

19 November 2015

Mr Paul Wicks QC
AUCKLAND

1st floor, Leaders Building
15 Brandon Street
PO Box 241, DX SP20003
Wellington 6140
New Zealand

tel: 04 472 3055
fax: 04 472 6657
email@oakleymoran.co.nz

By email: paul@citychambers.co.nz

Dear Mr Wicks

**NEW ZEALAND MEATWORKERS UNION AND ORS v AFFCO NEW ZEALAND LIMITED ARC 152/2015
AFFCO NEW ZEALAND LIMITED v NEW ZEALAND MEATWORKERS UNION 245/2015**

1. We refer to the above matters and to the judgment of the full Court delivered on 18 November 2015.
2. At paragraph [216] of yesterday's judgment, the full Court has referred to 245/2015, currently set down for a preliminary hearing on 23, 24 and 25 November 2015. The union's view is that the preliminary hearing in 245/2015 should be adjourned sine die at this stage.
3. As you will be aware, the Court's conclusions in 152/2015 will now have relevance in relation to 245/2015. The Court must now refuse to make the declaration or determination sought by the employer. In addition, s50KA(5) is relevant. As a result of yesterday's judgment, the Court may now make orders or recommendations or issue directions about what steps the parties ought to or must take, including (but not limited to) how the party who has failed to observe good faith may rectify the failure.
4. In the union's view, there are a number of steps which must now be taken immediately. These are:
 - a. all union members who were seasonally laid off at the end of the previous season and who have yet to be reengaged must be immediately reengaged on the terms of the expired collective;
 - b. all union members who were seasonally laid off at the end of the previous season and who were compelled to sign new employment agreements in order to be reengaged must now be immediately provided with all of their employment rights under the terms of the expired collective agreement;

- c. both groups must now be paid back pay from the date of the various plants reopening until now.
5. Our client's members who are still locked out (mainly at Wairoa) will shortly be presenting themselves for work in an organised manner and will expect to be reengaged. As to those who are currently working, the union will expect the employer to immediately comply with all of the terms of the expired collective agreement in relation to them. For the avoidance of any doubt, the company is not under any circumstances to seek to approach any individual union member who was laid off at the end of the last season and reengaged in this one either directly or indirectly about terms and conditions without the union's consent.
 6. Union organisers will be visiting plants in the next few days to distribute the full Court's judgment and other information about the workers' rights under it. If your client obstructs this access in any way, both the obstructing individuals and the company will be subject to appropriate penalty actions. We would ask that your client indicate now (by return and through you) that it will not deny access to organisers.
 7. As you know, the Court has suggested mediation in relation 152/2015. We propose mediation on 24 and 25 November 2015 (two of the three dates currently set aside for 245/2015).
 8. We will need an urgent response as to your client's willingness or otherwise to attend mediation on those dates. If your client is not willing, we will need to seek a direction of the Court. The issue of the identity of the mediator(s) can be addressed later today or tomorrow. As you know we are willing to involve retired Judge Travis and we urgently request your client's views as to that.
 9. Please may we have your urgent response as soon as possible today.

Yours faithfully
OAKLEY MORAN



Peter Cranney