Attachment A - Media coverage of the *Cornwell* decision

NEWSPAPER AND JOURNAL ARTICLES

	Details	Date
1	Former Public Servant in legal victory for his super Canberra Times	8 March 2005
2	Court adds $40m to federal super debt Australian Financial Review	7 June 2005
3	IN BRIEF Canberra Times	23 February 2006
4	PS retiree wins right to back pay on pension Canberra Times	9 May 2006
5	Government could be dreamin' The Australian Financial Review	13 June 2006
6	COURT TO HEAR PENSION APPEAL Canberra Times	2 September 2006
7	Pensions at Stake The Canberra Times	9 November 2007
8	RETIRED PUBLIC SERVANT SUES Canberra Times	16 February 2007
9	Fed Govt may have to compensate superannuation to former workers ABC Premium News (Australia)	20 April 2007
10	Highlights of the AAP National Wire at 14:45, April 20 AAP Newsfeed	20 April 2007
11	Fed: Retired spray painter wins High Court super battle AAP Newsfeed	20 April 2007
12	10-year legal stoush pays super dividend Weekend Australian	21 April 2007
13	Ten-year super spat pays off Weekend Australian	21 April 2007
14	Spray for "advice" on super The Gold Coast Bulletin (Australia)	21 April 2007

15	SUPER COURT VICTORY FOR BLUE-COLLAR BATTLER Canberra Times	21 April 2007
16	Worker's super backpay ruling The Advertiser (Australia)	21 April 2007
17	Super Review (Australia)	May 2007
18	Bashful millionaires may be risking all Weekend Australian	16 June 2007
19	Australia: Sting In The Tail – The Argyle Partnership Mondaq Business Briefing	12 October 2007
20	STAY VIGILANT, BECAUSE YOUR EMPLOYER WON'T Canberra Times	3 March 2009

MEDIA RELEASES

19	Cornwell Superannuation Case Senator the Hon Nick Minchin, Minister for Finance and Administration	20 April 2007

NEWSPAPER ADVERTISEMENTS

	Lost your Superannuation Rights? Snedden Hall & Gallop	6 May 2008
	Lost your Superannuation Rights? Snedden Hall & Gallop	September 2010

WEBSITE INFORMATION – Solicitors, Unions and Commonwealth agencies

	Former Commonwealth Government workers may have rights to super http://www.asu.asn.au/media/airlines_qantas/20070705_super.html	5 July 2007
	Have you been denied full superannuation entitlements? http://www.cpsu.org.au/issues/news/4358.html	23 October 2007
	Recent Successes http://www.sneddenhall.com.au/successes.asp	6 May 2008
	High Court Victory Could Provide Additional Super payouts for Workers http://www.alaea.asn.au/CMS/plainText/Notices/files/20080912_Cornwell%20Superannuation%20Case.pdf	12 September 2008
	Are You Owed Super? http://www.alliance.org.au/are_you_owed_super_?_/	21 November 2008

	CSIRO Public Statement: Commonwealth of Australia v Cornwell http://www.csiro.au/news/CSIROPublicStatement.html	September 2010
	Were you short-changed on super at the ABC? http://www.alliance.org.au/documents/101021cornwallupdate.pdf	22 October 2010

THE CANBERRA TIMES, Tuesday 8 March 2005 (page 5)

Former public servant in legal victory for his super

C.T. Tuesday 8-3-2005 (P.5)

By Roderick Campbell
Legal Reporter

A former Canberra public servant has won an important legal victory for himself, and possibly for many others, by convincing the ACT Supreme Court that he was negligently denied superannuation benefits for more than 20 years.

John Griffith Cornwell was told on Friday that he was entitled to the difference between his current superannuation entitlements and those he would have received had he joined the Commonwealth superannuation fund around 1966, rather than in 1987.

Mr Cornwell was employed as a spray painter at the old Department of the Interior bus workshop at Kingston, and its successors, from 1962 until his retirement in 1994.

Chief Justice Terence Higgins said Mr Cornwell and his workmates were told in the mid-1960s that because they were temporary "industrial" staff, they could not join the Public Service Superannuation Scheme.

It was not until 1987 that he was accepted into the scheme. By then he was a permanent foreman with the Department of Territories. He later transferred to the ACT Public Service.

After his retirement he discovered he should have been admitted to the scheme 30 years earlier. He then sued the Commonwealth for negligence and breach of contract.

The judge said that if Mr Cornwell and his colleagues had been declared to have been long-term employees, they could have joined the scheme in the 1960s. This, in fact, had been the situation since 1946.

Chief Justice Higgins was satisfied that Mr Cornwell was given incorrect advice from the outset. The general opinion conveyed to him and others was that "industrial" staff could not join the scheme.

The judge concluded that Mr Cornwell had established a case against the Commonwealth of negligent misstatement. He invited the parties to advise him of the extent of Mr Cornwell's economic loss.

The case has some similarities with one initiated late last year in which a retired federal public servant, Christopher Heyde, of Aranda, is suing the Commissioner for Superannuation for providing him with allegedly false and financially damaging information about his retirement benefits.

Similarly to Mr Cornwell, he is suing for negligent misrepresentation. The outcome of the case, which is likely to affect other retirees, could involve compensation worth hundreds of thousands of dollars.

Dow Jones & Reuters

Court adds $40m to federal super debt

AFNR000020050606e1670002l
News
Verona Burgess
452 Words
07 June 2005
Australian Financial Review
First
11
English
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A retired spray painter who was employed by the federal government has won a case in the ACT Supreme Court that could lead to between $20 million and $40 million in superannuation being back paid to thousands of former blue-collar public servants, adding to the government's woes over its superannuation liability.

The government is appealing a March 4 decision by ACT Chief Justice Terry Higgins that the retired public servant, John Griffith Cornwell, was wrongly told by his boss in 1965 that he was ineligible for the commonwealth superannuation scheme because he was a temporary blue-collar worker.

In the May budget the government admitted that Mr Cornwell's legal victory could lead to a federal liability of $20 million in the 2005-06 financial year or $40 million over four years.

"This is considered to be a test case for several hundred named potential plaintiffs," the budget papers said. "In addition, there is potential for more claims to arise from other former employees."

Justice Higgins ruled that Mr Cornwell should have been allowed to join the superannuation fund in 1965 because, although he was not classified as a permanent public servant, there was evidence that he was employed by the then Department of the Interior on an indefinite basis.

Under amendments to the Superannuation Act in 1942 and 1945, this made him eligible for the fund and his boss was negligent, although not guilty of deliberate concealment, in giving wrong advice.

It was not until 1987 that Mr Cornwell, who was hired in 1962, became a permanent public servant and was told he could join the scheme. He retired in 1994, by which time the old department had become part of the ACT government.

Justice Higgins ruled that the six-year statute of limitations did not apply because the breach of contract did not end in 1987 when Mr Cornwell became a permanent public servant. His loss occurred in December 1994 when he retired and he initiated the case in 1999.

Justice Higgins said his retirement benefit was worth less than it otherwise would have been.

The appeal to the full bench of the ACT Supreme Court was lodged in March but has not been listed for hearing. The case is not a class action, but it is understood the names of 260 people who are interested in the outcome have been provided to the federal government.

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Canberra Times

February 23, 2006 Thursday

IN BRIEF

LENGTH: 300 words

Challenge on super win A legal victory over superannuation rights for retired ''blue collar'' public servants is being challenged by the Federal Government in the ACT Court of Appeal. The Commonwealth is challenging a ruling by Chief Justice Terence Higgins that a retired public servant, John Cornwell, was wrongly advised about his superannuation entitlements during the 1960s and was excluded from the generous federal superannuation scheme for more than 20 years. The judge's ruling meant Mr Cornwall was entitled to the difference between his current superannuation entitlements, based on about seven years in the scheme, and those he would have received if he had joined the fund 20 years earlier. Robbery description Police have issued a description of a man wanted for holding up a Kambah supermarket while armed with a shotgun, and firing a shot, on Tuesday. Police said yesterday that no one was injured during the robbery of the Mannheim Street supermarket about 1.30pm. The robber was described as fair-skinned, aged 25-30 years and about 183cm tall. He had been wearing a black cap, dark sunglasses, a dark long-sleeved top, gloves, and dark tracksuit pants with a light stripe down the legs, and carrying a bag. Police have asked anyone who has information to call Crime Stoppers on 1800333000.

Poster competition Young people between the ages of six and 16 are invited to join the Australian Red Cross poster competition , the theme being ''One Red Cross, Many Faces''. Entries need to have an anti- discriminatory message in them and have to be submitted by April 18, the last day of the competition. Entries will be viewed at exhibitions across Australia and the winner will be announced on May 8. Further details of the competition can be found at www.redcross.org.au

LOAD-DATE: February 23, 2006

LANGUAGE: ENGLISH

ACC-NO: A2006022228-102BE-GNW

PUBLICATION-TYPE: Other

JOURNAL-CODE: WCTS

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Global News Wire - Asia Africa Intelligence Wire

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Canberra Times (Australia)

May 9, 2006 Tuesday
Final Edition

PS retiree wins right to back pay on pension

BYLINE: Roderick Campbell; Legal Reporter

SECTION: A; Pg. 8

LENGTH: 288 words

Many retired blue-collar public servants could benefit from a court ruling yesterday that a former government spray painter missed out on a generous pension because he was negligently misinformed about his superannuation rights.

John Griffith Cornwell, 67, should have received a pension based on nearly 30 years of service when he retired from the ACT Public Service in 1994.

Instead, because of wrong advice from his boss many years earlier, his entitlement was based on only seven years of relevant service.

