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Mr John Carter  
Secretary  
Senate Education, Employment and  
Workplace Relations Committee  
By email: [john.carter@aph.gov.au](mailto:john.carter@aph.gov.au)

20/02/09

Dear Mr Carter

As requested by the Committee we provide further submissions in relation to two issues.

#### 1 Demarcation Disputes

Senator Cash asked whether CCF could provide further information in relation to Demarcation disputes. In this regard we would support and refer to the extensive material that has been submitted by the Master Builders' Association in their supplementary submission. In particular Section 3 of their submission.

One case however currently in the news that we would refer to the Committee is that involving John Holland, the CFMEU and the AMWU in relation to the works at the Westgate Bridge. This dispute was the subject of action in the Federal Court in which the ABCC also intervened. A copy of the background to this dispute provided by the ABCC on their website is attached at **Attachment A**.

A copy of the newspaper report in the Australian Financial Review is also attached to our submission at **Attachment A**.

As the matter is the subject of continuing court action we will not provide further commentary save that we note in particular the statements in the ABCC background that:

"John Holland is negotiating an industrial agreement with the AWU... the CFMEU and the AMWU (the unions) began a picket at the building site... the unions wanted to represent the workers engaged by John Holland at the site and to negotiate their own industrial agreement."

"Justice Jessup accepted the ABCC had presented an arguable case that the unions had arranged a picket at the site with the intention of coercing John Holland and a labour hire company to enter industrial agreements with the unions."

In other words a demarcation dispute resulting in industrial action with all the delay and inconvenience we have referred to in our submission of January 2009.

## 2 Evidence of a ballot to enter into non union agreements

The process for making collective agreements whether employee collective agreements or union collective agreements require a majority of the employees to vote in favour of the Agreement and require employees to be given an option of nominating a bargaining agent including a union if they so desire. The fact that there are more employee collective agreements than union collective agreements is evidence of this choice.

Recent statistics from the Workplace Authority confirms that in the period 28 March 2008 to 31 December 2008, 3268 employee collective agreements were lodged compared to 2598 union agreements. This was particularly the case for small to medium sized businesses (see Workplace Relations statistics at Australian Workplace Authority)

With a view to the foregoing, in answer to Senator Cameron's question, having made general inquiries we are not aware of any formal ballots for non union agreements amongst CCF members.

Yours sincerely



Chris White

Chief Executive Officer



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AFC Friday 13th

## Fears dispute could widen

An industrial dispute between rival unions competing for coverage at a \$240 million Melbourne construction project had the potential of going national, the Federal Court was told yesterday.

Counsel for builder John Holland, Justin Bourke, told the court an interim order stopping industrial action at the project should be continued even though a union picket line had not been in place since an earlier court hearing last week.

Mr Bourke said the Construction, Forestry, Mining and Energy Union and the Australian Manufacturing Workers Union wanted to pressure John Holland, the project's lead contractor, into striking a deal with them. It's not going to go away, he said.

John Holland and the federal government's industry watchdog, the Australian Building and Construction

Commission, have sought injunctions stopping industrial action at the project, which involves strengthening the Westgate Bridge.

A labour hire company at the project, Civil Pacific Services, had an existing agreement with the Australian Workers Union, while John Holland was also negotiating with the AWU.

The commission alleges the CEMBU and AMWU orchestrated a picket line last week and that no Civil Pacific workers attended at the site on Friday. Civil Pacific had since struck a deal with the CEMBU and AMWU that paid more than the AWU agreement.

Judge Chris Jessup continued an interim order barring industrial action while he reaches a decision on the request for an injunction until the matter goes to trial in April.

Mark Skillew

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Office of the Australian Building and Construction Commissioner

## Williams v AMWU, CFMEU and Powell

**Case Name:** Williams v AMWU, CFMEU & Powell  
**Applicant:** Andrew Williams, ABCC  
**Respondent:** Automotive Food Metals Engineering Printing Kindred Industries Union, Construction Forestry Energy and Mining Union & Mick Powell  
**Date Filed:** 6 February 2009  
**Status:** Interlocutory injunction granted 6 February 2009. This matter returned to Court on 12 February 2009 for Jessup J to decide whether injunctions should be continued. Jessup J reserved his judgement and extended his previous order until he made his decision. On 17 February 2009 Jessup J gave orders to continue the injunction on the AMWU, the CFMEU, and CFMEU organiser Mick Powell until conclusion of the matter. A directions hearing has been set for 7 April 2009.

### Background:

John Holland has been contracted to undertake building work on the Westgate Bridge Strengthening Project (the Project). John Holland is negotiating an industrial agreement with the AWU.

On Friday, 6 February 2009, the CFMEU and the AMWU (the unions) began a picket at the building site at Hyde Street, Spotswood. The unions wanted to represent the workers engaged by John Holland at the site and to negotiate their own industrial agreement.

In the afternoon of Friday, 6 February 2009, the ABCC obtained an injunction in the Federal Court restraining the CFMEU, the AMWU and their employees from preventing or hindering access to the site. The order also prohibits the unions from encouraging any person not to enter or work at the site and prescribes their ability to attend at the site.

Justice Jessup accepted the ABCC had presented an arguable case that the unions had arranged a picket at the site with the intention of coercing John Holland and a labour hire company to enter into industrial agreements with the Unions. This conduct is arguably contrary to section 44 of the *Building and Construction Industry Improvement Act 2005*.

### Further Information:

[17/02/2009 Order \(PDF 66KB\)](#)  
[06/02/2009 Order \(PDF 40KB\)](#)