

From: Chambers - Asbury DP <Chambers.Asbury.dp@fwc.gov.au>
Sent: Friday, 10 February 2023 5:14 PM
To: 'Alana Rafter' <Alana.Rafter@ablawyers.com.au>; Chambers - Asbury DP <Chambers.Asbury.dp@fwc.gov.au>; Chambers - O'Neill DP <Chambers.O'Neill.DP@fwc.gov.au>; Chambers - Bissett C <Chambers.Bissett.c@fwc.gov.au>
Cc: Awards <Awards@fwc.gov.au>; Nigel Ward <Nigel.Ward@ablawyers.com.au>; Maria Mamblona <Maria.Mamblona@ablawyers.com.au>; Stephen.Reeves@ags.gov.au; Nick White <nwhite@gordonlegal.com.au>; Paul.Vermeesch@ags.gov.au; AGrayson@mauriceblackburn.com.au; PParker@mauriceblackburn.com.au; Ben.Redford@unitedworkers.org.au; Larissa.Harrison@unitedworkers.org.au; geoff.taylor@awu.org.au; cheri.taylor@awu.org.au; Philip Gardner <pgardner@gordonlegal.com.au>
Subject: RE: AM2020/99, AM2021/63, AM2021/65 - Aged Care Work Value

OFFICIAL

Dear Parties,

I refer to the above matters and the below application by the Joint Employers seeking that the witnesses be permitted to attend the Hearing on Monday, 13 February 2023 by video link for the purposes of giving evidence and cross-examination in the event that the witnesses are required to do so.

It is noted that the Health Services Union and the Australian Nursing and Midwifery Federation have no objection to the application.

The Full Bench, having considered the application, grants permission for the witnesses to appear by Microsoft Teams.

A Microsoft Teams link for the witnesses will be separately provided to the parties.

Kind regards,

Jesse To (he/him)

Associate to Deputy President Asbury



Fair Work Commission

Australia's national workplace relations tribunal

T 07 3028 7877

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Level 14, Central Plaza Two, 66 Eagle Street, Brisbane, QLD, 4000
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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 Jagera, Yuggera and Turrbul Country.

From: Alana Rafter <Alana.Rafter@ablawyers.com.au>

Sent: Friday, 10 February 2023 3:27 PM

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Subject: RE: AM2020/99, AM2021/63, AM2021/65 - Aged Care Work Value

Dear Associate,

In circumstances where the witnesses for the Joint Employers may be required for cross-examination on Monday, 13 February 2023, the Joint Employers make an application the witnesses be permitted to provide their evidence via video (Microsoft Teams).

In support of this application, we note the following for the consideration of the Commission:

1. The witnesses are located in NSW and Western Australia.
2. The short estimates proposed for cross-examination by the ANMF (15-30 minutes).
3. The confined nature of the evidence.
4. The extant objection to evidence being before the Commission.

In these circumstances, the possibility of prejudice to the ANMF (or any further party that seeks to cross-examine) is limited (if any).

We apologise for the late timing of the application.

Yours faithfully,

Alana

Alana Rafter

Associate

Australian Business Lawyers & Advisors

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From: Nick White <nwhite@gordonlegal.com.au>
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Gardner <pgardner@gordonlegal.com.au>
Subject: AM2020/99, AM2021/63, AM2021/65 - Aged Care Work Value

Dear Associates

We refer to paragraph [4] of the Statement and Directions dated 10 February 2023.

As foreshadowed in its reply submissions of 9 February 2023 at paragraph [20], the ANMF will object to the Joint Employers' reliance on the evidence of Mr Corderoy, Mr Brockhaus, Ms Jenkins and Mr Shaw.

The ANMF is not currently in a position to indicate that these witnesses will not be required for cross-examination in the event that the Full Bench rules their evidence admissible. This matter is under current consideration. As things stand, each will be required for cross-examination. Should the ANMF's position change, we will notify the Full Bench and parties without delay.

The ANMF's estimate of the time that will be required for such cross-examination is as follows:

- Mr Corderoy – 30 minutes;
- Mr Brockhaus – 15 minutes;
- Ms Jenkins – 15 minutes; and
- Mr Shaw – 15 minutes.

The ANMF does not seek to cross-examine Professor Eager.

Regards

Nick White
Principal Lawyer
Accredited Specialist (Workplace Relations)



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