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Employers challenge rejection of three and four-worker deals

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A labour hire company is [appealing](#) the quashing of a two-year-old agreement covering more than 1000 mine services workers after it was found to have been inadequately explained to the three workers who agreed it.

One Key Workforce Pty Ltd (formerly RECS) is challenging Federal Court Justice Geoffrey Flick's November 8 [decision](#) to quash the [2015 RECS deal](#) while seeking that his orders "do not come into operation until all avenues of appeal are exhausted and are unsuccessful".

In overturning Fair Work Commissioner Julius Roe's October 2015 approval of the deal, Justice Flick said, on the information supplied, three employees with "limited" experience could hardly be expected to vote up a deal benchmarked against 11 different awards as diverse as black coal mining, road transport, clerks and hospitality (see [Related Article](#)).

While declining to consider the CFMEU's contention that the agreement was a "sham", Justice Flick found the approval process neither "individually or cumulatively, satisfied the requirements imposed by [s180\(5\)](#) . . . to 'take all reasonable steps to ensure that . . . the terms of the agreement, and the effect of those terms, are explained'."

Separately, "there was never an 'agreement . . . genuinely agreed to by the employees covered by the agreement" ([s186\(2\)\(a\)](#))'."

Justice Flick will today hear the interlocutory application seeking to hold back the operation of his orders.

[One Key Workforce Pty Ltd ACN 605 016 206 v Construction, Forestry, Mining And Energy Union & Anor, NSD2073/2017](#)

Meanwhile, another deal negotiated with few but covering many is back in the spotlight, with the Federal Court this month granting leave for the TWU to intervene in a [review](#) of an FWC full bench's decision throwing out a [Broadspectrum](#) appeal.

Vice President Adam Hatcher, Senior Deputy President Jonathan Hamberger and Commissioner Chris Simpson in August [dismissed Broadspectrum's](#) attempt to challenge the [quashing](#) of a deal negotiated with four employees not covered by it (see [Related Article](#)).

[United Voice](#) argued the employees with which it was negotiated had no stake as they were paid well in excess of its rates, they did not perform correctional work captured by its classifications and were hired just before bargaining started.

[Broadspectrum](#) (formerly Transfield Services) challenged the decision, submitting the employees were covered by the deal when they voted and that their higher pay rates did not indicate they lacked a "stake" in the deal.

However the FWC full bench found Deputy President Kovacic's March 31 [decision](#) was not attended by "sufficient doubt" as to require permission to appeal in the public interest or to grant it on a discretionary basis.

Federal Court Justices Mordy Bromberg, Michael Lee and Debra Mortimer are set to conduct the review in March next year.

[Broadspectrum \(Australia\) Pty Ltd V United Voice & Ors, WAD474/2017](#)

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