The number of workers in a similar situation to Mr Cornwell is unknown but the case was seen as important enough by the Commonwealth - which is liable for any payout - for it to engage a high-profile Queen's counsel to represent it.

Mr Cornwell first won his case before Chief Justice Terence Higgins in 2004.

Yesterday, the ACT Court of Appeal unanimously dismissed the Commonwealth's appeal.

Mr Cornwell started work at the then department of the interior's Kingston bus depot in 1962 as a tradesman.

In 1965, he asked his boss if he could join the superannuation scheme.

He was told that as a temporary or industrial worker he could not, although his supervisor said he would see what he could do.

Mr Cornwell heard no more and assumed he was ineligible.

In 1987, his job was made permanent and he joined the scheme.

It was only in 1994, when he inspected his personal file, that he discovered he could have joined years earlier.

Since the 1940s, many so-called industrial workers with five years service and

long-term employment prospects were admitted to the scheme. Over the years, there had been a number of circulars from Treasury making it clear that people like Mr Cornwell could join the scheme. But he was never told this.

LOAD-DATE: May 8, 2006

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Papers

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The Australian Financial Review

June 13, 2006 Tuesday

Government could be dreamin'

BYLINE: Fleur Anderson

SECTION: ABIX NEWS SUMMARIES; Pg. 5

LENGTH: 148 words

ABSTRACT

A "David and Goliath" test case may be fought in the High Court of Australia, later in 2006. The Australian Government has vowed to take on a retired spray painter, John Cornwell. He has already successfully legally argued that he was wrongly told by his boss in 1965 that he was not eligible for the Australian Government superannuation scheme. He was temporarily employed as a tradesman at the Kingston bus depot in Canberra at the time. Cornwell retired in 1994. In 2005, he won his case in the Supreme Court of the Australian Capital Territory, and he won again there after an Australian Government appeal. He stands to gain millions in back-paid superannuation, and the case may be used by other blue-collar workers The following companies were referenced in the original article /HIGH COURT OF AUSTRALIA/SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY/SNEDDON HALL AND GALLOP.

LOAD-DATE: July 28, 2006

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Abstract

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Canberra Times

September 2, 2006 Saturday

COURT TO HEAR PENSION APPEAL

LENGTH: 178 words

The pension rights of an unknown, but probably significant, number of retired blue- collar public servants will be debated in the High Court early next year.

Yesterday, the court granted special leave to appeal to the Commonwealth against rulings by the ACT Supreme Court and the ACT Court of Appeal favouring a retired Canberra man who says he was wrongly denied access to superannuation for more than 20 years.

John Griffith Cornwell scored a victory for himself and others when the Supreme Court ruled last year that he was entitled to the difference between his current pension entitlements and those he would have received if he had been able to join the Commonwealth superannuation scheme in 1966 rather than 1987. As temporary industrial employees - Mr Cornwell worked in the ACT bus workshops - he and his workmates were told they could not join the scheme.

The Commonwealth appealed unsuccessfully to the Court of Appeal, claiming the claim for compensation was made out of time, that is, more than six years after any financial loss. - Roderick Campbell

LOAD-DATE: September 1, 2006

LANGUAGE: ENGLISH

ACC-NO: A200609011F-12344-GNW

PUBLICATION-TYPE: Other

JOURNAL-CODE: WCTS

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Global News Wire - Asia Africa Intelligence Wire
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Financial Times Information Limited

Curatorial assistant Rowan Henderson, who selected the pieces from Mr Richard's "incredible" collection, said they were priceless.

"The stories that are attached are the real value for us, and it's great to have these available for all Australians to come and see," she said.

Mr Richards was a cricket administrator and businessman who received the Australian Sports Medal in 2000 for services to the game.

Cup drivers nabbed

One driver blew four times the legal limit and one in 100 tested positive for drink-driving in a post-Melbourne Cup crackdown across Canberra on Tuesday night.

ACT Policing reported 16 positive drink-driving results from 1595 tests.

ACT Policing Traffic Operations Sergeant Ron Melis said he was disappointed drivers continued to take risks despite the odds being stacked against them.

"The highest reading by a driver was .205," he said.

Police said they also responded to a number of fights, but a spokesman said it was "typical stuff" for such an event.

WA minister sacked

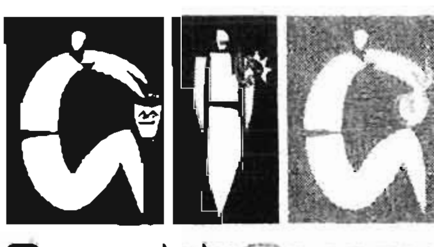
A West Australian Labor minister has been sacked from cabinet after the state's corruption watchdog revealed explosive evidence of secret dealings he had with disgraced former premier Brian Burke. Small Business Minister Norm Marlborough had been asked to resign as a result of yesterday's revelations in the Crime and Corruption Commission, Premier Alan Carpenter said last night.

Pensions at stake

The High Court has reserved its decision in a case which could decide the pension entitlements of thousands of retired blue-collar public servants. The Commonwealth asked the court to overturn decisions by the ACT Supreme Court and the Court of Appeal which cleared the way for John Griffith Cornwell, a former Canberra public servant, to obtain a retirement pension considerably more generous than the one he now has.

The Canberra Times 9 NOV 2006
p.8

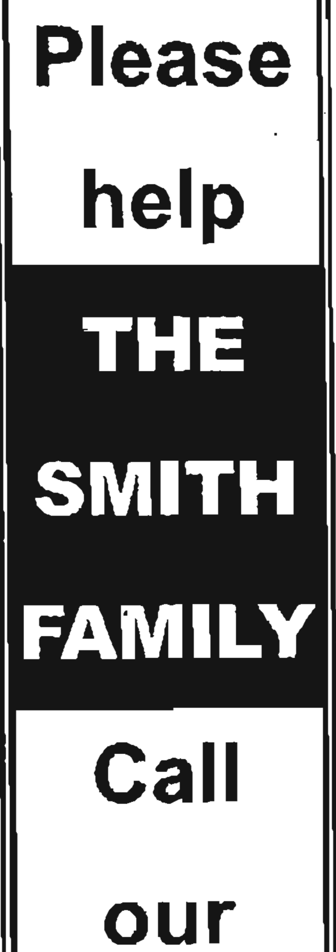
presents



freelunchtime concerts

Thursdays and Fridays 12-2pm
Garema Place, Canberra City

THIS WEEK AT GROOVIN' IN GAREMA



Canberra Times
16/02/2007
Page: 7
General News
Region: Canberra Circulation: 35715
Type: Capital City Daily
Size: 108.28 sq.cms
MTWTFS-

Retired public servant sues

By Roderick Campbell

A second retired public servant has sued the Commonwealth for negligently excluding him from its generous superannuation scheme for more than 10 years.

Like an earlier claim from another retiree – involving more than 20 years of pension entitlements – Martin John Guy's claim, if successful, could benefit a large number of former public servants.

Mr Guy, of Queanbeyan, was employed by the Department of Administrative Services for 16 years. As a temporary employee, he was told by his manager that he could not join the Commonwealth Superannuation Fund.

More than 10 years later, in 1995, Comsuper told him he could join the scheme. He retired in 2000.

The difference between a pension based on five years' service and one based on 15 years would be substantial.

Mr Guy has lodged a claim for damages plus interest with the ACT Supreme Court. He says the Commonwealth knew, or should have known, that staff were unaware or confused over the eligibility of temporary staff to join the fund. He claims it would be unconscionable for the Commonwealth to now argue his claim was out-of-time, given it had done nothing for many years to pass on correct advice.

Mr Guy's lawyers sued just days before the sixth anniversary of his retirement. They are expected to argue that the six-year time limit in which to sue counts from the date Mr Guy first suffered a financial loss, that is, when he retired.

Last year, the ACT Court of Appeal ruled another retired public servant, John Cornwell, could sue for 20 years of forfeited pension rights because he had wrongly been told that, as a so-called industrial employee at the Kingston bus depot, he could not join the superannuation scheme.

The court said the six-year limitation period was to be counted from the time Mr Cornwell first suffered a financial loss. The High Court will soon hear a Commonwealth appeal against that ruling.

Ref: 26441960

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ABC Premium News (Australia)

April 20, 2007 Friday 10:00 PM AEST

Fed Govt may have to compensate superannuation to former workers

LENGTH: 152 words

The Federal Government says it may have to compensate former Commonwealth employees for unpaid superannuation entitlements after a ruling by the High Court.

It took more than 40 years, but John Cornwell today discovered he was entitled to join the Commonwealth super scheme when he started work for the government in the 1960s.

"If I'd have had to walk away this morning with nothing, well everyone else would have had to walk away behind me, where as I've won it and I'm happy," he said.

The High Court ruled he had been given the wrong advice by his boss.

His lawyer Richard Faulks says the Federal Government will now have to pay him the benefits he would have been entitled to if he had paid super until his 1994 retirement.

"It'll be a significant sum, well in excess of $100,000," he said.

The Government says it may take some time to process his claim and any others which may arise as a result of today's decision.

LOAD-DATE: April 21, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newswire

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AAP Newsfeed

April 20, 2007 Friday 2:46 PM AEST

HighLights of the AAP National Wire at 14:45, April 20

SECTION: DOMESTIC NEWS

LENGTH: 575 words

HIGHLIGHTS NATIONAL

CANBERRA - The National Farmers' Federation is holding emergency talks with the federal government to address the water crisis in the Murray-Darling Basin. (Water NFF to come. Water Nightlead, Backgrounder to come.)

