

IN THE FAIR WORK COMMISSION
IN THE MATTER OF THE FAIR WORK ACT s.604
APPEAL AGAINST DECISION

Title of Matter: Fitzgerald, Stephen Geoffrey v Woolworths Limited T/A Woolworths Supermarket

Section: s.604 -Appeal of decisions

Subject: Appeal against decision [2017] FWC 1730 of Commissioner Cambridge at Sydney on 5 April 2017 in matter number

Matter Number: C2017/2237

APPELLANT'S CLOSING SUBMISSION ON APPEAL

[1] In relation to Woolworths response, at the Appeals Hearing, in relation to legal representation. And again, I am not a lawyer and have limited capacity in the understanding of these matter although, I do understand the effort being made by the Full Bench to ensure a fair trial and, that is respected and appreciated. The best I can do is reiterate what was sent by email to all parties dated 4th September 2017 as follows:

[2] From: Stephen Fitzgerald [mailto:info@hootgallery.com]
Sent: Monday, 4 September 2017 1:35 PM
To: Chambers - Hatcher VP
Cc: Stephen Fitzgerald; roland.hassall@sparke.com.au; Nicole Barclay; ian.bennett@sparke.com.au
Subject: RE: C2017/2237 - Fitzgerald v Woolworths Supermarket

[3] *Hi Helen, Personally, I don't see how this is relevant to this Matter in relation to Unfair Dismissal Remedy – But again, I am not a lawyer?*

[4] *The fact that I was not afforded the opportunity to have legal representation at the Appeal Hearing makes the argument about whether or not Woolworths had legal representation or assistance at the Hearing a moot point. The point is this: -*

[5] *Commissioner Cambridge assured me that the Fair Work Commission try to maintain an even playing field between the parties involved and, in light of the above, I am not seeing that. When Commissioner Cambridge asked Nicole Barclay if she was going to be represented by a solicitor or barrister, instead of saying “no” Nicole Barclay should have said... “I will be assisted by Mr Ian Bennett of Sparke Helmore so there is no requirement for me to request legal representation. I will be representing Woolworths and Mr Bennett will be assisting”.*

[6] *My response to that would have been – O.K. So, if I like, I can get someone to assist me – Fantastic, that sounds helpful, reasonable and reassuring.*

[7] *You see, it's about transparency and honesty. At the pre-hearing conference, I requested that I be kept fully informed. And, I wasn't and, therein lies the problem... Again, whether Ian Bennett of Sparks Helmore was assisting and/or representing Woolworths is not the point. Whether or not the Prime Minister was assisting Woolworths as so eloquently put by Commissioner Cambridge is also not the point. The point is transparency... I was misled by the deceit of Nicole Barclay. And, perhaps inadvertently, the Fair Work Commission website which states that legal representation is not required. So, you go into the case with that and, the fact that parties meet their own costs fully in mind. That's the point!*

[8] *Whether or not Woolworths had legal representation, Does Not Matter – To be fair, people just need to know what they are up against. It's about transparency. The public wants transparency and honesty from our Federal jurisdictions – That's it... Do what you like with s.609(2)(b) – Just keep us informed. We need to know what we are up against when we come to the Fair Work Commission seeking justice. We don't want to find out half way through the process when it's too late to back out. Once you're in, you're in, and face a cost order if you back out. That's the point!*

[9] *The corruption by Woolworths of Fair Work Act 2009 Section 394 (Proven) in relation to 21 days to lodge an application when they get rid of you but don't terminate your employment and, the corruption of Fair Work Act 2009 Section 386 (Proven) in relation to Woolworths jurisdictional objection is by far and by multiples more important than s.609(2)(b). Stay focused... The Fair Work Commission is under attack and our law is under attack. Our law - You know, the thing that sets us apart from animals and protects us in our sleep – The LAW. An attack on the law is an attack on society – By an unscrupulous corporation.*

[10] *To me at least - This is a diversion away from the main issues. The main issues proven with evidence and all on the record being: - Unlawful workplace practice, criminal conspiracy, perjury and contempt, corruption of our law - an attack on the Fair Work Commission, fabricated defamation, lies and deceit by Woolworths. A lovely little package so that Woolworths can continue with unlawful workplace practice unabated ...etc - Yours Faithfully - Stephen Fitzgerald*

[11] *In relation to the above: We need to know what is going on in advance, not half way through the process. We need to know if parties can be assisted or represented or if we stand alone. We need to know what the ramifications of a jurisdictional objection will be in advance. We need to know if there is any possibility of a cost order to avoid the heart attack. It's that simple. **In terms of the above, Woolworths has cloaked transparency as a form of deceit to gain advantage** – Fortunately for me it appears to have backfired in their faces.*

IN RELATION TO THE ISSUES THAT ARE PRESSING FOR ME

[12] *The decision of Commissioner Cambridge to dismiss the matter based on **me leaving** my employment rather than being **forced to leave** as a result of the actions of the employer in terms of Fair Work Act 2009 s.386 (1)(b) is unfounded. My Unfair Dismissal Remedy claim is based on constructive dismissal in terms of s.386 and I quote:*

s.386 (1)(b) "the person has resigned from his or her employment, but was forced to do so because of conduct, or a course of conduct, engaged in by his or her employer".

[13] I was incessantly bullied and harassed by Woolworths manager 2IC William Lose to the point of distraction in a dangerous job and forced to leave my employment. In support of this view **Exhibit 1** (Page 8 herein) – The witness statement of Ray Plater where 2IC William Lose said to Ray Plater that **he got rid of me**. It was the intention of Woolworths to get rid of me unlawfully and they got rid of me unlawfully.

[14] In support of my claim that I was bullied and harassed, view **Exhibit 2** (Page 9 herein) – The witness statement of Cheryl Wilesmith – Cheryl was also one of the targeted employees at Woolworths Avalon and she was bullied and harassed out of her job to the point of nervous breakdown requiring extended leave with bullying and harassment as the stated reason. She has still not recovered and suffers anxiety as a result of the way she was treated by Woolworths management. She was a beautiful hard working person who extended herself.

[15] Woolworths manager 2IC William Lose responsible for the despicable acts of human indecency against innocent staff at Avalon was caught out lying in his witness statement and caught out lying under oath at the hearing. It's a Federal offence – William Lose guilty of perjury and guilty of contempt for the Fair Work Commission. It's all in the transcripts.

[16] Something good has come out of the decision of Commissioner Cambridge though. It has given me the opportunity to present my case to the Full Bench of the Fair Work Commission. My case exposes corruption of the Fair Work Act 2009 by Woolworths and Woolworths criminal intent in relation to interfering with witnesses.

[17] Prior to the hearing, I sent a letter to each individual member of the Woolworths Group Executive Committee and the Woolworths Board of Directors explaining what was going on. You can view a copy of that letter attached on (Page 13 herein). What I anticipated was that the matter would be dealt with at a local level and resolved. That did not happen, in fact quite the opposite happened – Woolworths came down on me like a tonne of bricks.

[18] What was done to me was sanctioned by the Woolworths Executive and Directors. They are all complicit in a criminal conspiracy resulting in a crime being committed at a Federal level. That crime is interfering with witnesses and preventing witnesses from attending court to verify their witness statements. A violation of Article 25 of the criminal code. The penalties are harsh and uncompromising and corporations are not exempt. Read the transcripts and, as evidenced by **Exhibit 8** attached on (Page 10 herein) and, I'll elaborate on that shortly...

[19] In a nut shell - Woolworths Executive and Directors sanctioned action against me that included character assassination, removal of my witnesses and a shonky jurisdictional objection. When my case was dismissed, based on me leaving, I was exposed to a \$30,000 cost order. Woolworths intention was to drive me into bankruptcy as pointed out by the conciliator at the pre-hearing phone conference. Woolworths would then throw myself and my disabled wife out onto the street with nothing. This is what Woolworths do and, they have done it before to innocent staff otherwise, why would the conciliator have mentioned it.

[20] As pointed out, Woolworths undertook a premeditated and fabricated defamation of my character. They took advantage of my hearing disability and accused me of stealing documents that are readily available on the internet – They are public domain and were required for the job I was doing at Woolworths Avalon in the Pittwater Council lease area to stay compliant and to avoid a council fine. I was accused of stealing that lease agreement.

[21] This is all proven and on the record at the end of the hearing transcripts and at the beginning of my Closing Submission to that hearing. I will be taking legal action for defamation of character against Woolworths Ltd and a court order to have that defamation stricken from the Fair Work Commission record. To protect me in the future if and when I enter public life, as is my intention, to add impetus to my 10 year battle for the protection of human rights.

[22] My case before Commissioner Cambridge was subject to a jurisdictional objection by Woolworths. A jurisdictional objection that could not be heard at the beginning of the case, as is protocol, because it does not trigger until the case is lost. The applicant is then exposing to a \$30,000 cost order by Woolworths even after being told, on the Fair Work Commission website, that parties bear their own costs. Another deceit by Woolworths.

[23] Woolworths jurisdictional objection in relation to s.386 is a direct assault on our law. It is an attack on the Fair Work Commission and the jurisdiction of the Fair Work Commission. It is called corporate corruption driven by corporate greed – You know, the thing that ravages and destroys societies from within. As a matter of urgency, this separate issue in relation to the jurisdictional objection needs to be addressed by the Full Bench of the Fair Work Commission.

[24] In addition and, also part of Woolworths business model sanctioned by the Woolworths Executive and Woolworths Directors is the corruption of Fair Work Act 2009 Section 394(2)(a) in relation to Unfair Dismissal Remedy, as follows:

(2) The application must be made: (a) within 21 days after the dismissal took effect

[25] Refer to my letter of forced resignation dated 27th November 2016 (Page 11 herein) and Woolworths termination of my employment as of 18th December 2016 (Page 12 herein). Exactly 21 days have elapsed... This is an attempt by Woolworths to voids s.394 of the Fair Work Act 2009. As I have said on numerous occasions and woven into the transcripts – Woolworths bully and harass a person out of their job and don't terminate your employment to void Section 394. It is part of Woolworths business model – Another assault on the law.

[26] The evidence for this came after the hearing before Commissioner Cambridge so, in terms of the Appeal Hearing it's not admissible and should play no part in the decision of the Full Bench. But, you do need to know what's going on – This is corporate corruption of our law – You know, the thing that sets us apart from animals and protects us in our sleep. The foundation stone of civilised society. The way to knock this on the head is to scratch out 21 days to lodge an application for unfair dismissal remedy and put: *"In terms of the statute of limitations"*.

[27] Now, the only possible reason that Woolworths would feel the pressing need to corrupt that part of the Fair Work Act 2009 relating to unfair dismissal is so they can continue with unlawful workplace practice unabated. Precisely what they did to me and the rest of the internal management at Woolworths Avalon Supermarket. It's a nice cosy little closed loop there for Woolworths and, what one would expect from a criminal organisation - Not what one would expect from a reputable Australian company.

[28] Clearly, the battle here is between the Fair Work Commission and Woolworths and, I am just the ham in the sandwich being eaten alive. Well, I see it how it is and I say it how it is. It's all on the record and in the transcripts but let's sum it up again anyway, for perfect clarity – So the entire world can digest this – If it needs to go that way... Take a deep breath Woolworths and read on: -

FOR CLARITY AND FOR THE PUBLIC RECORD

[29] A procession of really bad Woolworths upper management decisions has impacted profitability. It's in the media... Look at the brand value dive by 1.5 \$Billion, Woolworths share price drop from \$33.00 and the 3.6% profit slump. To divert attention away from themselves, upper middle management point the finger at the innocent, hardworking, dedicated, career personnel on the front line. The entire internal management of Woolworths Avalon were targeted for disposal like they were yesterday's rubbish as a result of the Internal Performance Scorecard. I was caught up in the carnage.

