

IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION  
EMPLOYMENT AND INDUSTRIAL LIST

S CI 2017 04871

**B E T W E E N**

VICTORIA INTERNATIONAL CONTAINER TERMINAL LTD T/A VICT  
(ACN 164 915 655)

Plaintiff

- and -

MARITIME UNION OF AUSTRALIA



First Defendant

CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION

Second Defendant

**ORDER**

Judge: The Honourable Justice McDonald

Date Made: 12 December 2017

Originating Process: Writ

How obtained: By summons filed 8 December 2017

Attendance: Mr S Wood QC, Mr J Snaden of counsel and Mr N Burmeister of counsel for the Plaintiff

H Borenstein QC and Mr Y Bakri of counsel for the First Defendant

Mr P Morrissey SC and Mr D Guidolin for the Second Defendant

Other matters: The plaintiff undertakes 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) affected by the operation of this order.



**THE COURT ORDERS THAT:**

1. The Plaintiff has leave to rely on any evidence filed to date in proceeding S CI 2017 04998.
2. Until the trial of this proceeding or further order, the First Defendant, whether by itself, its officials, employees or agents (**MUA officers**), howsoever described, be restrained from:
  - (i) being present within 100 metres of any access point to the site identified in the map attached as Annexure A and known as the Victoria International Container Terminal, with the street address of 78 Webb Dock Drive, Port Melbourne, in the state of Victoria (**Safe Space**), save and except that an MUA officer may be present in the Safe Space to the extent that such presence is necessary for the purpose of:
    1. undertaking work that that person has been engaged to perform by or on behalf of the plaintiff;
    2. entering the site, where that entry is authorised by law;
    3. using a public road for reasons unconnected with the site; or
    4. compliance with these orders; and
  - (ii) advising, causing, inducing, procuring or inciting any person to be or attempt to be present within the Safe Space otherwise than to the extent that such presence is necessary for the purpose of:
    1. undertaking work that that person has been engaged to perform by or on behalf of the plaintiff;
    2. entering the site, where that entry is authorised by law;
    3. using a public road for reasons unconnected with the site; or
    4. compliance with these orders.



3. That, until the trial of this proceeding or further order, the Second Defendant, whether by itself, its officials, employees or agents (**CFMEU officers**), howsoever described, be restrained from:

- (i) preventing, hindering or interfering with the free passage by persons and/or vehicles to or from the site known as Victoria International Container Terminal, with the street address of 78 Webb Dock Drive, Port Melbourne, in the state of Victoria, which site is identified in the map attached as Annexure A to this order; and
- (ii) advising, causing, inducing, procuring or inciting any person to do or attempt to do any of the things restrained by sub-paragraph (a) of this order.

4. That, until the trial of this proceeding or further order, the Second Defendant, whether by itself or any CFMEU officer, howsoever described, be restrained from:

- (i) being present within the Safe Space, save and except that a CFMEU officer may be present in the Safe Space to the extent that such presence is necessary for the purpose of:
  1. undertaking work that that person has been engaged to perform by or on behalf of the plaintiff;
  2. entering the site, where that entry is authorised by law;
  3. using a public road for reasons unconnected with the site; or
  4. compliance with these orders; and
- (ii) advising, causing, inducing, procuring or inciting any person to be or attempt to be present within the Safe Space otherwise than to the extent that such presence is necessary for the purpose of:
  1. undertaking work that that person has been engaged to perform by or on behalf of the plaintiff;
  2. entering the site, where that entry is authorised by law;
  3. using a public road for reasons unconnected with the site; or



4. compliance with these orders.
5. As soon as practicable and by no later than 5:00 pm on 12 December 2017, the First Defendant is to place notification of the making of these orders, and a copy of these orders, in a prominent position on its:
  - (a) homepage (<http://www.mua.org.au/>);
  - (b) Twitter (<http://twitter.com/maritimeunionau/>); and
  - (c) Facebook page (<http://www.facebook.com/MaritimeUnionAustralia/>).
6. As soon as practicable and by no later than 5:00 pm on 12 December 2017, the Second Defendant is to place notification of the making of these orders, and a copy of these orders, in a prominent position on its:
  - (a) homepage (<http://www.cfmeu.org.au/>);
  - (b) Twitter (<http://twitter.com/cfmeu/>); and
  - (c) Facebook page (<http://www.facebook.com/cfmeuVIC/>).
7. Liberty to apply.
8. All costs of and associated with the summons dated 8 December 2017 are reserved.

DATE AUTHENTICATED: 12 December 2017

  
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THE HONOURABLE JUSTICE MCDONALD

**TAKE NOTICE, MARITIME UNION OF AUSTRALIA AND CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION, 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 TO ABSTAIN FROM DOING AN ACT, YOU DISOBEY THE ORDER.**

