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## New employer bid to derail CFMEU-MUA-TCFU merger

Tuesday, February 20, 2018, 6:31pm

Two employer groups have launched a late bid to block or delay the planned merger between the CFMEU and the MUA.

On Sunday, lawyers for the AMMA and the MBA wrote to the Fair Work Commission Deputy President Val Gostencnik seeking a chance to be heard on new litigation against the two unions.

After consulting with the parties, Deputy President Gostencnik has set down a hearing for February 28.

Legal sources said this evening that the new litigation is a civil contempt suit brought by the stevedore VICT over a three-week picket at the company's Webb Dock terminal at the Port of Melbourne.

Those sources said the action named the the MUA and some of its officials.

VICT has begun legal action against the MUA and CFMEU seeking \$8 million in damages for what for unions characterised as a community protest.

The Commission this month reserved its decision on whether to approve the merger of the CFMEU, MUA and TCFU, after employer groups argued that proceedings seeking to recover fines and penalties should be taken into account.

Counsel for the union told the hearing that concerns raised by the Australian Mines and Metals Association and the Master Builders Association were "entirely irrelevant" to the merger proceedings.

On Sunday, Herbert Smith Freehills partner Michael Coonan said in his urgent letter to the Commission that the hearings to date under section 73 of the Registered Organisations Act concerned the nature and affect of the multiple penalty proceedings involving the CFMEU and MUA.

The letter said the employer groups understood that proceedings were pending in the Supreme Court of Victoria that allege contempt by one of the applicant unions.

It submitted the contempt action was relevant to the Commission's assessment of the necessary criteria for mergers under s73(2)(c).

On Monday, a lawyer for the CFMEU, Slater & Gordon partner Phil Pasfield, said in a letter to Deputy President Gostencnik that civil proceedings had been issued related to an alleged breach of an order by the Supreme Court on December 12.

Pasfield said the proceedings were not issued by the Supreme Court and did not concern breaches of the Fair Work Act, the Registered Organisations Act, other Commonwealth laws, modern awards or enterprise agreements.

"With respect, Mr Coonan's correspondence is grossly irresponsible and makes assertions without the benefit of the documentation relating to the proceeding in the Supreme Court of Victoria," he said.

"In the circumstances, it is the view of the [unions] that there is no reason for these proceedings to be relisted nor any further directions issued."

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