



TRANSCRIPT OF PROCEEDINGS

Fair Work Act 2009

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VICE PRESIDENT HATCHER

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Four yearly review of modern awards

(AM2014/197)

State Government Agencies Award 2010

Sydney

9.18 AM, THURSDAY, 16 JUNE 2016

PN1

THE VICE PRESIDENT: Yes, can I take the appearances, starting in Sydney please?

PN2

MR A THOMAS: If the Commission pleases, I appear on behalf of the CFMEU Mining & Energy Division, my name is Thomas, initial A.

PN3

THE VICE PRESIDENT: Mr Thomas. Mr Crawford?

PN4

MR CRAWFORD: Yes, your Honour, for the Australian Workers Union.

PN5

THE VICE PRESIDENT: Yes. Mr Scott, for the ABI and others?

PN6

MR SCOTT: Yes, thank you.

PN7

THE VICE PRESIDENT: Mr Ferguson for the AI Group?

PN8

MR FERGUSON: Yes, your Honour.

PN9

THE VICE PRESIDENT: Ms Light for the Pharmacy Guild. Yes, and - - -

PN10

MR N PEGG: Your Honour, Pegg, initial N, for Jobs Australia.

PN11

THE VICE PRESIDENT: Yes, thank you. Mr Ryan for the AHA.

PN12

MR RYAN: Yes, your Honour.

PN13

THE VICE PRESIDENT: Ms Adler for the HIA.

PN14

MS ADLER: HIA, your Honour.

PN15

MS L PIKE: Your Honour, Pike, initial L, for (indistinct).

PN16

THE VICE PRESIDENT: Yes, thank you.

PN17

MS R SOSTARKO: Your Honour, Sostarko, initial R, for Master Builders Australia.

PN18

THE VICE PRESIDENT: Thank you. Yes, thank you.

PN19

MR J COONEY: Your Honour, Justin Cooney for the Australian Services Union.

PN20

MR M ROBSON: If the Commission pleases, Robson, initial M, for United Voice.

PN21

THE VICE PRESIDENT: Yes.

PN22

MR S MAXWELL: If the Commission pleases, Maxwell, initial S, for the CFMEU Construction & General Division.

PN23

THE VICE PRESIDENT: Mr Nguyen?

PN24

MR NGUYEN: Nguyen for the AMWU, thank you.

PN25

THE VICE PRESIDENT: All right. Is that all the appearances in Sydney? All right, next we'll turn to Melbourne. So can we take the appearances in Melbourne, please?

PN26

MR J FLEMING: Fleming, initial J, for the Australian Council of Trade Unions.

PN27

THE VICE PRESIDENT: Yes, thank you, Mr Fleming.

PN28

MR A McCARTHY: McCarthy, initial A, for the Australian Nursing & Midwifery Federation.

PN29

THE VICE PRESIDENT: Yes, thank you, Mr McCarthy.

PN30

MS L SVENSDSEN: Svendsen, initial L, for the Health Services Union.

PN31

THE VICE PRESIDENT: Thanks, Ms Svendsen.

PN32

MS K SWEATMAN: Sweatman, initial K, for Russell Kennedy and others, permission to appear as required.

PN33

THE VICE PRESIDENT: All right, thank you. All right, next we'll turn to Canberra, so if we could take the appearances in Canberra please.

PN34

MS K PEARSALL: Pearsall, initial K, for the National Farmers' Federation.

PN35

THE VICE PRESIDENT: Thank you, Ms Pearsall.

PN36

MR S RUSSELL-UREN: Russell-Uren, initial S, for United Voice.

PN37

THE VICE PRESIDENT: Yes.

PN38

MS Z BLANDFORD: Blandford, Z, for the Pharmacy Guild.

PN39

THE VICE PRESIDENT: Yes.

PN40

MR S HARRIS: Harris, initial S, Pharmacy Guild.

PN41

THE VICE PRESIDENT: Yes, each organisation only has to appear once, so – all right. In Adelaide?

PN42

MS S HILLS: Hills, initial S, for the South Australian Wine Industry Association.

PN43

THE VICE PRESIDENT: Yes, thank you.

PN44

MS M SULLIVAN: Sullivan, initial M, for United Voice.

PN45

THE VICE PRESIDENT: Yes, another appearance for United Voice. And finally, by telephone, is it Mr Robertson?

PN46

MS ROBERTSON: No, it's Ms Robertson for the St Ives Group.