MELBOURNE- The Murray-Darling Basin's water crisis has reignited the debate about whether Australia's drought is the result of global warming. (Climate Flannery Backgrounder)

SYDNEY - Prime Minister John Howard has officially opened Australia's new $400 million nuclear research reactor in Sydney. (NUCLEAR OPEN. N/L to c ome)

SYDNEY - Radio broadcaster Alan Jones has been handed a nine-month good behaviour bond and a $1,000 fine for naming a juvenile witness in a murder trial. (Jones. N/L to come)

BRISBANE - An unmanned yacht found drifting off the north Queensland coast had computers running and even food on a table ready to eat - but no crew, puzzled emergency services say. (Yacht. N/L to come.)

BRISBANE - A Brisbane retirement village has shut its dining room and other community facilities following an illness which hospitalised three people and left four others sick. (Gastro. N/L to come.)

MELBOURNE - A major aged care body in Victoria is calling for an end to the speculation surrounding the controversial Broughton Hall nursing home. (Home. N/L to come.)

SYDNEY - A former pest controller who stole nearly 200 specimens from the Australian Museum in Sydney has been jailed for at least five years. (VanLeeuwen. N/L to come.)

MELBOURNE - Car manufacturer Ford has offered one of its key parts suppliers more than $500,000 as part of a rescue packaged aimed at keeping the supplier operating for the next 60 days. (Ford. N/L to come.)

CANBERRA - The High Court has upheld a decision that a Canberra man was financially disadvantaged by superannuation advice given to him by his boss in 1985. (Cornwell)

MELBOURNE - Shares in

Beaconsfield Gold NL

have restarted trading today, after a suspension lasting about a year. (BEACONSFIELD to come)

BRISBANE - Australia takes on New Zealand in the one-off rugby league Test tonight. (League Aust Nightlead with sidebars to come)

more

Queensland Health is investigating a confirmed case of tuberculosis (TB) involving a health worker at the Gold Coast Hospital. (TUBERCULOSIS. N/L to come)

BRISBANE - A student's disicrimination case against the Queensland government for being refused early entry into high school has been defeated (GIFTED to come)

PERTH - A fourth man has been charged with child sex offences at a remote West Australian Aboriginal community where the young girls allegedly abused by paedophiles include a three-year-old. (Sex)

PERTH - A woman died after a three-wheel motorbike she was riding for the first time crashed north of Perth. (Toll WA)

HOBART - Claims a battery hen farm was tipped off before a raid by RSPCA officers over animal cruelty should be investigated, the Tasmanian Greens say. (Hens)

ADELAIDE - Self-confessed terrorism supporter David Hicks will abide by his American plea deal and not speak to the media for a year, says his US military lawyer. (Hicks Nightlead)

ADELAIDE - A 29-year-old man has been charged with the murder of George Siahamis who was gunned down outside his parents' Adelaide home earlier this week. (Siahamis)

ADELAIDE - Prime Minister John Howard says enough water will be left in the Murray-Darling Basin to ensure basic water supplies for Adelaide, even if the drought continues. (Water Howard SA)

LOAD-DATE: April 20, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newswire

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AAP Newsfeed

April 20, 2007 Friday 6:08 PM AEST

Fed: Retired spray painter wins High Court super battle

BYLINE: Peter Veness

SECTION: DOMESTIC NEWS

LENGTH: 313 words

DATELINE: CANBERRA April 20

A retired spray painter has won a landmark High Court case that may leave the federal government with a large and unexpected superannuation bill.

John Griffith Cornwell was working at a Canberra bus depot in 1965 when his manager allegedly told him he was not entitled to join a super fund because he was only working part-time.

Today the High Court found, by 6-1, that Mr Cornwell had been financially disadvantaged by the incorrect advice.

Finance Minister Nick Minchin said the government would now look at how to deal with other potential claims.

"The Australian government will now consider how to handle claims from other temporary staff who did not contribute to government superannuation schemes because they were told incorrectly that they were not eligible," Senator Minchin said in a statement.

"It will take some time for the government to assess the implications of the High Court's decision and how to deal with any other claims.

Senator Minchin said the government would pay Mr Cornwell's court costs but damages are yet to be assessed.

Had Mr Cornwell joined the super fund in 1965, he would have been entitled, after 29 years of contributions, to a pension of 44.1 per cent of his final salary.

But because he did not join a fund until he was given full-time employment in 1987, Mr Cornwell had only seven years' contributions which entitled him to a pension of just 12.6 per cent of his final salary.

The commonwealth argued in its appeal that Mr Cornwell had failed to act on the negligence within the required six years because the loss had been suffered in 1976, not 1994 when he retired.

But the court rejected the argument, saying the loss only became real when Mr Cornwell had access to his superannuation when he retired.

In the only dissenting judgment, Justice Ian Callinan said there were too many

variables in Mr Cornwell's claim for it to be upheld.

LOAD-DATE: April 20, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newswire

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9 of 18 DOCUMENTS

Weekend Australian

April 21, 2007 Saturday
All-round First Edition

10-year legal stoush pays super dividend

BYLINE: Sarah Elks

SECTION: LOCAL; Pg. 4

LENGTH: 382 words

JOHN Cornwell has never seen the movie The Castle but he has been told his legal battle in the High Court is remarkably reminiscent of that of the film's hero, Darryl Kerrigan.

In a case of life imitating art, the 68-year-old grandfather from the ACT yesterday won a decade-long stoush against the territory and federal governments.

In this story the hero wasn't saving his house, he was saving his superannuation.

The High Court ruled Mr Cornwell was entitled to more than 20 years of superannuation back-pay after he was given incorrect advice by his boss in 1965, who told him he was not entitled to join the Commonwealth Super Fund. It wasn't until 1987 that he finally joined.

According to his legal team, Mr Cornwell will soon recoup about $200,000 in lost superannuation entitlements.

Surrounded by his grandchildren at his home near Canberra yesterday, Mr Cornwell said he had never considered giving up, despite the lengthy legal contest.

''A friend of mine told me after the first court case that it sounded like The Castle,'' Mr Cornwell said.

''I haven't seen it before, but I'm starting to think I should go out and rent it.

''I was slightly discouraged each time we went to court, but my family have been wonderfully supportive throughout the whole thing. I just kept my hopes up and went on with it. I wanted justice and thought I might as well keep going and see what happens.'' Mr Cornwell said he would easily fill his time now that the legal battles had ceased.

''I'll just carry on the same as I always have: gardening and working on my

hobby cars,'' he said.

''I've also got seven grandchildren -- five boys and two girls -- so no doubt they'll keep me busy.''

In 1965, Mr Cornwell was working as a spray painter at a Canberra bus depot and, despite being employed full-time, was classified as a temporary employee.

His manager, Nelson Simpson, allegedly told him he was not eligible to join the Commonwealth Superannuation Fund because he was not a permanent employee.

In 1987, more than 20 years after his original request, Mr Cornwell's employment status was redefined and he joined the superannuation scheme.

When he retired in 1994, he was entitled to superannuation of only 12.6 per cent of his final salary instead of the 44.1 per cent he would have received had he joined in 1965.

LOAD-DATE: April 21, 2007

LANGUAGE: ENGLISH

MATP

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: AUS

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Weekend Australian

April 21, 2007 Saturday
All-round Country Edition

Ten-year super spat pays off

BYLINE: Sarah Elks

SECTION: LOCAL; Pg. 3

LENGTH: 260 words

JOHN Cornwell has never seen the movie The Castle but he has been told his legal battle in the High Court is remarkably reminiscent of that of the film's hero, Darryl Kerrigan.

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LANGUAGE: ENGLISH

MATP

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: AUS

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The Gold Coast Bulletin (Australia)

April 21, 2007 Saturday
Main Edition

Spray for 'advice' on super

SECTION: Pg. 19

LENGTH: 245 words

THE High Court has upheld a decision that a Canberra man was financially disadvantaged by superannuation advice given to him by his boss in 1965.

John Griffith Cornwell was working part-time as a spraypainter at a Canberra bus depot when his manager, Nelson Simpson, allegedly told him he was not entitled to join a super fund because he was only working part-time.

On March 6, 2005, the ACT Supreme Court found the Commonwealth was negligent because of the superannuation advice Mr Simpson had allegedly offered Mr Cornwell.

The Federal Government appealed to the High Court but yesterday the court voted down the appeal 6-1.

Had Mr Cornwell joined the super fund in 1965, he would have been entitled, after 29 years of contributions, to a pension of 44.1 per cent of his final salary.

But because he did not join a superannuation fund until he was given full-time employment in 1987, Mr Cornwell had only seven years' contributions which entitled him to a pension of just 12.6 per cent of his final salary.

The Commonwealth argued in its appeal that Mr Cornwell had failed to act on the negligence within the required six years because the loss had been suffered in 1976, not 1994 when he retired.

But the court rejected the argument, saying the loss only became real when Mr Cornwell had access to his superannuation when he retired.

In the only dissenting judgment yesterday, Justice Ian Callinan said there were too many variables in Mr Cornwell's claim for it to be upheld.

LOAD-DATE: April 22, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

21 April 2007

esieged Pratt amid public slanging match

lise golf near Woden cemetery. Mr Stefaniak said ACT Policing should also investigate Minister for ...itory and Municipal Services ... Hargreaves, who refused to ...n Mr Pratt about the ...sequences of removing the ...ork.

Mr Pratt issued several media ...ases warning that he was going to ...over the piece if the ACT Govern... did not and Mr Hargreaves ...d to warn him that the piece was ...pproved work — had he done so, it's clear Mr Pratt would not have proceeded," he said.

Mr Stefaniak said Mr Hargreaves knew that the site had a legal mural and of Mr Pratt's intentions.

