

**IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

No. VID210 of 2008

**HAWKER DE HAVILLAND
AEROSPACE PTY LIMITED
(ACN: 103 165 466)**

Applicant

**THE AUTOMOTIVE, FOOD, METALS,
ENGINEERING, PRINTING AND KINDRED
INDUSTRIES UNION**

First Respondent

DAVID ROACH

Second Respondent

JASON SHERWOOD

Third Respondent

AND

CARLO INSERRA and ORS

Fourth to 805th Respondents

Minute Of Orders

UPON THE APPLICANTS BY THEIR COUNSEL UNDERTAKING:

A: To submit to such order (if any) as the Court may consider to be just for the payment of compensation, to be assessed by the Court or as it may direct, to any person, whether or not a party, adversely affected by the operation of the interlocutory order made hereunder or any continuation, with or without variation, thereof, and

B: To pay the compensation referred to in (A) to the person there referred to.

THE COURT ORDERS THAT:

1. Until 4.00 pm Monday 14 April 2008 or further order:



- (a) the First Respondent, whether by its officers, delegates, servants or agents or howsoever otherwise, be restrained from engaging in, organising, procuring or encouraging industrial action before the nominal expiry date of the *Hawker de Havilland Aerospace Pty Limited (Port Melbourne) Workplace Union Collective Agreement 2007 (Agreement)*.
- (b) The First Respondent (whether by its officers, delegates, employees, members, agents or howsoever otherwise):
- (i) Advise its members employed at the Premises (“**the Members**”) both orally, by holding meetings, and/or in writing to lift any and all bans, limitations or restrictions on the performance of work including ceasing any and all strike action;
 - (ii) Advise the Members both orally, by holding meetings, and/or in writing of the following:
 - A. that the current refusal of the Members to attend for work at the Premises is not authorised or encouraged by the AMWU.
- (c) the Employee Respondents and each of them be restrained from engaging in, organising, procuring or encouraging industrial action before the nominal expiry date of the *Hawker de Havilland Aerospace Pty Limited (Port Melbourne) Workplace Union Collective Agreement 2007 (Agreement)*.
- (d) the Employee Respondents and each of them be restrained from engaging in or organising conduct that would constitute a contravention of the Order made by Commissioner Gay on 8 April 2008 pursuant to section 496(1) of the Act, in proceeding number C2008/2390 before the Australian Industrial Relations Commission (**Order**).
- (e) Without limiting the scope of order (d) or (e), the Employee Respondents and each of them be restrained from:
- (i) engaging in bans, limitations or restrictions on the performance of work, or on acceptance of or offering for work, in accordance with the terms and conditions prescribed by the Agreement; or
 - (ii) failing or refuse to attend for work or to fail or refuse to perform any work at all upon attending for work;



unless the ban, limitation or restriction on the performance of work, or on acceptance of or offering for work or the failure or refusal to attend for work or to failure or refusal to perform work upon attending for work:

- (A) is authorised or agreed to, in advance and in writing, by the Applicant; or
- (B) based on a reasonable concern by the Employee Respondent about an imminent risk to his or her health or safety and the Employee Respondent did not unreasonably fail to comply with a direction of the Applicant to perform other available work, whether at the same or another workplace, that was safe for the Employee Respondent to perform.

2. The 2nd to 805th Respondents (**Employee Respondents**) be restrained from:

- (a) preventing, hindering, interfering with, disrupting or interrupting free access to or egress from the Applicant's facilities at 226 Lorimer Street, Port Melbourne, Victoria (**the Premises**) by any person or vehicle;
- (b) abusing, threatening, besetting, harassing or intimidating any person who is in the vicinity of or on the Premises;
- (c) causing, inducing, procuring, encouraging or authorising or advising any person to do or attempt to do any of the things restrained by one of the subparagraphs (a) to (b) of paragraph 3 of this Order.

3. Service of this order be permitted on the First Respondent by serving an original or copy (including a facsimile copy) of the order by facsimile transmission on the solicitors of the First Respondent.

4. Service of this order, the application and an explanatory letter be permitted on the 2nd to 805th Respondents by:

- (a) leaving a copy (including a facsimile copy) of such documents at the person's residential address with a person apparently over the age of 16 years; or

in the event service cannot be effected as referred to above, leaving a copy (including a facsimile copy) of such documents at the person's residential address;



(c) after 9 am on 12 April 2008, affixing a copy (including a facsimile copy) of such documents on the employee notice board at the applicants' premises at 226 Lorimer Street, Port Melbourne, Victoria.

5. Liberty to apply be reserved to all parties on 24 hours notice to seek any variation or discharge of these orders.
6. The directions hearing and the further hearing of the application for interlocutory relief in the proceeding be otherwise adjourned to 10.15 am on Monday 14 April 2008.

Date that entry is stamped: 11 APR 2008

