

**From:** Phillip Pasfield [Phillip.Pasfield@slatertgordon.com.au]  
**Sent:** Tuesday, 29 November 2022 12:38 PM  
**To:** Chambers - Acting President Hatcher[Chambers.Hatcher.VP@fwc.gov.au]  
**CC:** 'Jessica Dawson-Field (JDawson-Field@mauriceblackburn.com.au)'; [JDawson-Field@mauriceblackburn.com.au]; J Bornstein[JBornstein@mauriceblackburn.com.au]  
**Subject:** RE: D2022/10 - Application by Kelly - Access to produced documents [S+G-ACTIVE.7592.M659724.FID4985938]  
**Attachments:** 221129 - Draft Order\_.docx; 221129 - A.pdf

Dear Associate

The parties have been unable to agree on a draft order as to access.

I have attached the Applicant's proposed draft order and schedule "A" thereto for the Commission's consideration.

The Applicant submits that it is appropriate that written undertakings are proffered to the Commission having regard to the correspondence to you from the lawyers for the CFMMEU dated 18.11.22, 23.11.22 and 25.11.22 as well as what was submitted at paragraph [23] of the CFMMEU submissions dated 16.11.22 and what was said at PN 582 of the transcript dated 17.11.22 by Senior Counsel for the CFMMEU.

The Applicant further submits that access be the subject of an Order of the Commission not Directions as now proposed by the CFMMEU.

The lawyers for the CFMMEU have been copied into this email.

Regards

**Phillip Pasfield**  
National Practice Group Leader  
Industrial and Employment Law



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**From:** Chambers - Acting President Hatcher <Chambers.Hatcher.VP@fwc.gov.au>  
**Sent:** Monday, 28 November 2022 10:17 AM  
**To:** Phillip Pasfield <Phillip.Pasfield@slatertgordon.com.au>; 'Jessica Dawson-Field (JDawson-Field@mauriceblackburn.com.au)' <JDawson-Field@mauriceblackburn.com.au>; J Bornstein <JBornstein@mauriceblackburn.com.au>  
**Subject:** D2022/10 - Application by Kelly - Access to produced documents

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OFFICIAL

Dear parties,

I confirm the documents have been produced in the Sydney registry of the Commission pursuant to the order dated 18 November 2022.

The Acting President grants access to the documents to the two identified CFMMEU internal lawyers subject to the implied *Harman* undertaking. The parties are directed to provide a draft order as to access (including how copying is to occur) by email to these chambers.

Kind regards,  
Caroline

**Caroline Beasley**  
**Associate to Acting President Hatcher**



**Fair Work Commission**

Australia's national workplace relations tribunal

T (02) 9308 1812

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Level 11, Terrace Tower, 80 William Street, EAST SYDNEY NSW 2011  
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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Gadigal Country.**

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Slater and Gordon Lawyers - <http://www.slatergordon.com.au>

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## **DRAFT ORDER**

*Fair Work (Registered Organisations) Act 2009*

s.94(1) RO Act - Application for ballots for withdrawal from amalgamated organisation

### **Application/Notification by Grahame Patrick Kelly – withdrawal from amalgamated organisation – Mining and Energy Division – Construction, Forestry, Maritime, Mining and Energy Union (D2022/10)**

ACTING PRESIDENT HATCHER

Access to the documents produced pursuant to the Order dated 18 February 2022 be on the following basis in addition to and without derogating from the implied Harman undertaking:

- i. Access shall be granted to Maurice Blackburn at 380 La Trobe Street, Melbourne and any Counsel briefed by that firm as well as Ms Lucy Weber and Mr Josh Liley on the provision by them of a written undertaking to the Commission that they will not disclose the documents or the information contained in the documents to anyone else other than Law in Order, and that they will not transmit or share the documents or the information contained in the documents to any CFMMEU email or electronic system and that at the end of the proceedings all copies of the documents will be returned to the Commission; and
- ii. Access shall be granted to Law in Order on the provision of the written undertaking to the Commission in terms of Schedule A to this order.

**IN THE FAIR WORK COMMISSION**

**MATTER NO.: D2022/10**

**APPLICATION BY GRAHAME KELLY – WITHDRAWAL FROM  
AMALGAMATED ORGANISATION – MINING AND ENERGY DIVISION –  
CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION**

**CONFIDENTIALITY UNDERTAKING OF LAW IN ORDER**

I, \_\_\_\_\_, of \_\_\_\_\_, on behalf of Law In Order, undertake to the Fair Work Commission and the Applicant, in relation to the documents of the Applicant and the Mining and Energy Division of the Construction, Forestry, Maritime, Mining and Energy Union provided to Law In Order by Maurice Blackburn Lawyers (**the Membership Rolls**), that Law In Order (including by its servants, agents and employees):

1. Will treat the Membership Rolls as being strictly confidential.
2. Will not disclose the Membership Rolls or the information contained in the Membership Rolls to anyone other than Maurice Blackburn Lawyers.
3. Will not transmit or share the Membership Rolls or the information contained in the Membership Rolls to anyone other than Maurice Blackburn Lawyers.
4. Will return the Membership Rolls and any copies made of the Membership Rolls (including electronic copies) to Maurice Blackburn Lawyers, and delete any electronic copy (including from its server) once the Membership Rolls have been copied and digitised in the manner requested by Maurice Blackburn Lawyers.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Capacity

\_\_\_\_\_  
Date