"Why didn't Mr Hargreaves pick up the phone and call Mr Pratt to give him this information?" he said.

Mr Stefaniak agreed that Mr Pratt had used all reasonable avenues to check whether he was acting in an appropriate and legal manner.

Sticking to his community-minded guns during the week, Mr Pratt shrugged off a range of criticism and claimed that he would remove more graffiti from the Isabella bridge at Eddison Park.

This has triggered a flood of calls to local radio, with people inviting Mr Pratt to come and clean up graffiti in their neighbourhood.

An unknown graffiti artist also paid him an artistic complement by spraying "Thanks Steve" on the blank wall where the mural existed.

Yesterday's bickering provoked an immediate response from Mr Hargreaves, who said Mr Stefaniak was defending his colleague's actions.

Mr Hargreaves – who claimed it was not his responsibility to warn fellow MLAs about illegal activities – said he did indirectly warn Mr Pratt through radio and newspaper interviews.

The public spat then descended further, with Mr Hargreaves asking if the Liberal leader advised Mr Pratt about the consequences of the political stunt on the Isabella bridge at Eddison Park.

"The real question has to be: did the shadow attorney-general and former public prosecutor give Mr Pratt any advice? If he did advise Mr Pratt that he may be engaging in vandalism, did Mr Pratt ignore the advice of his leader?"

The club has no plans to replace the original mural painted by a local graffiti artist affectionately known as "Dan the man" and featuring a man playing disc golf.

Super court victory for blue-collar battler

Roderick Campbell

...ired blue-collar worker John ...nwell has won a victory for ...self and possibly thousands of ...ers in a test case on pension ...ts which his lawyers say took real ...s to fight.

After an 11-year legal battle, ...year-old Mr Cornwell, of Queanbeyan, won a comprehensive victory ...he High Court yesterday over the ...ommonwealth.

Of the 11 judges who have considered his case since 2004, 10 have ...ed with him.

The retired spray painter will now ...entitled to an annual pension of ... per cent of his final salary, rather ...n the 12 per cent he gets now.

The case affects the pension rights ...long-term temporary and so...led industrial public-sector ...ployees who were unable to join ...lucrative Commonwealth Superannuation Scheme.

After saying he was "very, very happy" with the result, Mr Cornwell ...d The Canberra Times, "I think I ...erved a lot in this – achieved for ...self and I feel I achieved for the ...ers who didn't get their super.

"The battle was a long hard one. ...I got there. I think it's good that ...eone brought [the issue] to a ...d," he said.

Mr Cornwell should have been ...itted to join the pension scheme ...1965, rather than 29 years later.

As a result, his pension was ...culated on the basis of just seven ...rs in the scheme.

While the result might mean tens ...thousands of dollars to Mr Cornwell, the cost to the Commonwealth ...e sharply when it realised there ...y more than 200 claimants in a ...ilar position in the ACT.

It is understood that there might ...thousands of potential claimants ...tralia-wide and that the Commonwealth has earmarked hundreds ...millions of dollars to compensate ...m if it lost the High Court case ...terday.

Mr Cornwell's lawyer, Richard ...lks, said his client was never ...de a settlement offer during the ...years the case had been running.

FAIR GO: Ronda and John Cornwell, of Queanbeyan, are "very, very happy" to have won the case. Picture: VICKY WILKEY

It was Mr Cornwell's own "little castle", he said, a reference to the movie The Castle which featured a battler also winning against powerful opposition in the High Court.

Mr Faulks hoped the Commonwealth would now settle the remaining side of the case without the need to return to court.

The only blue-collar workers who could take advantage of yesterday's decision are probably those still in the workforce, those who had retired in the last few years, or those who had commenced legal action within six years of retiring.

Yesterday's decision upheld previous rulings that Mr Cornwell's right to sue for lost pension rights did not expire until six years after he retired and commenced receiving a lesser pension.

The Commonwealth had unsuccessfully argued that the six-year period began many years earlier, when he was first allegedly misinformed about his rights.

Jones gets conviction, but no jail

Throughout his broadcasting career, Alan Jones has been many things to many people.

Now he is a convicted criminal.

The Sydney breakfast "shock jock" avoided a prison sentence, but was convicted yesterday, placed on a nine-month good-behaviour bond and fined $1000 for broadcasting the name of a juvenile witness in a murder trial in 2005.

He had pleaded not guilty to the charge, but admitted to the court he had made a mistake in naming the boy, who was 14 at the time of the murder and 16 during the trial, on his morning program on Sydney radio station 2GB.

SHOCK JOCK: Alan Jones was fined $1000.

Deputy Chief Magistrate Helen Syme said it was a serious offence and noted Jones and 2GB's licensee Harbour Radio had not expressed any contrition or apologised to the teenager until she found them guilty last month.

"This is not a trivial offence, this is a serious offence," Ms Syme told Downing Centre Local Court.

But she said Jones's breach had been relatively minor and it did not warrant the maximum penalty of 12 months in jail and a $5500 fine.

Jones, who had previously avoided a criminal conviction in two contempt of court matters, will appeal against the judgement.

"We're disappointed," he said outside the court.

"I accept the judgement of the court, as I always will, but the legal people advising me will have to now go through the detail of what was said and determine at some point today whether any other course of action is available to us."

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The Advertiser (Australia)

April 21, 2007 Saturday
Metro Edition

Worker's super backpay ruling

BYLINE: PETER VENESS, CANBERRA

SECTION: NEWS; Pg. 24

LENGTH: 144 words

A RETIRED spray painter has won a landmark High Court case that may leave the Federal Government with a large and unexpected superannuation bill.

John Griffith Cornwell was working at a Canberra bus depot in 1965 when his manager allegedly told him he was not entitled to join a super fund because he was only working part-time.

The High Court yesterday found that Mr Cornwell had been financially disadvantaged by the incorrect advice.

Finance Minister Nick Minchin said the Government would look at how to deal with other potential claims.

Senator Minchin said Mr Cornwell's court costs would be covered but damages were yet to be assessed.

Had Mr Cornwell joined the super fund in 1965, he would have been entitled, after 29 years of contributions, to a pension of 44.1 per cent of his final salary.

He did not join a fund until he started fulltime employment in 1987.

LOAD-DATE: April 21, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

JOURNAL-CODE: ADV

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Super Review (Australia)

May 2007

BYLINE: Mike Taylor

LENGTH: 182 words

A High Court victory last month by a retired Commonwealth public servant over his eligibility to participate in the Commonwealth Superannuation Scheme (CSS) has seen the CSS invite other public servants to contact the Department of Finance and Administration to stake any similar claims.

In a bulletin to members, the CSS states that on April 20, 2007, John Cornwell, a retired Australian Government employee, won a claim in the High Court on the basis that he should have been allowed to join the CSS from a much earlier date than he actually was, and was therefore entitled to a higher pension.

It goes on to say, "This is a matter for the Australian Government, and the Department of Finance and Administration has asked us to advise members what to do if you believe you are in a similar situation to Mr Cornwell".

The CSS bulletin said that if members thought they were similarly affected they should direct enquiries to the Department of Finance and Administration.

"The Department of Finance and Administration advises that it is setting up processes to deal with and assess claims," it said.

LOAD-DATE: May 23, 2007

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Magazine

JOURNAL-CODE: SR

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Weekend Australian

June 16, 2007 Saturday
All-round Country Edition

Bashful millionaires may be risking all

BYLINE: BINA BROWN

SECTION: FINANCE; Buyer Beware Wealth; Pg. 42

LENGTH: 751 words

BUYER BEWARE

A STARTLING number of people who have surprised their financial adviser with a spare million dollars to put into superannuation may have been carrying an unnecessary level of risk.

According to Macquarie Adviser Services, in the past three months at least 20 people have presented with $1 million each, with a view to putting it into superannuation before the end of the financial year.

The rush is on because, following changes announced in last year's federal budget, there is a relatively small window of opportunity for people to make after-tax contributions of up to $1 million to their super before the limit is tightened to $150,000 a year.

An estimated $100 billion is expected to flow into superannuation following the move to remove the tax burden on super benefits but the number of people 60 or older an apparent lazy million has surprised even the folk at Macquarie.

By law, advisers must seek information from their clients, including all their assets and liabilities, to ensure they give the best financial advice possible.

As the current super changes are proving, however, the picture some advisers have been getting from their clients is only as clear as the clients are prepared to make it.

Anecdotal evidence from several advice firms is that it is not uncommon for clients to avoid disclosing everything.

Reasons range from people wanting to retain control to them not agreeing with what an adviser has to say.

We are not talking about $10,000 being secretly stashed in an undisclosed bank account, but $1 million in either readily available cash, or property, which advisers are only just learning of.

Peter Bobbin, a senior partner with lawyer Argyle Partnership, says it may not be such a bad thing that people are withholding information from advisers, but they should ask themselves why they are doing it.

''It is plain OK to hold something back, but understand what it means,'' Bobbin says.

''If it is the Aussie cynicism saying they're not going to tell anyone everything, that is a client's prerogative.

''Clients are entitled to make mistakes, but they might be reducing their own capacity to seek remedy when they might need it.''

If an adviser tips certain asset allocations based on the information they are given and a client does something else -- such as putting $1 million into super without telling the adviser -- and the client suffers as a result of, say, the money being locked away when they need it, there is no protection.

A current analogy of where an adviser may be useful is the people who invested in the collapsed property group Westpoint through a financial planner. They may have potential for redress through the Financial Industry Complaints Service.

Those who didn't go through a planner have nowhere to turn, except possibly their own costly and lengthy legal battle. Bobbin says superannuation has a ''long tail'' and it is highly likely that people may end up with less than they had expected and will look for someone to blame.