PN47

THE VICE PRESIDENT: I'm sorry, Ms Robertson, I didn't have the notation there. Ms Robertson for the St Ives Group?

PN48

MS ROBERTSON: Yes, sir.

PN49

THE VICE PRESIDENT: All right. Is that all the appearances? All right. Now the parties hopefully will have received or been alerted to a revised witness list for the next block of hearing dates starting on 11 July. Do the parties generally have that? Right, I'm seeing nods of ascent. What I wish to do is to raise with the parties some issues that I have in respect of the program and then when I've done that, if any other party has their own issues they can raise that as they see fit.

PN50

Firstly, as I think will be apparent, there's a very large number of witnesses who, at this stage, are going to be called and are required for cross-examination on the Monday, Tuesday and Wednesday, and the bulk of those are witnesses being called by the NFF in relation to the Pastoral Award who are required for cross-examination by the ACTU and the AWU. And in relation to the Clubs Award, the witnesses being called by Clubs Australia who are all required for cross-examination by United Voice and the ACTU. I see that there's been a considered forensic judgment in a requirement to call those witnesses and cross-examine them. Can I - - -

PN51

MR CRAWFORD: Your Honour - - -]

PN52

THE VICE PRESIDENT: Yes?

PN53

MR CRAWFORD: Sorry, can I just correct a point in relation to the NFF witnesses - - -

PN54

THE VICE PRESIDENT: Yes.

PN55

MR CRAWFORD: Because the – overall, the majority of them are actually for the Horticultural Award, not the Pastoral Award.

PN56

THE VICE PRESIDENT: I see, all right.

PN57

MR CRAWFORD: So - - -

PN58

THE VICE PRESIDENT: But these are the NFF witnesses?

PN59

MR CRAWFORD: They are the NFF witnesses but in the amended document, do you see the name, Noel Campbell?

PN60

THE VICE PRESIDENT: Yes.

PN61

MR CRAWFORD: So from Noel Campbell, down to Susan Weirham(?) - - -

PN62

THE VICE PRESIDENT: Yes.

PN63

MR CRAWFORD: They are the NFF witnesses for the Pastoral Award which is a claim to reduce the dairying industry minimum engagement, and the remainder are actually for the Horticulture Award.

PN64

THE VICE PRESIDENT: All right, but does the NFF confirm that's correct? Ms Pearsall?

PN65

MS PEARSALL: Yes, that's correct, your Honour.

PN66

THE VICE PRESIDENT: All right. Perhaps the problem is more acute therefore with respect to the Horticultural Award rather than the Pastoral Award with that correction noted. Have the parties considered, firstly, to the extent there's a degree of repetition in those statements, whether either all those statements need to be tendered or alternatively, whether all may be required for cross-examination? Ms Pearsall and Mr Crawford?

PN67

MR CRAWFORD: I guess that's mainly us, your Honour. I mean, we have, and you'll probably see that we have reduced the initial list quite significantly. I think we've cut around half of those witnesses off. We are prepared to go away and have a look and see if we can reduce it a little further but I suspect for the Horticulture Award there would – I mean, I don't think we could realistically get it down much further than maybe another three, three or four at the absolute most.

PN68

THE VICE PRESIDENT: All right. All I can do is encourage the parties to try to come to some sensible accommodation about it. For example, if some witness statements go in on the basis that challenges made to other statements would also apply to that statement, for example, then I'm sure the Bench would deal with that. The alternative will have to be that if that number of witnesses remains we'll have to have some sort of time limit upon cross-examination, and given the number involved it would be a fairly severe limit. All right. And the same problem arises, I think, unless there's any correction that needs to be made with respect to the Clubs Award – that is, there's a large number of witnesses being called by Clubs Australia, and again there seems to be a fair bit of repetition in a number of those statements and they're all required for cross-examination by United Voice. Is there anything that can be done to expedite that evidence?

PN69

MR RUSSELL-UREN: Commissioner, Russell Uren from United Voice. We wrote to Clubs Australia and indicated that some witnesses who appear on the revised list would not be required for cross-examination. It appears from the publication of this document that we neglected to inform the – or to provide a copy of that correspondence to the Commission.

PN70

THE VICE PRESIDENT: All right.

PN71

MR RUSSELL-UREN: And it will be provided by no later than 1 pm today. May I also say that there has been an agreement between the parties as to the provision of documents which may go some way towards reducing the list of people who are currently required for cross-examination, or almost certainly and in the alternative, define the issues such that the remaining witnesses who are required take less time or rather, for the time which is spent, is better spent if I can put it that way.

