



Federal Court of Australia

District Registry: Victoria

Division: Fair Work

No: VID810/2019

DP WORLD MELBOURNE LIMITED

Applicant

CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION

Respondent

ORDER

JUDGE: JUSTICE SNADEN

DATE OF ORDER: 01 August 2019

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 that person is a party), affected by the operation of the order or undertaking or any continuation (with or without variation) of the order or undertaking; and
- (b) to pay the compensation referred to in (a) to the person affected by the operation of the order or undertaking.

THE COURT ORDERS THAT:

1. Until the hearing and determination of the applicant's application for interlocutory relief dated 31 July 2019 or until further order of the Court, the respondent, whether by its officers, employees, delegates, agents or howsoever otherwise, be restrained from organising, encouraging, procuring or inducing any persons employed by the applicant to perform crane or straddle operations at its West Swanson Terminal (**Relevant Employees**) to engage in industrial action as defined in this Order.
2. The "industrial action" in clause 1 of this Order is:
 - (a) the performance of work by an employee in a manner different from that in which it is customarily performed; or



- (b) the adoption of a practice in relation to work by an employee,
the result of which is a restriction or limitation on, or a delay in, the normal rate of movements by a crane or straddle.
3. The “industrial action” in clause 1 of this Order does not include industrial action of a kind in respect of which the respondent provides the applicant with a notice under s 414 of the *Fair Work Act 2009* (Cth).
4. The respondent must forthwith:
- (a) take all reasonable steps to bring the existence of this Order to the attention of the officers and, employees of the Victoria Branch of the Respondent’s Maritime Union of Australia Division (**MUA Vic Branch**), and, its delegates who are employed by the applicant at its West Swanson terminal;
 - (b) notify its officers and employees of the MUA Vic Branch, and its delegates who are employed by the applicant at its West Swanson terminal that industrial action of the kind in respect of which by clause 1 of this Order the respondent is restrained is not authorised or encouraged by the respondent; and
 - (c) issue and distribute (including but not limited to posting, and maintaining for the time that this Order remains in force, on the home page of the MUA Vic Branch, http://www.mua.org.au/victoria_branch) a communication to its members who are Relevant Employees which:
 - (1) includes a copy of this Order;
 - (2) states that the industrial action defined in this Order is to cease and not occur, and is not authorized by the respondent.
5. The requirement under Rule 41.07 of the *Federal Court Rules 2011* (Cth) for personal service of this Order on the respondent is dispensed with and, instead, service of this Order upon the respondent is permitted by forwarding a copy of it by email or facsimile transmission addressed to the Secretary of the MUA Vic Branch.

TO: CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION
TAKE NOTICE THAT, PURSUANT TO ORDER 41.06 OF THE FEDERAL COURT RULES:



You are liable to imprisonment or to sequestration of property if:

- (a) you refuse or neglect to do the things that this order requires you to do; or
- (b) you do the things that this order requires you to abstain from doing, or otherwise disobey this order.

Date that entry is stamped: 1 August 2019

Warrick Soden
Registrar