

**From:** Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>  
**Sent:** Tuesday, 2 August 2022 5:48 PM  
**To:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>  
**Cc:** AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Nigel Ward <[Nigel.Ward@ablawyers.com.au](mailto:Nigel.Ward@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; Sunil Kemppi <[skemppi@actu.org.au](mailto:skemppi@actu.org.au)>; Phillip Zlatkovic <[phillip.zlatkovic@aed.org.au](mailto:phillip.zlatkovic@aed.org.au)>  
**Subject:** RE: AM2014/286 - Application for witness summons

Dear Associate

I refer to the email below regarding the application for a summons in relation to Kerrie Langford.

Following discussions between our office and Mr Kemppi of the ACTU, I wish to advise that a range of parties (namely ABI, NSW Business Chamber, NDS, AED, ACTU and UWU) have reached an agreed position in relation to Ms Langford. The agreed position involves:

- Our clients (ABI, NSWBC and NDS) consenting to the tender of a document and some agreed facts associated with that document; and
- AED and the union parties not pressing the application for a summons in relation to Ms Langford (thereby relieving the need for Ms Langford to appear).

The parties aim to be in a position to tender the relevant materials shortly.

We anticipate that this approach will facilitate a more efficient hearing.

I note that I have copied Messrs Kemppi and Zlatkovic of the ACTU and AED respectively into this email.

Please do not hesitate to contact me should you wish to discuss.

Kind regards

**Kyle Scott**  
Director  
Australian Business Lawyers & Advisors

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**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Sent:** 28/07/2022 3:34 PM

**To:** AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Sunil Kempfi <[skempfi@actu.org.au](mailto:skempfi@actu.org.au)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; Nigel Ward <[Nigel.Ward@ablawyers.com.au](mailto:Nigel.Ward@ablawyers.com.au)>; Julian Arndt <[Julian.Arndt@ablawyers.com.au](mailto:Julian.Arndt@ablawyers.com.au)>; Alana Rafter <[Alana.Rafter@ablawyers.com.au](mailto:Alana.Rafter@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>

**Subject:** RE: AM2014/286 - Application for witness summons

OFFICIAL

Dear Parties,

Further to the below email, the Vice President wishes to advise that the timeframe for any party to file a submission opposing the AED Legal Centre's application (**attached** again for ease of reference) has been **extended to 5:00pm (AEST) Tuesday 2 August 2022**.

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Vice President Hatcher



**Fair Work Commission**

Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011  
[www.fwc.gov.au](http://www.fwc.gov.au)

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

**From:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Sent:** Thursday, 28 July 2022 9:23 AM

**To:** AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>; Kyle Scott <[Kyle.Scott@ablawyers.com.au](mailto:Kyle.Scott@ablawyers.com.au)>; Mary Walsh <[marywalsh6@bigpond.com](mailto:marywalsh6@bigpond.com)>; Leigh Svendsen <[leighs@hsu.net.au](mailto:leighs@hsu.net.au)>; Emma Gruschka <[Emma.Gruschka@sparke.com.au](mailto:Emma.Gruschka@sparke.com.au)>; Ashley Sherr <[Ashley.Sherr@sparke.com.au](mailto:Ashley.Sherr@sparke.com.au)>; Peter Cummins <[peter.cummins@catholiccare.org](mailto:peter.cummins@catholiccare.org)>; Illy Rogers <[illy.rogers@catholiccare.org](mailto:illy.rogers@catholiccare.org)>; Sunil Kempfi <[skempfi@actu.org.au](mailto:skempfi@actu.org.au)>; Ben Redford <[ben.redford@unitedworkers.org.au](mailto:ben.redford@unitedworkers.org.au)>; Nigel.ward@ablawyers.com.au; Julian Arndt <[Julian.Arndt@ablawyers.com.au](mailto:Julian.Arndt@ablawyers.com.au)>; Alana Rafter <[Alana.Rafter@ablawyers.com.au](mailto:Alana.Rafter@ablawyers.com.au)>; Claudia Simmons <[Claudia.Simmons@Ablawyers.com.au](mailto:Claudia.Simmons@Ablawyers.com.au)>; 'Kirrily Boulton' <[Kirrily.Boulton@endeavour.com.au](mailto:Kirrily.Boulton@endeavour.com.au)>; 'Kerrie Langford' <[Kerrie.Langford@nds.org.au](mailto:Kerrie.Langford@nds.org.au)>; Chris Christodoulou <[chrisc@greenacres.net.au](mailto:chrisc@greenacres.net.au)>