PN72

THE VICE PRESIDENT: All right, that sounds constructive. Are you able to indicate what proportion are now not required for cross-examination?

PN73

MR RUSSELL-UREN: My recollection is around five witnesses. I don't have the piece of correspondence before me, regrettably but as I have indicated there are a few and that correspondence will be provided shortly.

PN74

THE VICE PRESIDENT: All right. Clubs Australia, does that confirm the position, Ms Pike?

PN75

MS PIKE: Yes, I believe there has been some correspondence received from United Voice and I can seek instructions from the person who has carriage of this matter and we can confirm if there are any witnesses that we can (indistinct) from the list.

PN76

THE VICE PRESIDENT: All right. Again, can I emphasise – well, firstly, encourage the parties to continue their efforts to control the amount of evidence that needs to be tested in court, and again the regrettable alternative if it can't be whittled down is that there will have to be fairly severe time limits on cross-examine. The second issue, unless there's some particular problem is that I anticipate due to the number of witnesses that we will sit from 9.00 to 5.00 each day, and that will occur in Sydney. In relation to witnesses who are giving evidence by video from Brisbane, Hobart, Canberra or Adelaide, can I ask the parties to endeavour to ensure that any witnesses at those locations are called before 4 pm, eastern standard time, each day given that those offices tend to close earlier than we do.

PN77

Now have the parties formed any views about how the Full Bench should receive closing submissions in relation to the issues being dealt with in this block of hearing days? So to date we've made directions for the filing of submissions and set aside some time for closing submissions for the common issues but we haven't dealt with that in respect of these issues. It seems to me that there's three alternatives. Firstly, they can be completed simply by further written submissions, having regard to the evidence. Secondly, there might be written and oral submissions, for the oral submissions to be accommodated somehow on the final week, or if that's not possible, thirdly, that there be written and oral submissions with further dates having to be set for closing submissions. Now the parties might not have formed any views about that and perhaps it's something that we can deal with when we come to 11 July but can I just make an inquiry as to whether any party has formed a view about that or discussed that?

PN78

MR FERGUSON: We haven't formed a firm view but it seems to us that it may be prudent to have another round of written submissions to deal with whatever arises, and then have some supplementary oral submissions, but whether that's in the dates provided or at a later point, we don't have a view about.

PN79

THE VICE PRESIDENT: All right. Can I encourage the parties most closely involved in the next block of days to have a discussion about that and we'll endeavour to finalise that, probably at the opening of the week of 11 July.

PN80

MR FERGUSON: There's just a minor matter to raise and regrettably we didn't identify the directions that correspond in relation to the witness list. There are just a couple of minor points that we flag. Firstly, there are three AWU witnesses which we will require for cross, which the ABI also requires. So there's no amendment required in that sense, but there are also two TWU witnesses that we've previously indicated we'd require for cross-examine. They would be dealt with on 15 and it's in relation to our proposed variation to the Road Transport Long Distance Operations Award.

PN81

THE VICE PRESIDENT: Okay, can you just let me find that.

PN82

MR FERGUSON: Yes.

PN83

THE VICE PRESIDENT: Sorry, is this in the upcoming week or the final week?

PN84

MR FERGUSON: On the 15 July, the upcoming week. I must admit, I'd understood that that award was going to be dealt with on the 15th. It's not in the most recent version of the witness list.

PN85

THE VICE PRESIDENT: Right. Yes, so they're on 15 August.

PN86

MR FERGUSON: Are they? I apologise.

PN87

THE VICE PRESIDENT: Yes, so they were moved at some stage in the last block of days.

PN88

MR FERGUSON: I was looking at the various versions and I just wasn't sure.

PN89

THE VICE PRESIDENT: All right. Okay, now the next issue is - - -

PN90

MR THOMAS: Your Honour - - -

PN91

THE VICE PRESIDENT: Yes?

PN92

MR THOMAS: Could I just raise, on the 15th is listed the application by the AIG to vary the Black Coal Mining Industry Award. There have been no witnesses and thusfar there have been written submissions by the AIG and ourselves. I'm interested to know what exactly will take place on 15 July. Given that we've both put in written submissions, what do we do on 15 July that - - -

PN93

THE VICE PRESIDENT: Well, probably nothing but again, if it's a case of purely proceeding on submissions then you should confer. If the agreement is that the matter can be decided on the basis of the submissions filed to date, then nothing need occur. If for some reason, I'm not sure why given there's no evidence, there needs to be further submissions then you should confer about that and have a discussion about how that might be done, whether – how long they would take and whether they could be in writing, oral or a combination of both.

