

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
PRACTICE COURT



S CI 2016 04059

BETWEEN:

VIVA ENERGY REFINING PTY LTD (ACN 004 303 842)

Plaintiff

- and -

THE AUSTRALIAN WORKERS' UNION

First Defendant

(which is sued on its own behalf and pursuant to Order 18 of the *Supreme Court (General Civil Procedure) Rules 2015* as representing all person who were on 5 October 2016 or are now, or have at any time since 5 October 2016 been present at the picket lines established at the point or points of access to or egress from the premises located at 80-90 Refinery Road, Corio, Victoria)

- and -

**AUTOMOTIVE, FOOD, METALS, ENGINEERING,
PRINTING AND KINDRED INDUSTRIES UNION**

Second Defendant

ORDER

JUDGE: The Honourable Justice Ginnane

DATE MADE: 10 October 2016

ORIGINATING PROCESS: Writ filed on 5 October 2016.

HOW OBTAINED: Return of Plaintiff's summons filed on 10 October 2016.

ATTENDANCE: Mr J L Snaden, Counsel for the Plaintiff.
Mr E P White, Counsel for the Defendants.

OTHER MATTERS: This order is signed by the Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

The plaintiff, by its counsel, undertakes to abide by any order the court may make as to damages in case the court shall hereafter be of opinion that the defendants shall have sustained any, by reason of this order, which the plaintiff ought to pay.

THE COURT ORDERS UNTIL FURTHER ORDER THAT:

1. Order 2 of the Court's orders made in this matter on Thursday, 6 October 2016

be rescinded.



2. Pursuant to rule 18.03(1) of the *Supreme Court (General Civil Procedure) Rules* 2015, the first defendant be appointed as the representative of those persons who have been, at any between 6:30am on Wednesday, 5 October 2016 and 6:30 pm on Monday, 10 October 2016, present at and, in any way, a part of a picket line, blockade or protest assembly that has prevented or inhibited the free passage of vehicles or people into or out of the site known as the Geelong Refinery, situated at 80-90 Refinery Road, Corio, in the State of Victoria (which persons are referred to, hereafter, as "**the Picketers**").

3. As soon as practicable and by no later than 10:00 am on Tuesday, 11 October 2016, each defendant place, in a prominent position:

(a) on the homepage of its website (at <http://www.awu.net.au> in the case of the first defendant and <http://www.amwu.org.au> in the case of the second defendant); and

(b) on its Facebook page,

notification of the making of these orders and a copy of these orders.

4. Until the trial of this proceeding or further order:

(a) each of the Picketers be restrained from:

(i) preventing, hindering or interfering—whether by means of their own physical presence, or by any object or vehicle—the free passage by persons and/or vehicles to or from the site known as the Geelong Refinery, situated at 80-90 Refinery Road, Corio, in the State of Victoria (hereafter, "**the Site**"); and

(ii) advising, causing, inducing, procuring or inciting any person to do or attempt to do any of the things restrained by sub-paragraph 4(a)(i) of this order.

5. Until 30 November 2016 or further order, each of the Picketers identified in paragraph 2 be restrained from being present:

- (a) at any point along Refinery Road, Corio, in the State of Victoria; and
- (b) within 100 metres of any point of access to the Site,

save for those picketers who seek, via Refinery Road or by other means of access, to attend the Site for the purposes of undertaking work that they have been engaged to perform at the Site.

6. There be liberty to apply.

7. The costs of today be reserved.

DATE: 10 October 2016


THE HONOURABLE JUSTICE GINNANE

TAKE NOTICE, AUSTRALIAN WORKERS' UNION, AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND KINDRED INDUSTRIES UNION, AND MEMBERS OF THE CLASS THAT THE FIRST DEFENDANT REPRESENTS THAT YOU ARE LIABLE TO IMPRISONMENT OR SEQUESTRATION OF PROPERTY IF:

- (A) WHERE THIS ORDER REQUIRES YOU TO DO AN ACT WITHIN A FIXED TIME, YOU REFUSE OR NEGLECT TO DO THE ACT WITHIN THAT TIME;
OR
- (B) WHERE THIS ORDER REQUIRES YOU TO ABSTAIN FROM DOING AN ACT, YOU DISOBEY THE ORDER.