**Subject:** FW: AM2014/286 - Application for witness summons

OFFICIAL

Dear Parties,

As foreshadowed during yesterday's directions hearing in the above matter, please find **attached** an application for witness summons filed yesterday by the AED Legal Centre. The Vice President directs that any party opposing this application file a submission by **5:00pm (AEST) tomorrow (Friday 29 July 2022)**.

Kind regards,  
Caroline

**Caroline Beasley**  
Associate to Vice President Hatcher



**Fair Work Commission**

Australia's national workplace relations tribunal

T (02) 9308 1812

E [chambers.hatcher.vp@fwc.gov.au](mailto:chambers.hatcher.vp@fwc.gov.au)

Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011  
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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

**From:** AED Legal <[aedlegal@aed.org.au](mailto:aedlegal@aed.org.au)>

**Sent:** Wednesday, 27 July 2022 4:59 PM

**To:** Chambers - Hatcher VP <[Chambers.Hatcher.VP@fwc.gov.au](mailto:Chambers.Hatcher.VP@fwc.gov.au)>

**Subject:** AM2014/286 - Application for witness summons

Dear Associate

We refer to the directions hearing this morning.

During directions, the Vice President directed that the AED provide chambers with its application for witness summonses directed to the two individuals mentioned by counsel. This email attaches those applications.

The individuals to whom the summonses would be directed are Ms Kerrie Langford, who is Head of Employment of the National Disability Services (**NDS**), and Ms Gerrie Mitra, who holds the position of General Manager, Provider and Market division, with the National Disability Insurance Agency (the **NDIA**).

AED (or the other employee parties) was not in a position to call Ms Langford or Ms Mitra in chief and so provide a statement. Ms Langford is an officer of another party. Ms Mitra is too; she is an officer of the Commonwealth (the NDIA). The NDS is an interested party to this review. For this round of hearings, NDS, together with Australian Business Industrial and the NSW Business Chamber, has made submissions to the Full Bench and intend to call evidence. They propose new wages classifications and removal of the SWS for those to whom these classifications would, on their proposal, apply. This was proposed on 8 July 2022. The NDIA administers the National Disability Insurance Scheme.

Ms Langford and Ms Mitra gave evidence to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the **Royal Commission**). The transcript of the evidence they gave to that inquiry is publicly available. The evidence was given as part of the Royal Commission's inquiry into ADE employment, including the wages position of employees with a disability in ADE employment.

Ms Langford's evidence dealt directly with subjects relevant to the Full Bench's deliberations, including the nature and structure of ADE employment, the wages position that subsists now and the wages position that NDS and its members are working to in the future. The evidence reflects an industry subject to change in response to business conditions and social conditions. Ms Mitra's evidence dealt directly with the effect on ADE employment of the NDIS scheme. At the time of the first round of hearings, the NDIS was new and undeveloped. Ms Mitra's evidence serves to update the Full Bench on these developments.

AED is mindful of the need for efficiency in the preparation of this matter. To that end, AED will endeavour to explore with the other parties whether it is possible to avoid the need to lead further viva voce evidence, perhaps by tendering by agreement documents as evidence of the facts contained therein. However, at this time the AED presses the orders the subject of this application.

Kind regards

*Phillip Zlatkovic*

## Human Rights Advocate

On behalf of

**AED LEGAL CENTRE**

Suite 1 Level 9, 45 William Street, Melbourne 3000.

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