PN94

MR THOMAS: Okay. Thank you, your Honour. I will speak to the AI Group about that.

PN95

THE VICE PRESIDENT: All right. Now on the program there's some witnesses either printed in red or yellow. The yellow ones were simply witnesses who have previously fallen off the list for various reasons, and the ones in red are new witnesses, that is, for whom statements have been filed. In not all cases have the parties advised whether those witnesses are required for cross-examination. So I'll direct that to the extent that a party hasn't done so, if any of those witnesses in yellow or red are required for cross-examine can they advise my chambers and the party calling the witness of that fact within seven days so that we can update the programming to that effect? In addition, in relation to those witnesses, to the

extent that there's any objections to the admission of their evidence can a list of objections be filed also within seven days.

PN96

The next issue is that there's been raised, some problems with the availability of certain witnesses. In relation to SA Wine, Ms Hills, we've had a indication that one witness, Christie Belnaise, is not available during July or August. Is that correct?

PN97

MS HILL: Yes, that is correct, your Honour.

PN98

THE VICE PRESIDENT: I'm not sure, with respect, how we can accommodate that. That is, it's not our intention to sit hearing evidence beyond August. Can you assist us in that respect?

PN99

MS HILL: I can speak with the other parties about – we've got a statement and I guess I can liaise with the other parties about what further evidence in relation to cross-examination or – but I guess we were just notifying the Commission of her absence.

PN100

THE VICE PRESIDENT: All right. Anyway, some accommodation will need to be reached, otherwise we simply won't be able to deal with that witness, I think is what I'm saying.

PN101

MS HILL: Certainly.

PN102

THE VICE PRESIDENT: Next, the AHA, there was a problem with Michaely(?) White, is that right?

PN103

MR RYAN: Yes, your Honour, however there has been a development with Michaely White and we suspect we'll be writing to the Commission later today to withdraw her from the last. So that might solve that problem, your Honour.

PN104

THE VICE PRESIDENT: Okay. And then with Clubs Australia, Mr Pike, we've had communication that two witnesses, Carol Anne Jarvis and Gerard Robinson are not available?

PN105

MS PIKE: That's correct. They're not available in the July hearing date. They are available in the August dates, if we could have the evidence moved to - - -

PN106

THE VICE PRESIDENT: Anyone from United Voice, are they required for cross-examination?

PN107

MR RUSSELL-UREN: Your Honour, Stefan Russel from Canberra. I'm afraid that Ms Karianis' comments were inaudible at this end.

PN108

THE VICE PRESIDENT: So I'll just repeat, there's two witnesses, Ms Jarvis and Mr Robinson, so the position which has just been confirmed is that they're not available in July but they could appear on one of the August dates, is that right?

PN109

MS PIKE: That's correct.

PN110

THE VICE PRESIDENT: And so I'm simply making inquiries as to whether they are both required for cross-examination, to your knowledge.

PN111

MR RUSSELL-UREN: My recollection is that Jarvis is not required for cross-examination.

PN112

THE VICE PRESIDENT: Right.

PN113

MR RUSSELL-UREN: But I think Robinson is. If the Commission pleases, and of course, subject to the correspondence which will follow this morning's directions, we'd be more than happy to do a short piece of cross-examination in August if that assists.

PN114

THE VICE PRESIDENT: All right. We'll endeavour then to – on the basis of that indication which you'll confirm in writing, accommodate Mr Robinson in one of the August dates.

PN115

MS PIKE: Thank you.

PN116

THE VICE PRESIDENT: Now just two further matters. Unless anyone otherwise objects, I propose to make two directions. Firstly, in respect of any party cross-examining a witness, if they want to hand documents to that witness and the cross-examiner is not in the same location as the witness, then the direction will be that the documents have to be provided to the Commission 48 hours in advance so that we can ensure they're available at the location at which the witness is giving evidence. And the other direction is to the extent that any witnesses are giving evidence by telephone, can we request that the relevant contact telephone number for that purpose be provided 48 hours in advance of the witness being called.

