

**NOTE: PURSUANT TO S 139 OF THE CARE OF CHILDREN ACT 2004, ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C AND 11D OF THE FAMILY COURT ACT 1980. FOR FURTHER INFORMATION, PLEASE SEE <https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/>**

**NOTE: EXTANT ORDER PROHIBITING PUBLICATION OF NAMES OR IDENTIFYING PARTICULARS OF THE PARTIES REMAINS IN FORCE:  
[2020] NZHC 3165.**

**IN THE SUPREME COURT OF NEW ZEALAND**

**I TE KŌTI MANA NUI O AOTEAROA**

**SC 60/2022  
[2022] NZSC 92**

BETWEEN	D NEWTON First Applicant
	L NEWTON Second Applicant
AND	FAMILY COURT AT AUCKLAND First Respondent
	R F VON KEISENBERG Second Respondent
	B LAKE Third Respondent

**SC 62/2022**

BETWEEN	D NEWTON First Applicant
	L NEWTON Second Applicant
AND	FAMILY COURT AT AUCKLAND First Respondent
	B LAKE Second Respondent

Court: Glazebrook, O'Regan and Ellen France JJ

Counsel: D A T Chambers QC and J M McGuigan for Applicants in SC 60/2022 and Applicants in SC 62/2022  
D L Harris for First Respondent in SC 60/2022 and First Respondent in SC 62/2022  
V A Crawshaw QC for Second Respondent in SC 60/2022  
K N Crooks for Third Respondent in SC 60/2022 and Second Respondent in SC 62/2022  
A Chan QC and V McCall for Attorney-General as Intervener

Judgment: 29 July 2022

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## JUDGMENT OF THE COURT

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**An interim stay of the judgment of the Court of Appeal is granted until further order of this Court.**

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## REASONS

[1] On 20 June 2022, the applicants applied for leave to appeal against the Court of Appeal's decision in *Newton v Family Court at Auckland*.<sup>1</sup>

[2] On 23 June 2022, the applicants applied for a stay of execution of the Court of Appeal's judgment pending resolution of their application for leave to appeal. There had been a stay of proceedings ordered by the High Court which lapsed following the Court of Appeal judgment.

[3] The Attorney-General was granted leave to intervene in the application for a stay and an extension of time to file submissions in support was granted, initially until 27 July 2022. A further extension of time to 17 August 2022 has now been granted.

[4] The applicants seek an interim stay until their stay application can be dealt with on the basis that their stay application, and indeed the proposed appeal, could be rendered nugatory if further steps are taken in the Family Court.<sup>2</sup>

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<sup>1</sup> *Newton v Family Court at Auckland* [2022] NZCA 207.

<sup>2</sup> The Family Court has given notice to the applicants that a directions conference is scheduled to take place on 1 August 2022.

[5] The first respondent and counsel for the child oppose the interim stay application.<sup>3</sup>

[6] In the circumstances, we accept that it is in the interests of justice to grant an interim stay of the Court of Appeal judgment until further order of the Court. We reserve leave for any party to apply to discharge this order.

Solicitors:

Duncan Cotterill, Auckland for Applicants in SC 60/2022 and Applicants in SC 62/2022  
Crown Law Office, Wellington for First Respondent in SC 60/2022, First Respondent in SC 62/2022  
and Attorney-General as Intervener

Heimsath Alexander, Auckland for Second Respondent in SC 60/2022

Armstrong Barton, Whanganui for Third Respondent in SC 60/2022 and Second Respondent in SC 62/2022

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<sup>3</sup> This appears to be on the basis that the Court of Appeal decision is correct but it would be inappropriate for this Court to decide this before hearing the leave application.