Take John Cornwell, a retired Australian government employee.

He recently won a claim in the High Court on the basis that negligent advice he received in 1965 about joining the Commonwealth Superannuation Scheme (in this case it was given by his manager), meant he was entitled to a higher pension.

That case has opened the gate for further claims.

As Bobbin puts it: ''The know-your-client rule in the Corporations Act is a cornerstone in the provision of financial services, which applies throughout any client relationship.

''It is also the measuring stick by which a claim for negligence can be assessed,'' but advisers can only ask so many questions.

It begs the question: why bother getting advice from someone if you're not going to give them the full picture?

Either you trust an adviser with what is essentially personal and critical financial information -- and therefore are seeking advice based on the whole picture -- or you don't.

Given that there are a couple of aspects to financial planning -- the big ones being structural, investment and estate planning -- it is hard to see how any plan could exist without a full picture.

If you do not like the advice you are being given it is your prerogative not to take it.

You are in the driving seat.

If you have told an adviser everything they need to know and in years to come the recommendations turn out to be negligent, you might at least have a case to present.

Not telling them everything they need to know means that you carry the risk yourself.

binab@mediamatters.com.au

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Mondaq Business Briefing

October 12, 2007

Australia: Sting In The Tail - The Argyle Partnership

BYLINE: By Peter Bobbin

LENGTH: 1274 words

What exactly is adequate

compensation? Many people will respond that it is the requirement under section

912B of the Corporations Act for an Australian Financial Services Licensee to

have in place a system of compensation for aggrieved and affected clients.

It complements the

risk-management systems and compliance practices critical to the licensing

requirements of a financial services business in Australia.

Central to adequate

compensation is the professional indemnity insurance policy.

In its August 2002 report

to the Senate on the state of the PI market in Australia at that time, the Financial

Planning Association declared that the PI problem had "reached crisis point".

It took some time for

premiums to return to more normal levels, but the crisis still exists, and it

has become personal. Not too many people are aware of this.

I have long been an

advocate for proper professional insurance, but all too often, premiums drive an

adequate compensation decision. But who is it adequate for?

Consider the following

scenario. An adviser had been servicing clients since the late 1980s. Over that time, he saw the client's family grow up while the client grew old. Changes to dealer structures, especially the frenzied takeover days of the early 2000s, saw the adviser's business card updated from time to time with each new dealer principal. Throughout this time, the only constant was the adviser's client base.

The superannuation and
retirement plans put into place in those early days provided the client with confidence
for a future financial retirement. But then he died, too young to enjoy the lifetime efforts and generation of adviser support.

The widow was grateful for
the nest egg that had built up, that was until her university-educated daughter pointed out that the recommendations from the early years had affected the value of the nest egg. It wasn't big enough, and it could have been bigger, she claimed.

The lawyer was only too
happy to accept the brief. The statement of claim ran for many pages - it had to - not only was the adviser named as first defendant, but so too were each of the dealer groups that spanned the years.

The negligence claim dated
from the early 1980s but was said to be refreshed with each new dealer group - on "adoption" of the client the new dealer should have assessed the financial facts and circumstances, and if it had done so, the loss would not have occurred or continued.

Some dealer groups were
self-insured. Others enjoyed deductibles of $500,000. One passed the claim to their PI insurer.

In the first grouping of
dealers, no one was willing to take on the claim. There was a slim hope that

one would come forward but until then the claim had to be managed. The adviser paid out close to $45,000 to her solicitor to manage the fiasco.

Many felt the claim was

spurious. All felt relieved that the claim exceeded the Financial Industry Complaints Scheme limit. That is, all but the adviser, who kept paying for the solicitor to attend yet another frustrating court appearance that was adjourned again to allow the plaintiff to readjust her pleadings.

What is adequate

compensation?

When looked at from the

perspective of the adviser, it is a PI policy that will respond at the time of need, and this raises the question of who is insured.

The law imposes the client

liability upon the licence holder - so it needs to be insured. This leads to the dealer selecting the PI insurance.

When claims are rare and

margins are squeezed, the premium cost plays an important role in the PI selection

process. This is where large deductibles result in useless insurance; the insurance company does not need to respond to a claim that is less than the first amount that the dealer has agreed it will be liable to pay.

This is where the

dealer-rep agreement comes into the equation. The dealer may have a large deductible

so as to keep premiums down and because the dealer-rep agreement presses the liability

upon the representative. That means the adequate compensation provisions of the law for the consumer are satisfied, but the adequate compensation needs of the adviser are not satisfied!

In our scenario, after

months of haggling, an insurer finally took responsibility for the claim. Others

still denied any liability: some because they said that their policies operated only on a claimsmade basis, or that the run-off cover had expired.

What surprised the adviser

the most was that the claim arose out of facts that occurred 20 years ago.

Isn't there some policy

rule that says claims do not survive a prescribed period? Hadn't the facts supporting

the claim gone legally stale? Yes, that is the general rule, but the courts can be inventive, as was again demonstrated very recently by the High Court's April 2007 decision of Commonwealth of Australia v Cornwell.

The Cornwell case

What was complained of in

Cornwell's case was that the commonwealth was vicariously liable for the advice that a superior gave him. In reliance upon that advice, he had lost the opportunity of joining the Commonwealth Superannuation Fund on and from May 8, 1965, and in consequence, upon his retirement on December 31, 1994, received a lesser benefit than that which he would have received had he been admitted to the Fund on and from May 8, 1965.

The Cornwell case, even

though it was dealing with a 30-year-plus claim of negligence, was a bland decision.

It centred upon when the claim of Cornwell first started to run. It was accepted that he had received bad advice and that the result of the advice was less superannuation in retirement.

It was also accepted that

limitation laws applied to limit the time that the claim could remain outstanding. The only question was when the limitation principle began. Was it in 1962 when he started employment, 1965 when he qualified for better superannuation that was not taken up, or from 1987 when he became a permanent public servant? Any of these years would have resulted in his claim going

stale.

Continuing crisis on PI

insurance

The principle in the

Limitation Act was that an action on any cause of action is not maintainable if brought after the expiration of a limitation period of six years running from the date on which the cause of action first accrues to the plaintiff or to a person through whom he or she claims.

When addressing the

commencement point, the High Court said: "to show the existence of a completely constituted cause of action in negligence, a plaintiff must be able to show duty, breach, and damage caused by the breach; accordingly, in the ordinary case, it is at the time when that damage is sustained that the cause of action 'first accrues' for the purposes of a provision such as s11 of the Limitation Act".

In other words, the High

Court said that the limitation principles started to run only from the day that he could first have been aware of a loss. This was the day that he retired from work, on December 31, 1994. He therefore had until December 31, 2000, to lodge a claim. He did so in November 1999.

There is a continuing

crisis on PI insurance in the Australian financial services profession.

The facts of our adviser

scenario are true and the Cornwell case supports them. It must now be understood that super claims have a long tail and can lie in wait for decades before raising their heads to strike.

If the scenario were to

happen when our adviser retired, perhaps there would be no PI insurance for the adviser to fall back upon.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

The Argyle Partnership - Lawyers

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AUSTRALIA

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Canberra Times

March 3, 2009 Tuesday

STAY VIGILANT, BECAUSE YOUR EMPLOYER WON'T - [SUPERANNUATION DARYL DIXON]

LENGTH: 846 words

A ggrieved former public servants have, over time, complained to the Informant that they were wrongly informed or not advised about the superannuation benefits available to them. The issue for many is information about the benefits of preserving CSS and PSS benefits until the age of 55 in order to gain access to pension benefits.

Other concerns, as evidenced by the High Court's decision in favour of John Cornwell, relate to temporary employment. Cornwell was a temporary employee in 1962 when he was incorrectly refused access to the CSS. There have been many such instances over the years, particularly affecting tradespeople working for the Commonwealth and for public enterprises.

Affiliates of the ACTU and the Slater & Gordon law firm are working to progress the potential claims of union members employed on a temporary basis for lost super benefits. This approach is being developed on two fronts: investigating options for a class action against the Commonwealth; and negotiating with the Government towards a possible settlement.

Unions are informing their members about this initiative and, where relevant, are asking individuals to provide information to Slater & Gordon. While this is largely a case of shutting the gate after the horse has bolted, present and past public servants have a vested interest in ensuring a fair settlement for all disadvantaged former employees.

The case is a timely warning for all CSS and PSS members that their employers don't necessarily share their objectives.

CSS and PSS membership may be available to employees, but this doesn't mean their employers will assume any responsibility to help them optimise the value of the superannuation benefits available to them.

Over a long period of time, the Commonwealth, as an employer, has done little to ensure that CSS and PSS members are fully aware of their super funds' benefits. An example was the lack of information about the potential value of the preserved benefit (54 years and 11 months resignation option) given to CSS members in 1990 and 1996, when all employees had the option to transfer to the PSS.

Similarly, until June 2005, when the PSS was closed to new members, employers

made little effort to tell staff who were receiving the compulsory 9 per cent contribution to funds such as AGEST of their right to join the PSS. The losers were the employees, who missed out on receiving PSS's higher benefits, including free death and disability cover. Now that the CSS and PSS are closed to new members, the onus is entirely on members of those two funds to ensure they protect their own interests. This requires these members to stay vigilant to ensure the best possible accrual of benefits in their fund. The task is easier for PSS members, because only two variables need to be considered in increasing the employer contribution to their fund. These are the member contribution rate and the final average salary at the time of exit. The employer subsidises all the investment risk for serving members, and poor investment performance has no impact on the final pay-out.

