

From: Julia Swift [<mailto:Julia.Swift@yorkcivil.com.au>]
Sent: Monday, 30 April 2018 2:35 PM
To: Michal Roucek
Cc: Nigel Ward; Luis Izzo; 'jimeager@eagerlaw.com.au'; Chambers - Hatcher VP
Subject: RE: C2013/6333 - Non-compliance with Orders [ABLAW-ImanageDocs.FID165140]

Dear Mr Roucek

York Civil has complied with the Order for Production.

[Attached](#) is the letter I sent to the Commission confirming this which was copied to your colleague, Sophie Whish (being the person who served the Order on York Civil), last week.

I also **attach** the Application made by York Civil with respect to the Order for Production for your information.

Regards

Julia Swift
Corporate Counsel

York Civil Pty Ltd – Delivering Infrastructure Solutions
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From: Michal Roucek [<mailto:Michal.Roucek@ablawyers.com.au>]
Sent: Monday, 30 April 2018 1:32 PM
To: 'Chambers - Hatcher VP' <Chambers.Hatcher.VP@fwc.gov.au>
Cc: Nigel Ward <Nigel.Ward@ablawyers.com.au>; Luis Izzo <Luis.Izzo@ablawyers.com.au>; Julia Swift <Julia.Swift@yorkcivil.com.au>; 'jimeager@eagerlaw.com.au' <jimeager@eagerlaw.com.au>
Subject: C2013/6333 - Non-compliance with Orders [ABLAW-ImanageDocs.FID165140]
Importance: High

Dear Associate

NON-COMPLIANCE WITH ORDERS TO PRODUCE

C2013/6333 - s.302 Application for an equal remuneration order

We **attach** correspondence in respect of non-compliance with Orders To Produce in the abovementioned matter.

We have copied the legal representatives for York Civil Pty Ltd and Langdale Consultants Pty Ltd into this correspondence.

If you have any questions in relation to this correspondence please contact Michal Roucek on 9458 7018.

Yours sincerely
Michal Roucek
Senior Associate
Australian Business Lawyers & Advisors

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Form F1—Application (No Specific Form Provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

The Applicant



These are the details of the person who is making the application.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)			
Surname			
Postal address	27 Tikalara Street		
Suburb	Regency Park		
State or territory	SA	Postcode	5010
Phone number	08 8340 5300	Fax number	08 8340 5330
Email address	Officeofcorporatecounsel@yorkcivil.com.au		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	York Civil Pty Ltd
Trading name of business	York Civil
ABN/ACN	ACN 050 019 960
Contact person	Julia Swift

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.

Yes—Provide representative's details below

No

Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person			
Firm, union or company			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

The Respondent



These are the details of the person or business who will be responding to your application to the Commission.

Title	[] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)			
Surname			
Postal address	140 Arthur Street		
Suburb	North Sydney		
State or territory	NSW	Postcode	2060
Phone number	1300 565 846	Fax number	+61 2 9954 5029
Email address	Sophie.whish@ablawyers.com.au		

If the respondent is a company or organisation please also provide the following details

Legal name of business	
Trading name of business	Australian Childcare Alliance
ABN/ACN	
Contact person	Sophie Whish, Australian Business Lawyers & Advisors Pty Ltd

1. The Application

1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.

Sections 590 and 603 of the *Fair Work Act 2009* ("Act").

2. Order or relief sought

2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

The Applicant seeks an order pursuant to section 603 of the Act that:

1. The Order Requiring Production of Documents etc. to the Fair Work Commission directed to the Applicant made by the Commission on 4 April 2018 (“Order”) be set aside in whole or in part or, alternatively, varied.
2. In the alternative, the Confidentiality Order made by Vice President Hatcher in these proceedings dated 24 April 2018 (“Confidentiality Order”) be maintained indefinitely with respect to any documents produced by the Applicant in compliance with the Order.

2.2 Please set out grounds for the order or relief sought.



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

1. The Order made at the request of the Respondent:
 - a) seeks the production of documents which contain confidential and/or commercially sensitive information of the Applicant and of third parties;
 - b) is not directed at any relevant or potentially relevant issue in the proceedings; and
 - c) constitutes an impermissible fishing expedition rather than a legitimate forensic enquiry.
2. Accordingly, the Order ought to be set aside or varied.
3. Alternatively, if the Order is not set aside in whole, the Confidentiality Order ought to be maintained indefinitely in respect of documents produced by the Applicant in compliance with the Order on the basis that:
 - a) the documents and information sought pursuant to the Order contains personal information of employees of the Applicant and commercially sensitive and/or confidential information of the Applicant and third parties;
 - b) the Confidentiality Order does not prejudice any party; and
 - c) it is not in the public interest, and there is no reason, for the information contained within to be generally disclosed.

3. The employer

3.1 What is the industry of the employer?

N/A (The industry of the Applicant is civil construction)

4. Industrial instrument(s)

4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.

N/A

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	Kelly Angus, Employed Solicitor, York Civil
Date	26 April 2018



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS