may lose them all in the future. We have learnt to live with the virus, but there will be other pandemics in the future. "

"We are excited to have Frontline Law, which successfully challenged the NZDF and Police mandate, in our corner representing us on this appeal. Pyke and Green are also working with us to appeal the separate Palmer J ruling. This has gone far beyond trying to get teachers jobs back. This is about the basic human rights of all New Zealanders."

The specific grounds of the Cooke J appeal are:

- The High Court erred in law when determining that the right to refuse medical treatment under s 11 of the New Zealand Bill of Rights Act 1990 ("the right") was not absolute.
- The High Court erred in law when holding that the respondents had demonstrated that the Covid-19 Public Health Response (Vaccinations) Order 2021 ("the Order")

was a reasonably justifiable limitation on the right under s5 of the New Bill of Rights Act 1990.

- The High Court ought to have ruled that the exemption criteria set by the Second Respondent were ultra vires the Covid-19 Public Health Response Act 2020.
- The High Court ought to have ruled that the exemption criteria were too narrow and were being unreasonably applied by the Second Respondent.

NZTSOS are seeking the following judgments from the Court of Appeal:

- That the High Court's judgment be reversed and:
- The COVID-19 Public Health Response (Vaccinations) Order 2021 be declared invalid.
- An order be made setting aside the COVID-19 Public Health Response (Vaccinations) Order 2021.

"The appeal will be heard in the Court of Appeal in Wellington before three judges on 19 April 2023. We have also instructed our barristers to apply for an extension of time to appeal the earlier Palmer J ruling from our first case with the Midwives and the Doctors. There is some unfinished business there. We will be returning to Wellington and this time we are cautiously optimistic that the New Zealand Bill of Rights will be upheld. "

**End.**

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