Contributing at the maximum rate of 10 per cent and exiting after a birthday will, for example, significantly increase the total benefit provided by the PSS for two reasons. The first is the increased employer subsidy for extra employee contributions after 10 years of fund membership.

The second benefit of retiring after a birthday arises because final average salary is calculated as the average salary over the last three birthdays.

In today's environment of negative superannuation fund returns, CSS members have more difficult decisions to make, as they bear the full investment risk on the member and productivity benefit component of their pay-out. Their fund trustees have made their task even more difficult by offering only two investment options: a totally safe cash fund offering small positive returns currently, or a higher risk default fund which has produced a negative return of about 15 per cent over the past 12 months.

Compared with the wide range of investment options offered by other similar superannuation funds, CSS members are offered no conservative alternative investment options. They are forced to choose between a certain low return or a volatile return on a higher risk portfolio of assets.

To date, neither the employer nor the fund trustees have attempted to extend to CSS members the protection against investment losses that is provided to PSS members. CSS members have been and are likely to continue to be left to their own devices to decide which of the two available limited investment choices best suits their own situations.

Without a crystal ball to help them, they face a difficult task in choosing the most appropriate investment option for them. As the experience of the past 18 months so clearly shows, it is important for CSS members to be aware of the investment risks they face, particularly if they plan to access their benefits relatively quickly.

Daryl Dixon is the executive chairman of Dixon Advisory and Superannuation Services. comments@dixon.com.au

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Senator the Hon Nick Minchin

Minister for Finance and Administration
Leader of the Government in the Senate

Media Release

28/2007
20 April 2007

Cornwell superannuation case

The Commonwealth was today unsuccessful in a case in the High Court relating to the superannuation of some former government employees.

In a 6-1 decision, the High Court rejected the Commonwealth's arguments that Mr John Cornwell's claim was pursued out of time.

Mr Cornwell commenced legal action against the Commonwealth in 1999. The High Court found that his loss commenced in 1994 when he retired.

Mr Cornwell was employed by the Department of the Interior and the ACT Government between 1962 and 1994. In 1965, his manager incorrectly told him that he was ineligible to join the Commonwealth Superannuation Fund.

It will take some time for the Government to assess the implications of the High Court's decision and how to deal with any other claims.

This case was an important case in the public interest, and the Commonwealth will pay Mr Cornwell's legal costs.

The Australian Government will now consider how to handle claims from other temporary staff who did not contribute to government superannuation schemes because they were told incorrectly that they were not eligible.

It will be some time before claims can be processed because the case has to be returned to the ACT Courts for assessment of Mr Cornwell's damages.

Media Contact:
Senator Minchin's Office - Simon Troeth (02) 6277 7400/ 0438 300 335

Website:
www.financeminister.gov.au

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This page was last updated 20 April, 2007

PUBLIC NOTICE

LOST YOUR SUPERANNUATION RIGHTS?

A recent court decision may affect *your* superannuation rights. A public servant was wrongly informed that he was ineligible to join the Commonwealth Superannuation Scheme. Consequently he received significantly less superannuation than if he had been a member.

The court held he is *entitled* to compensation.

Richard Faulks, of Snedden Hall & Gallop, will present a *FREE* public seminar to answer your questions about superannuation entitlements.

Find out:

- Did you miss out on Superannuation?
- Do you have a case?
- Costs involved
- Types of compensation available to successful claimants

43–49 Geils Court Deakin
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The Chronicle 6 May 2008

EVERYTHING MATTERS

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Person acting		Time	
Attended / Called / Called by		Units	
Venue / Telephone number			
Parties present			
Re			

Lost your Superannuation rights?

A 2007 court decision may affect your superannuation rights. A government employee was wrongly informed that he was ineligible to join the Commonwealth Superannuation Scheme. Consequently he received significantly less superannuation than if he had been a member.

The court held he is entitled to compensation. Richard Faulks of Snedden Hall & Gallop will present a FREE public seminar to answer your questions about superannuation entitlements.

Find out:

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- Do you have a case?
- Costs involved
- Types of compensation available to successful claimants.

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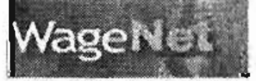

Airlines: Qantas & QF Regionals

Former Commonwealth Government workers may have rights to super

06 July 2007

By ASU - the airlines industry union

As a result of recent developments in the High Court, some ASU airlines members may be able to seek to recover additional superannuation payments they previously were not entitled to.

Mr John Cornwall was employed by the Commonwealth as a spray painter in 1962. He sought to join the Commonwealth Superannuation Scheme at that time but was knocked back on the basis that he was a temporary employee.

As a result, when Mr Cornwall retired he received a much smaller superannuation benefit than what he would have if he had been able to gain admission into the Commonwealth Super Scheme in the mid 1960s.

The information Mr Cornwall was given about his eligibility to enter the CSS back in the mid 1960s was wrong, and his lawyers argued that it amounted to a negligent misrepresentation.

Mr Cornwall initially won his case but the Commonwealth appealed the decision to the High Court.

The main thrust of the Commonwealth's argument was that Mr Cornwall had run out of time to bring a claim because the issues he complained about occurred more than 30 years ago. The Commonwealth lost the argument.

What could this decision mean?

The ASU has been actively investigating this issue on behalf of its members, particularly those previously employed by TAA who subsequently become employed by Qantas.

As a result of the Cornwall decision, the Union, in consultation with Slater & Gordon, has formed the view that there may be an entitlement for many workers who otherwise missed out on the benefits provided by the earlier superannuation scheme and otherwise joined the Commonwealth Super Scheme that started on 1 July 1976.

Do I fit the criteria to potentially have a case for lost superannuation entitlements?

If you:

- Started working for the Commonwealth in any capacity before 1 July 1976 (i.e.: for Qantas, TAA or any other Commonwealth organisation);
- You sought admission into the Commonwealth Superannuation Scheme; and
- You were denied entry into that scheme, either by inaction, incompetence or incorrect advice by your employer;

Then you ought to seek legal advice as soon as possible. It might be the case that that you could be entitled to a larger superannuation payout than you may have previously thought.

If you want to make further inquiries about your rights or whether you may have a potential claim, members, wherever they reside in Australia, ought to contact Tim Hammond directly at Slater & Gordon Brisbane (07) 3220 2555 to make an appointment to discuss your rights. The appointment will be free of charge for ASU members and completely confidential.

Contact Details

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[Airlines: Qantas & QF Regionals Date Index | Airlines: Qantas & QF Regionals Subject Index]

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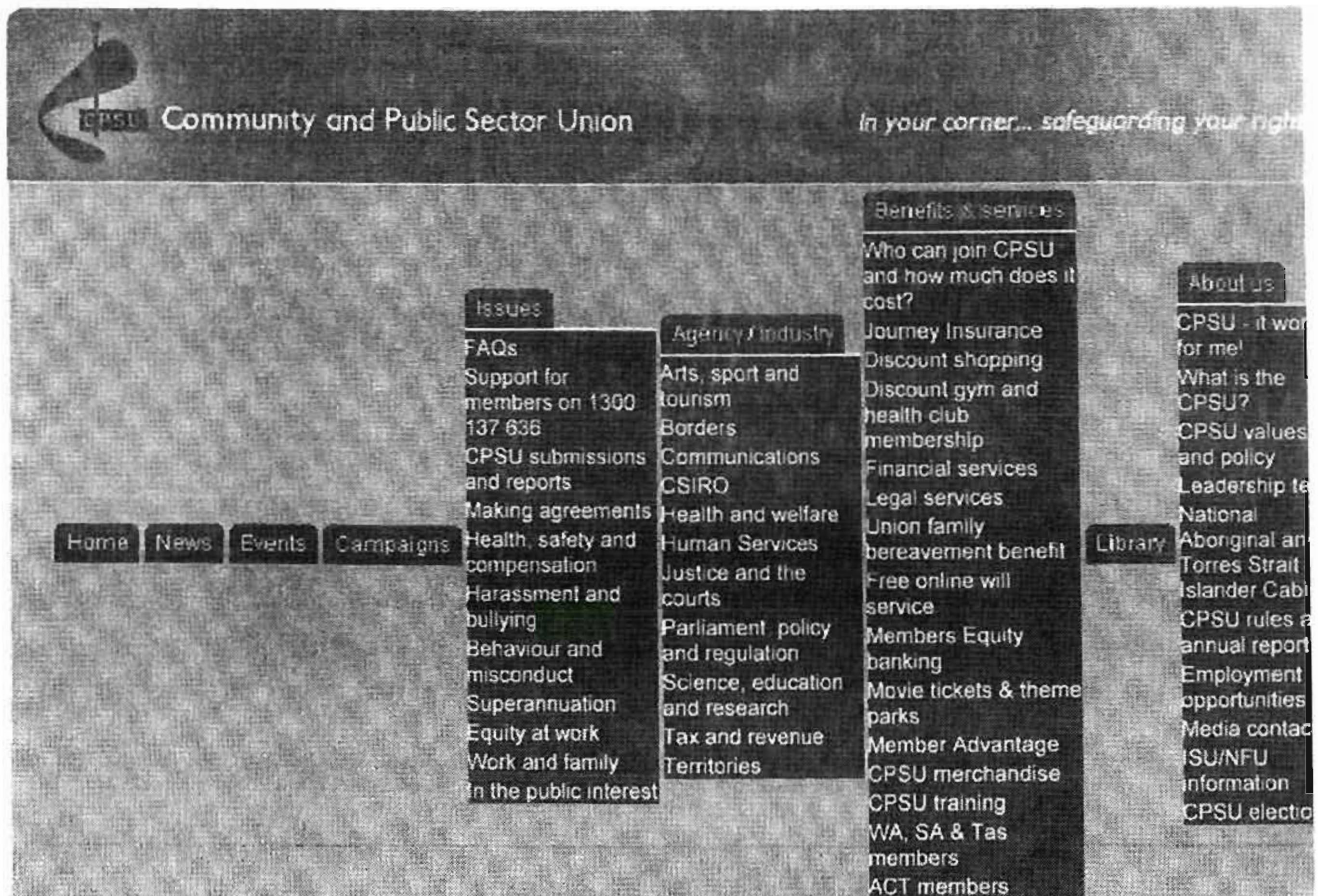
Kale, Ujjwal

From:	Burton, Jamie
Sent:	Tuesday, 29 March 2011 9:40 AM
To:	Kale, Ujjwal
Subject:	Emailing: CPSU Issues October Superannuation e news.htm [SEC=UNCLASSIFIED]



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October Superannuation e-news

23 October 2007, 9:25am

Welcome to the October edition of the CPSU Superannuation e-news.

