



Federal Court of Australia

District Registry: Victoria

Division: Fair Work

No: VID786/2017

**MTCT SERVICES PTY LTD (ACN 070 140 251)**

Applicant

**AUSTRALIAN WORKERS UNION** and others named in the schedule

Respondent

### **ORDER**

**JUDGE:** JUSTICE MURPHY

**DATE OF ORDER:** 21 July 2017

**WHERE MADE:** Melbourne

#### **UPON THE APPLICANT, BY ITS COUNSEL, UNDERTAKING:**

- (a) to submit to such order (if any) as the Court may consider to be just for the payment of compensation, to be assessed by the Court or as it may direct, to any person, whether or not a party, adversely affected by the operation of the interlocutory order or any continuation (with or without variation) thereof; and
- (b) to pay the compensation referred to in (a) above to the person there referred to,

#### **AND UPON THE RESPONDENTS, BY THEIR REPRESENTATIVES,**

#### **UNDERTAKING:**

1. In these undertakings:

- (a) the “**Longford Site**” means the Longford Gas Processing and Crude Stabilisation Plant and an adjacent Heliport, located on Garretts Road, Longford;
- (b) the “**Employee Carpark**” means the carpark used by employees and contractors working at the Longford Site, the entrance to which is accessed from Garretts Road, Longford;
- (c) the “**MTCT Employee List**” means the sign headed “Congratulations”, under which are listed around 10 names of MTCT Employees, as depicted in Annexure “MJC-4” to the Affidavit of Michael John Cochrane sworn on 18 July 2017;



- (d) the “**EOD Sign**” means the sign which reads “Employee of the Day”, under which is listed the name of an MTCT Employee, as depicted in Annexure “MJC-5” to the Affidavit of Michael John Cochrane sworn on 18 July 2017;
  - (e) “**MTCT Employee**” means an employee of the applicant employed to perform maintenance work for the purposes of the Esso MTCT Contract;
  - (f) “**Longford MTCT Employee**” means a MTCT Employee deployed to work at the Longford Site;
  - (g) “**Offshore MTCT Employee**” means a MTCT Employee deployed to work at any offshore location on works under the Esso MTCT Contract; and
  - (h) the “**Esso MTCT Contract**” means the contract between Esso Australia Pty Ltd and the applicant for the provision of maintenance services at Esso’s onshore and offshore facilities in and around the Bass Strait area.
2. On or before 6.00pm on 22 July 2017, the first to third respondents, whether by themselves, their officers, employees or agents, will:
- (a) deflate and remove from the picket/protest at or around the entrance to the Longford Site, the large inflatable rat known as “Scabby”, as depicted in Annexure “MJC-4” to the Affidavit of Michael John Cochrane sworn on 18 July 2017; and
  - (b) remove from the picket/protest at or around the entrance to the Longford Site, all copies of the MTCT Employee List, the EOD Sign and the signs which read “*Don’t be Scabby the Rat*”.
3. On or before 9.00am on 24 July 2017, the first to third respondents, whether by themselves, their officers, employees or agents, will:
- (a) delete and/or remove from any and all social media accounts or pages for which they are responsible or have control, or for which any of their respective officers, employees or agents are responsible, any images which show the MTCT Employee List or the EOD Sign or any similar post, article, list or document which displays the names of any of the MTCT Employees on the MTCT Employee List or any other name which they know or suspect to be an MTCT Employee; and



- (b) provide a link to this Federal Court Order/Undertaking on their respective Victorian Branch websites for 14 days.
4. On and from 6.00pm on 22 July 2017 until the hearing and determination of the amended application or further order, each of the first to third respondents, whether by themselves, their officers, employees or agents, will not:
  - (a) inflate, erect or otherwise display at or around the entrance to the Longford Site or the Employee Carpark, the large inflatable rat known as “Scabby”;
  - (b) display any sign reading “*Don’t be Scabby the Rat*”, as depicted in Annexure “MJC-4” to the Affidavit of Michael John Cochrane sworn on 18 July 2017; or
  - (c) publish, disseminate, distribute, erect or otherwise display at or around the entrance to the Longford Site, the Employee Carpark or on social media, the MTCT Employee List, the EOD Sign or any similar list or document displaying the names of any of the MTCT Employees on the MTCT Employee List or any other name which they know to be an MTCT Employee.
5. Until the hearing and determination of the amended application or further order, each of the first to third respondents, whether by themselves, their officers, employees or agents, will not:
  - (a) without the prior permission of the employee, knowingly attend within 20 metres of any premises known to them to be the residential address of any Longford MTCT Employee or Offshore MTCT Employee and there, engage in conduct which is threatening, obstructive, harassing, intimidating and/or a nuisance, in connection with or in any way related to, their employment with the applicant for the purposes of the MTCT Esso Contract and the events surrounding such employment, including placing signs or leaflets about, or in any way related to, their employment with the applicant for the purposes of the MTCT Esso Contract and the events surrounding such employment, on or around that employee’s premises;
  - (b) without the prior permission of the employee, knowingly contact by telephone any Longford MTCT Employee or Offshore MTCT Employee and engage in conduct over the telephone which is threatening, obstructive, harassing,



intimidating and/or a nuisance, in connection with or in any way related to, their employment with the applicant for the purposes of the MTCT Esso Contract and the events surrounding such employment; or

- (c) organise, advise, counsel, procure, aid or abet any other person to do either of the things in order 4 or subparagraphs (a)-(b) above.


**THE COURT ORDERS BY CONSENT THAT:**

1. The applicant have leave to amend its originating application substantially in the form handed up in Court this day.
2. The applicant's application for interlocutory relief is otherwise dismissed.
3. By 21 August 2017 the parties are to endeavour to agree on a timetable for filing evidence and for trial, and to provide draft consent orders to chambers. If the parties are unable to agree, the parties must provide competing draft orders to chambers, and any short submissions (not more than two pages), and the Court will decide that question on the papers.
4. Liberty to apply be reserved to all parties to apply to the court on short notice.
5. Costs reserved.

**THE COURT NOTES THAT:**

The undertakings by the Respondents are made without any admissions that they have engaged in the wrongdoing alleged.

Date that entry is stamped: 21 July 2017

  
Registrar

This order has been amended in accordance with rule 39.05(g) of the *Federal Court Rules (2011)*.



**TO: THE AUSTRALIAN WORKERS' UNION; "AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND KINDRED INDUSTRIES UNION", KNOWN AS THE AUSTRALIAN MANUFACTURING WORKERS' UNION; COMMUNICATIONS, ELECTRICAL, ELECTRONIC, ENERGY, INFORMATION, POSTAL, PLUMBING AND ALLIED SERVICES UNION OF AUSTRALIA; JEFF SHARP; STEVE DODD; AND PETER MOONEY**

**TAKE NOTICE THAT:**

You are liable to imprisonment, sequestration of property or punishment for contempt if:

- (a) where this order requires you to do an act or thing, you neglect or refuse to do the act or thing within the time specified in the order; or
- (b) where this order requires you not to do an act or thing, you disobey the order.



## Schedule

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Second Respondent      AUSTRALIAN MANUFACTURING WORKERS' UNION

Third Respondent      COMMUNICATIONS, ELECTRICAL, ELECTRONIC,  
ENERGY, INFORMATION, POSTAL, PLUMBING AND  
ALLIED SERVICES UNION OF AUSTRALIA

Fourth Respondent      JEFF SHARP

Fifth Respondent      STEVE DODD

Sixth Respondent      PETER MOONEY