PN117

The next issue is in relation to the AHA and United Voice. There had been various orders for production of documents issued but I understand the position to be that some of those orders were issued in relation to witnesses who were no longer being called.

PN118

MR RYAN: That's correct, your Honour.

PN119

THE VICE PRESIDENT: Mr Ryan, can you just identify which witnesses – we'll need to satisfy those orders so can you just identify which orders you want us to set aside?

PN120

MR RYAN: The orders that relate to Gerald Akroyd and we - - -

PN121

THE VICE PRESIDENT: Sorry, just let me just find the list.

PN122

MR RYAN: We did provide some correspondence to the Commission to - - -

PN123

THE VICE PRESIDENT: Did you? All right, just – so Akroyd?

PN124

MR RYAN: Akroyd, Berlage, Louis, Bowman, Vorcoss, Scott, and Ms Walder.

PN125

THE VICE PRESIDENT: Sorry, what was the last one, Lawler?

PN126

MR RYAN: Walder.

PN127

THE VICE PRESIDENT: Walker?

PN128

MR RYAN: W-a-l-d-e-r.

PN129

THE VICE PRESIDENT: Okay.

PN130

MR RYAN: And as I foreshadowed earlier, your Honour, I suspect that Ms White will be added to the other statements today.

PN131

THE VICE PRESIDENT: All right. So from the United Voice perspective is there any objection to setting aside the orders for production for those persons?

PN132

MR THOMAS: No, there is no objection.

PN133

THE VICE PRESIDENT: All right, thank you. Now Jobs Australia, Mr Pegg, can I request you to communicate with my chambers urgently about the location at which your witnesses are going to be called?

PN134

MR PEGG: Yes, your Honour. Carey and Bait will be Sydney.

PN135

THE VICE PRESIDENT: All right, just hold on a sec. Yes?

PN136

MR PEGG: And Fitzgerald is unavailable in July but is available for some of the August dates.

PN137

THE VICE PRESIDENT: You had better tell us about that, pretty soon, what dates.

PN138

MR PEGG: I'll do that today.

PN139

THE VICE PRESIDENT: All right. But what location?

PN140

MR PEGG: Sydney, is my understanding but I'll confirm that today.

PN141

THE VICE PRESIDENT: Just excuse me. That's all the issues I have. Does any other party wish to raise any issues with the program?

PN142

MR MAXWELL: Your Honour - - -

PN143

THE VICE PRESIDENT: Mr Maxwell, I think you've (indistinct). You might have got confused.

PN144

MR MAXWELL: Your Honour, just in regard to the Joinery & Building Trade Award matters listed for 15 July, that award is in a similar situation to the Black Coal Award in that there's no evidence.

PN145

THE VICE PRESIDENT: Yes.

PN146

MR MAXWELL: So I just seek confirmation that your comments in regard to how that matter, the Black Coal matter, may proceed, would also apply to the Joinery Award.

PN147

THE VICE PRESIDENT: Yes, correct. Ms Adler?

PN148

MS ADLER: That was my question, thank you, your Honour.

PN149

THE VICE PRESIDENT: All right, yes. Mr Nguyen?

PN150

MR NGUYEN: Your Honour, we just have two witnesses - - -

PN151

THE VICE PRESIDENT: Can I just get you to stay near the microphone, thank you.

PN152

MR NGUYEN: We just have two witness statements that we overlooked marking last time during the proceedings and I just want to seek advice really about when would be the appropriate time for us to do that, whether in July or at the August hearings.

PN153

THE VICE PRESIDENT: All right, so who were they again?

PN154

MR NGUYEN: It was James Fornah, which was attachment 12.3 of our original submissions, and also Vinh Thi Yuen, V-i-n-h, T-h-i, Y-u-e-n. And we've also filed an additional statement from Mr Warren Tegg following the directions in the last proceedings which would also need to be marked, as well.

PN155

THE VICE PRESIDENT: It rings a bell but can you just remind me what that was about?

PN156

MR NGUYEN: Warren Tegg made a statement about the employer survey.

PN157

THE VICE PRESIDENT: Yes, all right. So Mr Ferguson, will Mr Tegg be required for cross-examination?

PN158

MR FERGUSON: No. A colleague of mine has been going through that statement and it's likely that Mr Tegg will. However, given the nature of the evidence it did occur to us that that might be circumvented by some short evidence in reply, dealing with certain matters, given the technical nature of that statement. I haven't got a concluded view about that but I anticipate I will within

the next week or two. Perhaps I can have a discussion with the union in terms of if it could be dealt with in July, if not August.