Superannuation reform

There has been significant superannuation reform over the last few years, including the introduction of Better S have provided general benefits for workers, but for Federal Public Sector workers in the CSS and PSSdb (defin reforms have been restricted by decisions of Government.

The CPSU continues to advocate superannuation reform which will provide workers in the CSS and PSSdb wit generally available across the community. These benefits and options which the Government refuse to allow in

- access to transition to retirement pensions
- salary sacrificing into the CSS and PSSdb schemes
- removal of the discriminatory interdependent and same sex reversionary pension restriction
- establishing a more equitable superannuation pension taxation arrangement for employees i PSSdb

»

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- change of pension indexation arrangements from CPI (Consumer Price Index) to MTAWE (M

CPSU raised all of these issues in a submission to a recent Senate Parliamentary Inquiry. Click here to go to th

The CPSU will continue to monitor and provide updates on any policy announcements from the major political arrangements.

Salary sacrifice

Employees who salary sacrifice need to take care they do not find their salary for superannuation purposes cut b

The Australian Taxation Office (ATO) website provides information about salary sacrificing and notes:

> *Your salary sacrifice could reduce or eliminate the amount of employer contributions requirec your behalf. For this reason it is advisable for all the terms of the arrangement to be fully and*

Click here for further information from the ATO on salary sacrifice.

The CPSU has continued to seek to protect salary sacrificing arrangements by negotiating provisions in collecti will not be discounted because of salary sacrifice / packaging.

Superannuation for women

Tanya Plibersek, the Australian Labor Party Shadow Human Services Minister, made an important speech in Pa superannuation and the ongoing disadvantage that women encounter in being able to establish sufficient superar

Click here for the Hansard transcript of her speech (starting on page 187)

Have you been denied full superannuation entitlements?

In 2006, retired public servant John Cornwell won a case in the High Court where he proved he was incorrectly superannuation in the 1960s because he was a temporary employee.

CPSU is aware there may be a large number of employees who were in similar situations during the period 195(

If you, or someone you know, was denied being able to contribute to commonwealth superannuation please con 137 636.

How much do you need for a 'comfortable' retirement?

The Association of Superannuation Funds (ASFA) and the Westpac Bank regularly assess the cost of maintaini retirement.

What the survey identifies is that it requires around $48,000 per annum for a couple to live comfortably in retir

Contact us at members@cpsu.org.au

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URL http://www.cpsu.org.au/issues/news/4358.html

Community and Public Sector Union

SNEDDEN HALL&GALLOP

Recent successes

The Cornwell Case

In 2007, after litigation, Snedden Hall & Gallop was successful in an important and acclaimed case that came before the High Court in the matter of *Cornwell v. Commonwealth of Australia*.

The firm acted for Mr John Cornwell, a former Commonwealth Government employee who had been told that he was ineligible to join the Commonwealth superannuation fund because he was a blue-collar worker. As a result, Mr Cornwell did not join the fund for many years.

Snedden Hall & Gallop brought a claim for damages for Mr Cornwell against the Commonwealth Government. The government defended the claim and after Mr Cornwell was successful in the ACT Supreme Court, the government appealed in the High Court, where Mr Cornwell was again successful.

Since then, Snedden Hall & Gallop has been assisting other former, and current, employees with similar matters. Most of those affected were also blue-collar workers who worked in areas such as forestry, transport, and parks and gardens. Eleven matters are scheduled for hearing in the ACT Supreme Court in November 2009 with another 100 or so cases waiting in the wings.

Recently the Commonwealth Government agreed to deal with other matters through mediation (which satisfactorily resolved some of the clients' claims), and it is hoped that a similar approach will be taken with many of the future claims.

One of the major issues in each of the claims is the limitation period, making it essential for anyone considering a claim to seek legal advice early.

Overseas workers

Snedden Hall & Gallop has an experienced team of Migration Agents who have helped many clients negotiate the complicated and confusing Australian immigration system and laws.

The team recently aided a high profile Canberra business with some complex international issues (including the breakdown of order in Zimbabwe) so that the overseas workers it wanted to employ could enter the country.

Snedden Hall & Gallop is finding that an increasing number of clients have attempted to "go it alone" without the help of a migration agent and have found themselves lost in an imbroglio of confusing regulations and policy.

Human rights

The ACT *Human Rights Act* and *Discrimination Act* have created a system of law that is unique in Australian jurisdictions.

As a result, a number of Canberra businesses have turned to Snedden Hall & Gallop for the expert assistance of its Migration Team in comprehending their obligations under the Act and, where necessary, to respond to, and resolve, disputes arising out of them. This has included allegations of discrimination in the course of employment and in the provision of services.

Snedden Hall & Gallop's Migration Team has a strong record of helping its clients reach practical, commercial solutions to what can be drawn-out and costly disputes.

12th September 2008

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Email: alaea@alaea.asn.au
Web: www.alaea.asn.au
ABN: 84 234 747 620

❖ NOTICE ❖

TO: ALL ALAEA MEMBERS

RE: CORNWELL SUPERANNUATION CASE

HIGH COURT VICTORY COULD PROVIDE ADDITIONAL SUPER PAYOUTS FOR WORKERS

A recent decision delivered by the High Court could potentially pave the way for some ALAEA members to seek additional superannuation payments they may not have thought they were previously entitled to. Such members may include those who worked for the Commonwealth government or an instrumentality of the Commonwealth at some time (for example TAA – now Qantas) and were wrongfully denied access to a Commonwealth superannuation scheme.

What Could This Decision Mean?

The ACTU and unions including the Association have been actively investigating this issue on behalf of its members. As a result of this decision, the Union, in consultation with Slater & Gordon, have formed the view that there may be an entitlement for some ALAEA members who missed out on the benefits provided by the *Commonwealth Superannuation Scheme* or the *Public Sector Superannuation Scheme* or only joined these schemes later than they otherwise would have.

Do I fit the criteria to potentially make a claim for additional super entitlements?

You may have a case if you:

- Worked for the Commonwealth, the public service of a Territory or for an instrumentality of the Commonwealth or a Territory;
- You retired and sought to access your superannuation benefits less than 6 years ago;

- You sought admission into the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme; and
- You were denied entry into that scheme, either by inaction, incompetence or incorrect advice by your employer.

If you want to make further enquiries about your rights or whether you may have a potential claim, members ought contact Andrew Rich at Slater & Gordon on (07) 3220 2555 to make an appointment to discuss your rights. The appointment will be free of charge and completely confidential.

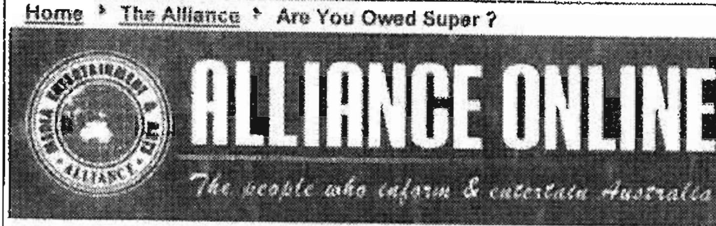
About the Case

John Cornwell was employed by the Commonwealth as a spray painter in 1962. He sought to join the Commonwealth Superannuation Scheme at that time but was knocked back on the basis that he was a temporary employee. As a result, when Mr Cornwall retired he received a much smaller superannuation benefit than what we would have received had he been able to gain admission into the Commonwealth Super Scheme in the mid 1960s.

The information Mr Cornwall was given about his eligibility to enter the CSS back in the mid 1960s was wrong, and his lawyers argued that it amounted to a negligent misrepresentation. Mr Cornwall initially won his case but the Commonwealth appealed the decision to the High Court.

The main thrust of the Commonwealth's argument was that Mr Cornwall had run out of time to bring a claim because the issues he complained about occurred more than 30 years ago. The Commonwealth lost the argument.

Noel Speers
Industrial Officer



Are You Owed Super ?

Friday, 21 November 2008

A recent decision delivered by the High Court could potentially pave the way for Alliance members to seek additional superannuation payments they may not have thought they were previously entitled to. You may have a case if you worked for the Commonwealth and were denied access to the Commonwealth Superannuation Scheme.

Cornwall Superannuation Case

About the case

John Cornwall was employed by the Commonwealth as a spray painter in 1962. He sought to join the Commonwealth Superannuation Scheme at the time but was knocked back on the basis that he was a temporary employee. As a result, when Mr Cornwell retired he recieved a much smaller superannuation benefit that what he would have recieved had he been able to gain admission into the Commonwealth Super Scheme in the mid 1960s.

