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Appeal court upholds CFMEU criminal contempt convictions

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An appeal court has upheld the CFMEU's criminal contempt convictions for defying orders to halt its 2012 Grocon "blockade" and has also found lawful an order for the union to supply officials' phone numbers to help investigators determine who directed associated bans on Boral's concrete supplies.

In a [ruling](#) handed down on Friday, the Victorian Court of Appeal rejected the union's primary argument that the prosecutors' failure to argue that the alleged breaches were "contumacious" meant there could be no findings of criminal contempt.

Justice Anthony Cavanough in March last year [found](#) the CFMEU construction and general division's Victorian branch guilty of 30 counts of contempt, but convicted it of five because of significant overlap between the charges.

He later added another two convictions for contempt, over the union's breaches of an injunction against it interfering with concrete deliveries (see [Related Article](#)).

He [ordered](#) the union in March to pay \$1.25m in penalties, plus indemnity costs, which were expected to amount to more than \$1 million (see [Related Article](#)).

CFMEU records sought by Boral "highly relevant"

The appeal bench — Justices David Ashley, Robert Redlich and Mark Weinberg — upheld Justice John Digby's [approval](#) of Boral's proposed discovery of CFMEU records (see [Related Article](#)).

The company made the application after CFMEU official Joe Myles oversaw a blockade that, in defiance of an injunction, was preventing Boral from supplying concrete to a Regional Rail Link site at Joseph Rd, Footscray, in May last year.

Myles told Victorian police officers that he wasn't directing the picket, and when they asked him to lift it temporarily to allow worshippers to access a nearby temple, he rang someone on his mobile phone to seek directions.

The bid for discovery of what Boral described as "a handful of documents" included phone records that would identify the official Myles called, as part of the company's pursuit of the union for criminal contempt.

The bench said the documents were "highly relevant" to Boral's case, but also "potentially damaging to the Union's defence".

It said, however, that granting discovery would not cause "substantial injustice" to the CFMEU, and noted that the company could have sought the same documents by subpoena.

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