PN159

THE VICE PRESIDENT: All right. If the parties can give the Commission advice about that within, say, about seven days and we'll then have to work out how that can be accommodated.

PN160

MR FERGUSON: Yes.

PN161

THE VICE PRESIDENT: Can you or anyone else confirm that the other two witnesses named by Mr Nguyen aren't required for cross-examination?

PN162

MR FERGUSON: I simply don't recall.

PN163

THE VICE PRESIDENT: Right. Again, can you provide advice about that.

PN164

MR FERGUSON: Yes.

PN165

THE VICE PRESIDENT: If the advice is that nobody requires them for cross-examination, I'll simply give them a marking and advise the parties prior to the next hearing days.

PN166

MR FERGUSON: Yes.

PN167

THE VICE PRESIDENT: If they are required then we'll have to work out how to deal with it.

PN168

MR FERGUSON: Thank you, your Honour.

PN169

THE VICE PRESIDENT: Right. Any other issues in Sydney?

PN170

MR CRAWFORD: Your Honour, just briefly - - -

PN171

THE VICE PRESIDENT: Mr Crawford.

PN172

MR CRAWFORD: So that there are three distinct claims relating separately to the Horticultural Award, the Wine Award and the Pastoral Award, I'm not sure if the Bench proposes to deal with each award discretely but I just wanted to flag

that two of our witnesses, Mr Adam Walgate and Ron Cowdrey are giving evidence in support of the AWU's claim for the Horticultural Award and they're also giving reply evidence in relation to the Wine Award.

PN173

THE VICE PRESIDENT: I thought it was arranged that way because the NFF, in particular, had requested that all these matters be dealt with on a single occasion, although it probably won't be a single day. That's how that's ended up. So in respect of that first block the parties can work out for themselves, the order of witnesses.

PN174

MR CRAWFORD: Yes.

PN175

THE VICE PRESIDENT: And they don't need to be all precisely in the order of which claim they're addressing, as long as they're within that block.

PN176

MR CRAWFORD: Okay.

PN177

THE VICE PRESIDENT: Any other issues in Sydney? All right, any issues in Melbourne? No? Canberra?

PN178

MS PEARSALL: Your Honour, I just have a couple of corrections to make to the witness list here. Would you like me to take you through those now?

PN179

THE VICE PRESIDENT: Yes.

PN180

MS PEARSALL: So in relation to Penny Petang, in this list she is highlighted as being required for cross-examination but - - -

PN181

THE VICE PRESIDENT: Sorry, I just missed that. So just slow down. Where are we looking at?

PN182

MS PEARSALL: So for the NFF witnesses for the Horticultural Award - - -

PN183

THE VICE PRESIDENT: Yes.

PN184

MS PEARSALL: On the second page, Penny Petang is listed as being required for cross-examination.

PN185

THE VICE PRESIDENT: Yes.

PN186

MS PEARSALL: So it's our understanding that she is no longer required for cross-examination.

PN187

THE VICE PRESIDENT: Is that correct, Mr Crawford?

PN188

MR CRAWFORD: That's correct from our perspective, unless the ACTU wish to cross-examine that witness.

PN189

THE VICE PRESIDENT: Mr Fleming?

PN190

MR FLEMING: No, your Honour.

PN191

THE VICE PRESIDENT: All right, well we'll correct that.

PN192

MS PEARSALL: And just in relation to Susan Weirham, there's a note there that she is available only on 11 July to phone in but she would in fact also be available during the August hearing dates.

PN193

THE VICE PRESIDENT: I think we preferred to get her done in that period so unless there's some strong objection otherwise, we'll deal with it by phone as arranged, unless there's some difficulty.

PN194

MS PEARSALL: No, that's all right, thank you, your Honour. And I also would just like to confirm that so Noel Campbell and Susan Weirham who are phoning in, they won't be phoning in from Sydney, so they're just noted there as "Sydney" next to their names.

PN195

THE VICE PRESIDENT: Yes, well that doesn't really matter. Yes, I understand.

PN196

MS PEARSALL: Yes, and Noel Campbell will, in fact, be phoning in because he is overseas during those hearing dates. But that is noted, sorry, your Honour.

PN197

THE VICE PRESIDENT: Yes, all right. Okay, anything else?

PN198

MS PEARSALL: No, that's all, thank you, your Honour.

