

Australian Journal of Labour Law (AJLL)

Volume 35 Part 1

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An accessory to a contravention of the Fair Work Act 2009 (Cth) is treated as having personally committed the contravention. Increasingly, claims are being brought by regulators such as the Fair Work Ombudsman against accessories using s 550. Many recent cases have been brought against accessories involved in employer 'wage theft'. Although it has been stated in many cases that 'the general principles relating to accessorial liability are settled', this article demonstrates that the operation of those 'settled' principles leave unresolved a number of difficult and important questions in the employment and wage theft context. Perhaps most critically, there is ongoing uncertainty as to whether the 'accessory' needs to be aware of the applicability of an award or enterprise agreement governing an employee's entitlements and, if so, what precisely they need to know about that award.

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Each year in Australia approximately 15,000 national system employees whose terms of employment are protected under the Fair Work Act 2009 (Cth) make an application for unfair dismissal remedy to the Fair Work Commission (FWC). This article reports on the findings of a study exploring why only 2% of those applications proceed to arbitration. The study sheds new light on the existing literature through the insights gained from unprecedented access to members (and the workings) of the FWC, as well as interviews with union and employer associations representatives, employers and applicants. The study finds that there is evidence to support the view that transactional/relationship conflict is more intractable and therefore dismissal decisions underpinned by those issues present more complex resolution challenges. However, understanding why some matters proceed to arbitration involves a series of factors including matters of policy, perceived questions of principle, emotion, unrealistic expectations, the attitude and conduct of the parties and whether reinstatement rather than compensation is being sought.

Organisational Co-Enforcement in Australia: Trade Unions, Community Legal Centres and the Fair Work Ombudsman

— *Eugene Schofield-Georgeson*

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With large-scale decline in union density and a shift away from collective bargaining towards 'enforcement', Community Legal Centres (CLCs) and the Fair Work Ombudsman have emerged as relatively new actors within the Australian labour law enforcement space. Their emergence, particularly that of CLCs, raises the prospect of increased competition for trade union membership as well as tension between a transactional, individualising emphasis on 'servicing', and a traditional collectivist, 'organising' and bargaining model of trade unions. This article draws upon recent research from the US, UK and Australia, to propose 'co-enforcement' or collaboration between organisations that represent workers, rather than competition and further fragmentation. It does so by reporting on the results of qualitative research interviews with senior officials from government, industrial relations and civil society organisations, canvassing their views on possibilities and strategies for organisational co-enforcement. The results are analysed through the theoretical frame of 'servicing' and 'organising'.

Case Note

Boundary Disputes: Employment v Independent Contracting in the High Court

— *Joellen Riley Munton*

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