



THE POST

BE FIRST PAST THE POST WITH "THE POST"



ISSUE NO.5, 10 MAY 2013

WELCOME TO "THE POST". YOUR E-NEWSLETTER DESIGNED TO KEEP YOU UP TO DATE WITH WHAT'S HAPPENING IN EMPLOYMENT LAW & INDUSTRIAL RELATIONS.

WHAT'S MAKING NEWS?

Former Spice Girl Mel B sings to a different contractual tune

The Seven Network and X Factor judge Mel B made no formal efforts to terminate the contract that prevented her performing on any other Australian TV network during 2013, so the contract remained "on foot" when she signed a new deal with the Nine Network in March, the NSW Supreme Court has ruled.

Granting Seven's application for an injunction to prevent the former Spice Girl appearing as a judge on this year's season of Australia's Got Talent, Justice David Hammerschlag found that Seven and Mel B, through her husband/manager Stephen Belafonte, had agreed to exercise an option to extend the original contract, which was due to expire in December 2012, until January 31, 2014.

Mel B cannot as a result appear on AGT.

One of the worst unfair dismissals on record

The Fair Work Commission has castigated an employer for "one of the worst unfair dismissals on record" when it dismissed a long-serving employee with a 21-word text message.

In upholding the unfair dismissal claim of a retail assistant who worked part-time for 19 years of "unblemished" service, Deputy President Peter Sams said it would be "difficult to imagine a more grossly unfair dismissal".

DP Sams said "The means of communicating her dismissal, by a brief SMS message was brutal, gutless and outrageous".

Coalitions IR Policy Released

The Federal Coalition yesterday released its policy on the Fair Work system, including a promise not to re-introduce Australian Workplace Agreements (AWAs), and not to 'weaken safety nets'. A summary is outlined below:

- Parental leave: as previously announced, a Paid Parental Leave scheme of 26 weeks paid parental leave at the greater of the full replacement wage or the national minimum wage, plus superannuation.
- Winding back union right of entry provisions.
- Re-establishing the Australian Building and Construction Commission.
- Registered Organisations (unions) and their officials to be regulated in the same manner as the corporations law, along with a new Registered Organisations Commission.

- Provide practical help to small business workplaces through the Workplace Ombudsman, including a possibility of indemnity from prosecution if the employer makes an unintentional error and had previously sought advice from the Ombudsman's office.
- Enterprise agreements will not be able to restrict the use of Individual Flexibility Agreements (IFAs), although the Coalition maintains that this is not a reintroduction of AWAs.
- Support for the government's proposed workplace bullying amendments to the Fair Work Act, but only in the circumstance where the worker has first sought help from an independent regulatory agency. The Coalition also will include the conduct of unions towards employers and workers.
- New 'more realistic' time frames for Greenfields agreements — negotiations must be completed within three months of commencing.
- Underpaid workers to receive interest on back-paid entitlements recovered through the Workplace Ombudsman.
- Amendments to protected industrial action so that the Fair Work Commission must be satisfied that there have been 'genuine and meaningful' talks between the parties.
- Urgently review the Road Safety Remuneration Tribunal for the trucking industry. The National Heavy Vehicle Regulator will stay.
- Improving the Fair Work Act: the Coalition will implement a number of recommendations from the Fair Work Act Review, which the government has not included in its recent Fair Work Amendment Bill.

If you require further information on employee issues or termination matters affecting your business, please give one of the team at **Waring Legal** and **Waring Employment Advisors** a call on the numbers below.

Address: PO Box W43, Parramatta
Westfield, NSW 2150
Phone: 02 9635 4424
Fax: 02 8313 2125
Mobile: 0448 140 976