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**Bartier
Perry**

The Associate to Hon Justice Iain Ross AO
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

11 November 2016

Our ref SML:142182

Email amod@fwc.gov.au

Dear Associate

AM2014/211 – Road Transport (Long Distance Operation) Award 2010
AM2014/212 – Road Transport and Distribution Award 2010

We act for Truck Moves Pty Ltd, Vehicle Express Pty Ltd and Quick Shift Vehicle Relocations Pty Ltd.

We refer to our letter to you dated 11 January 2016. We also refer to the Full Bench decision with citation [2016] FWCFB 7254 given on 10 October 2016, and in particular:

1. The referral to a Full Bench at paragraph [175] of the issue of amending the coverage of the two awards (which if granted, may result in our clients being covered by an award for the first time).
2. The opportunity given to the parties currently covered by the awards to comment on the revised drafts awards at [227].

As confirmed by the Full Federal Court in *Zader v Truck Moves Australia Pty Ltd* [2016] FCAFC 83, our clients are not covered by the *Road Transport and Distribution Award 2010* and it was accepted in those proceedings that they are not covered by the *Road Transport (Long Distance Operation) Award 2010*.

Since the review proceedings began in 2014, no application has been made by any party to change the coverage of the two awards. In the absence of such a change, there has been no basis to be involved in the proceedings and indeed our clients have not been required to be involved. It is only after the Full Federal Court decision in June 2016 that the TWU has now given notice to seek to change the coverage provision in the award.

In circumstances where our clients are not covered by the awards, it seems unfair and unnecessary for our client to now comment on the draft revised awards.

As set out in our letter of 11 January 2016, the process appears to have put the 'cart before the horse'. Numerous conferences have occurred discussing the terms of the awards in circumstances where no application has been made to alter the coverage.

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AM2014/211 – Road Transport (Long Distance Operation) Award 2010

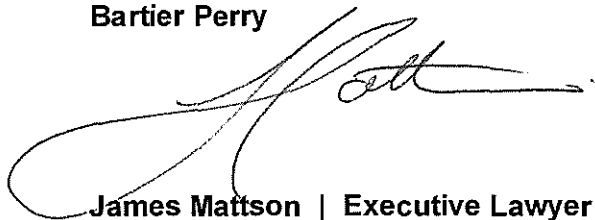
AM2014/212 – Road Transport and Distribution Award 2010

In the event that coverage of the award is changed, then we expect our clients will want to be, and need to be, heard on various aspects of the draft awards including:

- classification and pay for its workers;
- the applicability of other award entitlements to its business and workers; and
- transitional arrangements, given they were not previously covered by the modern award and have not had the benefit of transitional arrangements that were in the 2010 award.

We will be appearing at the listing of the matter before Senior Deputy President Hamberger on 15 November 2016.

Yours faithfully
Bartier Perry

A handwritten signature in black ink, appearing to read 'James Mattson', with a large, sweeping flourish extending to the left.

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