The information Mr Cornwell was given about his eligibility to enter CSS back in the mid 1960s was wrong, his lawyers argued that it amounted to a negligent misrepresentation. Mr Cornwell initially won his case but the Commonwealth appealed the decision to the High Court. The main thrust of the Commonwealth's argument was that Mr Cornwell had run out of time to bring a claim because the issues he complained about occurred more then 30 years ago. the Commonwealth lost the argument.

What could this decision mean?

In August the affiliates of the ACTU meet with Slater & Gordon Law Firm to further progress the potential claims of the union members who may be entitled to additional superannuation payments.

At the meeting it was determined that a two pronged strategy was appropriate, which involved simultaneously investigating options for conducting a class action against the Commonwealth for the recovery of wrongfully denied superannuation entitlements and the ACTU and affiliated unions beginning negotiations with the Government over a possible settlement of the matter.

Slater & Gordon have agreed to collect and analyse potential claims free of charge for union members. Once Slater & Gordon have been able to analyse and identify appropriate claims, a further meeting will be held with Unions to progress the matter further

Do I fit the criteria to potentially make a claim for additional super entitlements?

You may have a case if you:

-Worked for the commonwealth, the public service of a territory or for an instrumentality of the commonwealth or a Territory.

-You retired and sought to access your superannuation benefits less then 6 years ago

-You sought admission into the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme: and

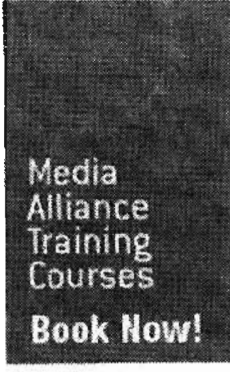
-You were denied entry into that scheme, either by inaction, incompetence or incorrect advice by your employer

If you want to make further enquires about your rights or whether you may

2010 ALLIANCE ELECTIONS

The Alliance 2010 Elections have been finalised. An AEC election report is available on request from the Alliance Information Desk via email aid@alliance.org.au

JOIN THE ALLIANCE



2009-10 ANNUAL REPORT

The 2009-10 Media, Entertainment & Arts Alliance Annual Report is available as a PDF document for viewing online.

Click here if you would prefer to download your copy.

PLUG ME IN

Statement

CSIRO Public Statement: Commonwealth of Australia v Cornwell

In April 2007, the High Court of Australia found against the Commonwealth in the Cornwell superannuation case. This case did not involve CSIRO. However, it opens up the possibility of similar superannuation claims being made against Commonwealth agencies, including CSIRO.

The case concerned Mr Cornwell, a temporary employee of the Commonwealth's Department of Interior from 1962. He claimed that, in 1965, he was incorrectly advised by his manager that he was ineligible to join the Commonwealth Superannuation Fund. He joined the Commonwealth Superannuation Scheme (CSS) when he was reclassified as a permanent employee in 1987. The High Court found that Mr Cornwell's negligence action against his Commonwealth employer for providing incorrect advice, which was commenced five years after he retired, had been brought in time and was not statute-barred.

In light of Cornwell, other Commonwealth employees may consider seeking compensation for any inaccurate advice they have received regarding superannuation in similar circumstances. Each case will need to be proven on its merits and satisfy various legal requirements in order to be successful. For example, in a more recent superannuation case of Mr John Smith, the ACT Supreme Court found that Mr Smith had failed in his claim against the Commonwealth and was liable to pay for the Commonwealth's legal costs.

It will take some time for the Commonwealth and its agencies to assess the implications of the Cornwell case. For further information from the Australian Government about this case, please go to the Department of Finance and Administration's website at http://www.finance.gov.au/latestnews/cornwell.html

If you have any queries for CSIRO about the Cornwell case or any related claims, please send your contact details (that is, your name, address for correspondence, email address and telephone number) and details of your query to:

Ms Mae Gan
Legal Counsel
Legal
Legal
Phone: 61 3 9662 7424
Alt Phone: 61 3 9662 7449
Fax: 61 3 9545 8177
Email: Mae.Gan@csiro.au

CSIRO will acknowledge your query and respond once it has completed its assessment of the matter and finalised any relevant policies or procedures.

CSIRO recommends that any potential claimants obtain independent legal advice on this matter.

Fast Facts

- In April 2007, the High Court of Australia found against the Commonwealth in the Cornwell superannuation case
- This case did not involve CSIRO
- However, it opens up the possibility of similar superannuation claims being made against Commonwealth agencies, including CSIRO

Contact Information

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Related Links

- About CSIRO
- The governance of CSIRO
- CSIRO's service charter

media, entertainment & arts alliance
the people who inform and entertain

Super Opportunity

Friday, 22 October 2010

Were you short-changed on super at the ABC?

Three years ago the High Court handed down a Decision which may have important implications for many Alliance members who work or have worked at the ABC.

The Decision found John Cornwall had many years ago been wrongfully denied eligibility for the Commonwealth Superannuation Scheme (CSS), and in certain circumstances this decision may make it possible for members to bring a claim against the Commonwealth for superannuation entitlements.

A number of members have already voiced their interest in group action to the Alliance; some are current ABC employees, while others have moved on.

We understand that a number of claims pursued by Commonwealth employees via the Comcover route have been unsuccessful, and that a number of cases before the courts are still awaiting a decision.

Current action

The Alliance and the ABC have been working together to try and ensure all members employed by the ABC now or in the past are made aware of the Cornwall decision and its implications.

Soon the ABC will send a letter to the home addresses of all ABC employees:

- advising of the potential impacts of the Cornwall decision;
- requesting interested employees complete a brief questionnaire to supply information related to their employment history; and
- return this information within 14 days of receiving the ABC's correspondence.

The Alliance will assist by writing to members who may no longer be employed by the ABC (where personal information is still available).

The Alliance's Cornwall reference group

We are also calling for interested members to participate in a reference group to help keep members up-to-date and to promote progress on this issue. Members interested in nominating would need to be available to attend brief teleconferences on a regular basis.

Authorised by Christopher Warren, Federal Secretary
Web: http://www.alliance.org.au | Email: mail@alliance.org.au | Phone: Alliance Inquiry Desk: 1300 656 512

If you are interested, please send Alliance Contact Officer Debra Hannan a brief email setting out your circumstances, with your contact details attached: debra.hannan@alliance.org.au You can also contact Debra on (02) 9333 0978.

Nominations close Thursday October 28, 2010 and further details concerning the activities of the Reference Group will be advised to members in our regular Friday E-Bulletin.

Key aspects of Mr Cornwall's case

NB: Please note this is not legal advice or advice concerning the appropriateness of your current superannuation fund. This advice is issued to assist members with information about this matter. A number of factors may impact on the ability of a member to bring a claim, including advice issued by relevant Commonwealth departments on superannuation matters. Accordingly, members who seek to independently pursue a claim with Comcover are urged to seek legal advice before doing so.

About Mr Cornwall's case

- Mr Cornwall was employed by the Commonwealth in 1962 as a spray painter. While he was classified as a "temporary industrial employee" Mr Cornwall was nonetheless employed on a full-time basis;
- After 3 years of full time employment he sought advice from his manager on whether he was eligible to join the Commonwealth Superannuation Scheme (CSS);
- He was advised by the manager that because he was a temporary industrial employee, he was not eligible to be a member of the CSS. Also, the manager said he would see what he could do about it. The manager failed to follow up on this statement.
- The advice by the manager was incorrect. Mr Cornwall was in fact eligible to be a member of the fund. The evidence in the case disclosed that the manager was negligent in making the statement.
- Mr Cornwall relied on the statement by the manager and that undertaking by the manager that he would see what he could do to enable Mr Cornwall to become a member. Hence, Mr Cornwall did not apply to become a member of the CSS or seek other advice.
- Mr Cornwall's evidence in the case was that had he known that he was eligible to be a member of the CSS; he would have applied in 1965.
- In the belief that he was not eligible to do so, Mr Cornwall did not apply to be a member of the CSS until 1987, when he was made permanent. As a result, the

benefit he received upon his retirement in 1994 was greatly reduced (due in part to changes in the CSS in 1977).

- Mr Cornwall commenced a claim against the Commonwealth alleging that in 1965, the manager had made a negligent misstatement about the ability of Mr Cornwall to be a member of the CSS and as a result, Mr Cornwall suffered loss and damage.
- Although the recollections of Mr Cornwall were over 40 years ago they were accepted by the Court, including because there was other evidence available which supported Mr Cornwall's case such as;
    - A relevant note placed in Mr Cornwall's file which appeared to be made at the same time the conversation said to have taken place with his Supervisor, occurred; and
    - That a letter had issued from the Supervisor indicating in effect that Mr Cornwall would probably be employed for an indefinite time. *(On -going employment was a gate opener to the Super fund and Mr Cornwall wasn't aware of this letter. The Commonwealth had argued that Mr Cornwall should have pursued his own enquiries but this was not accepted by the Court on the basis that Mr Cornwall had relied on the advice given to him by management);*
- Mr Cornwall was able to successfully argue that the statute of limitations did not apply to his case as the damages he incurred (*what his superannuation benefit might have been on retirement had he been allowed admittance to the relevant super fund at the time he sought it)* did not "crystallise" until the time he actually retired.
- The key principles from the case were;
    - In 1965, Mr Cornwall relied upon a negligent misstatement when deciding not to make an application to join the CSS at that time.
    - It was not until his retirement in 1994 that the effect of the misstatement resulted in Mr Cornwall suffering a loss.
    - Therefore, notwithstanding the "usual" limitation of 6 years in which a claim must be made, in his circumstances, the limitation period started in 1994, (not 1965) therefore he was entitled to bring his claim.