PN199

THE VICE PRESIDENT: Anything in Adelaide? No?

PN200

MS HILLS: Your Honour, Hills, initial S, for the South Australian Wine Industry Association. I'm just noting that Jeremy Danean, under the Wine Industry Award also is not available on the 11th but I will investigate whether he is available in the August sitting, and advise.

PN201

THE VICE PRESIDENT: So why is he unavailable?

PN202

MS HILLS: He's travelling overseas, is my understanding, just on that date, so I'll find out if he's available for the August date, or if he can ring in.

PN203

THE VICE PRESIDENT: He can't give evidence by telephone?

PN204

MS HILLS: I will certainly investigate that, as well.

PN205

THE VICE PRESIDENT: All right. So – but he's unavailable that whole week, is he?

PN206

MS HILLS: That is my understanding, yes, your Honour.

PN207

THE VICE PRESIDENT: All right. Well, can you give us advice about that as soon as possible? Obviously the preference is that if we can deal with it in some way during that week, even if it's by telephone, that would be better than deferring the evidence.

PN208

MS HILLS: Yes. Yes, certainly.

PN209

THE VICE PRESIDENT: All right, and finally, in Perth, Ms Robertson, do you have any procedural issues?

PN210

MS ROBERTSON: Sir, I just note we've made an application to appear via video conference from Perth for the witnesses and I just note in a piece of correspondence, we – due to the time difference we'd ask that none of the listed witnesses be asked to appear before 11 am, eastern standard time, as facilitating a conference would be difficult before then, which would be 9 am Perth time.

PN211

THE VICE PRESIDENT: All right. Well, obviously that will be accommodated but can you liaise with the other parties in that section of the hearing in respect of the order of witnesses so that that can be dealt with?

PN212

MS ROBERTSON: Yes, certainly.

PN213

THE VICE PRESIDENT: All right. If there's no further issues I will adjourn. So there's been an arrangement to conduct a conciliation in respect of the NDIS issues shortly. Are the parties ready to start with that, virtually right away? Yes?

PN214

MR SCOTT: If we can have five minutes, your Honour, I think that would assist.

PN215

THE VICE PRESIDENT: All right, well how about I start at 10 o'clock?

PN216

MR SCOTT: Thank you, your Honour.

PN217

THE VICE PRESIDENT: Just excuse me. Ms Robertson, you're participating in the conciliation, is that right?

PN218

MS ROBERTSON: Yes, sir, that's correct, sir.

PN219

THE VICE PRESIDENT: Can I just simply ask you to stay on the phone so that we don't have dial you up again?

PN220

MS ROBERTSON: Yes, sir.

PN221

THE VICE PRESIDENT: All right. I'll adjourn this directions hearing and resume the conciliation at 10 am.

SHORT ADJOURNMENT

[9.52 AM]

RESUMED

[10.10 AM]

PN222

THE VICE PRESIDENT: All right, can I take the appearances. Mr Robson?

PN223

MR ROBSON: I appear for United Voice.

PN224

THE VICE PRESIDENT: Yes. Mr Cooney and Ms Wright?

PN225

MR COONEY: Thank you, your Honour.

PN226

THE VICE PRESIDENT: Mr Scott?

PN227

MR SCOTT: Yes, thank you, your Honour.

PN228

THE VICE PRESIDENT: Mr Pegg? Mr Liggins - - -

PN229

MR LIGGINS: Yes, Commissioner.

PN230

THE VICE PRESIDENT: And you're?

PN231

MR JONES-VALEDOR: Jones-Valedor.

PN232

THE VICE PRESIDENT: Yes, Mr Jones-Valedor. In Melbourne, Ms Svendsen?

PN233

MS SVENSDEN: Yes, your Honour.

PN234

THE VICE PRESIDENT: Mr Fleming, Mr McCarthy, and Ms Awod, is it?

PN235

MS AWOD: Yes, your Honour.

PN236

THE VICE PRESIDENT: All right. And Ms Robertson, you're still on the phone?

PN237

MS ROBERTSON: Yes, sir.

PN238

THE VICE PRESIDENT: All right. Well, there's been a request that I conduct a conciliation in relation to the NDIS issues. Is it the preference of the parties that this occur off record?

PN239

SPEAKER: Yes, your Honour.

PN240

THE VICE PRESIDENT: Does any party want it on record? No. All right, we will go off record.

OFF THE RECORD

[10.11 AM]