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## Folau locks in legal team; Rare win for CFMMEU; & more

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### Barrister Wood to lead Folau case

Sacked footballer Israel Folau has engaged leading IR lawyer Stuart Wood QC and a Melbourne solicitor to pursue Rugby Australia over alleged breach of his \$4 million contract.

Legal sources say that Folau, whose contract was [officially terminated](#) last Monday after posting on Instagram that "hell awaits" homosexuals, drunks and atheists, is most likely to run an adverse action claim in the Federal Court.

The devout Christian's post was deemed to have been a high level breach of the organisation's [code of conduct](#), which highlights an "inclusive environment" (see [Related Article](#))

Alongside Wood, Folau has also engaged Melbourne-based Macpherson Kelley principal [George Haros](#) as instructing solicitor.

A former amateur player and current [president](#) of Old Ivanhoe Grammarians, Haros previously acted for St Kilda player Ahmed Saad during the imposition of an 18-month suspension for taking a banned substance.

Haros was also at one time the co-director of a sports management firm with former Carlton AFL star Anthony Koutoufides.

**UPDATED:** A previous version of this story described Haros as having acted for Saad in the unsuccessful appeal of his ban. Haros told [ [svot @gji | | t vi wv](#)] that achieving, and subsequently defending on appeal, a six-month reduction from the two-year ban sought by the Australian Sports Anti-Doping Authority was considered a good outcome.

### CFMMEU trespass charges thrown out

In what CFMMEU Queensland construction and general secretary Michael Ravbar says is the first and "I would like to think. . . the last" time a union official has been prosecuted for trespass, a court has thrown out the charges and criticised the role of police as "concerning".

Four union officials, two of whom were from the CFMMEU construction and general division, were charged with [trespass](#) after trying to enter the Enco Precast concrete plant to investigate workplace health and safety concerns in December last year.

Dismissing the charges on Friday, Magistrate Wendy Cull said police had "taken the side of the business owner from the outset", and that some police conduct was "naive and concerning".

She said key elements of police evidence were "demonstrably untrue", and the police had shown their lack of understanding of the relevant industrial relations law.

The CFMMEU welcomed the decision, which it labelled "humiliating" for the Queensland Police Service and Enco.

"This is a landmark case because it reaffirms the right of a properly authorised union official to exercise his or her right of entry under the Act without fear of bullying, intimidation and legal standover tactics," said Ravbar.

"The [union] respects the important work of the QPS in protecting our communities, but people have every right to question whether futile and vindictive prosecutions such as this are really the best use of finite police resources.

"This is the first time a union official has faced trial for trespass in Queensland when exercising his right of entry, and I would like to think it is the last," he said.

Enco Precast did not respond to a request for comment.

## Child-unfriendly car helps manager stay under income threshold

A manager whose use of a company car was hampered by the absence of child restraints has been cleared to contest his dismissal after being assessed as falling short of the high income threshold.

The former operations manager for Danihers Facility Management Pty Ltd argued before the FWC that calculations on the value of the company-provided Toyota Rav4 should be based on 50% personal use, in part because it was not fitted with a child restraint and therefore could not be used for weekend family travel.

Danihers argued that his personal use should be set at 90%, and that the fringe benefits tax it paid on the "perk car" – at all times garaged at the manager's home – should be considered part of his salary.

Using the approach established in the AIRC full bench's 1998 [Fewings](#) decision, Commissioner Sarah McKinnon settled on a figure of 69.22% personal use, further calculating that the annual value to the manager was \$4769.95

"Following the approach in Fewings, no account is made for Danihers' separate obligation in relation to fringe benefits tax," the commissioner said.

"Accordingly, I find. . . that the sum of [the manager's] annual rate of earnings. . . was \$131,769.94 comprising his salary of \$126,000 together with \$1000 for the laptop and mobile phone and \$4769.95 for the vehicle."

"His total annual earnings were less than the high income threshold of \$145,400."

Finding the manager thus protected from unfair dismissal, Commissioner McKinnon dismissed Danihers' jurisdictional objection and referred the matter for arbitration.

[Phillip Hearnden v Danihers Facility Management Pty Ltd \[2019\] FWC 3570 \(23 May 2019\)](#)

## FWO recovers \$580K for 1000 short-changed workers

Almost of quarter of 1385 regional businesses in NSW, Victoria and Queensland targeted by the FWO underpaid their employees, with the ombudsman clawing back almost \$600,000 for affected workers.

In its latest swoop on the regions, FWO inspectors recovered \$580,000 for nearly 1000 workers chiefly involved in the accommodation, hospitality and retail sectors.

Of the audited businesses in Latrobe-Gippsland and Shepparton (Vic), Southern Highlands and Shoalhaven (NSW), and Wide Bay and Ipswich (Qld), 22% failed to pay their employees correctly – most commonly in the form of reduced hourly rates – while 15% did not provide proper payslips or keep proper employment records.

[FWO Combined Regional Campaigns Report, May 2019](#)

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