[30] A program of bullying and harassment ensued to drive targeted staff to nervous break down and out of their jobs. This is what happened to Produce Manager Tenny Han, Grocery Manager Sanjah Sahn, Meat Department Manager Cheryl Wilesmith and myself. Office Manager Ren Law came under attack by Woolworths Manager 2IC Willian Lose because part of her duties had been outsourced and Duty Manager Ray Plater was driven into extended stress leave by the same manager using the same brutish animal behaviour to attack staff.

[31] Woolworths undertake this action because they think they have it covered with the corruption of Fair Work Act 2009 Section 386 and the corruption of Fair Work Act 2009 Section 394 in relation to Unlawful Unfair Dismissal as outlined above.

[32] To undermine the credibility of the applicant, Woolworths fabricate a defamation of character of the key witness being myself as outlined above. I am hearing disabled and Woolworths took advantage of that disability. Woolworths took advantage of the disabled – The lowest possible form of human indecency. All I can say is thanks a lot Ian Bennett of Sparks Helmore Lawyers and thanks a lot Nicole Barclay and Luckshini Sivaskanda of Woolworths. I realise that sarcasm is the lowest form of wit but, it doesn't get much lower than what these inhuman people did to me. They must be really proud of themselves – Also sarcasm.

[33] Again, all proven and on the record – Woolworths interfering with and preventing key witnesses from attending court. Violation of Article 25 of the criminal code and a Federal offence. These are my witnesses who would have verified their witness statements proving that Woolworths involved themselves in a conspiracy of bullying and harassment to get rid of staff unlawfully.

[24] Ray Plater – My witness **Exhibit 1** (Page 8), twice told me that he had been contacted by Woolworths Head Office. The second time in a small receding voice and in that there is an inference. As pointed out by Nicole Barclay representing Woolworths: Cheryl Wilesmith – My other witness **Exhibit 2** (Page 9), was away until the Monday after the hearing. I spoke to Cheryl and she said she was away and sick on a cruise ship during the hearing. The only way I could have got her to the hearing was by helicopter and Woolworths knew that.

[25] Now, have a look at **Exhibit 8** (Page 10 attached). Woolworths demanding that I bring Ray and Cheryl to the hearing so they can testify against Woolworths? It's starting to look a bit odd... Ray and Cheryl are good people – They would not perjure themselves. If Woolworths wanted Ray and Cheryl at the hearing all they had to do was give them leave to appear the same way they gave leave to appear to Ren Law, Andrew Tiller and Willian Lose. All from the same Avalon store.

[36] Woolworths approved Cheryl's leave to go on the cruise ship – They knew she would be away during the hearing. Nicole Barclay representing Woolworths asked for a one-month extension of time because she was going on holidays and that was approved by the Full Bench. If Woolworths wanted Cheryl at the hearing they could have asked for a similar concession. So, the reason for Exhibit 8 really starts to come unstuck as follows: -

[37] It comes down to rudimentary criminal psychology and, I'll explain that with a simple example that everybody can understand:

"The arsonist helps fire fighters put out the fire to divert attention away from himself and the criminal act".

"The person interfering with witnesses drafts a letter demanding the attendances of those witnesses in court to divert attention away from themselves and the criminal act".

[38] When asked the question, at the Appeal Hearing, if Woolworths wanted Ray Plater and Cheryl Wilesmith at the hearing to verify their witness statements – Mr Shariff representing Woolworths shook his head "no" Viewed by the Full Bench with the exclamation "NO". On the record. Woolworths did not want Ray and Cheryl at the hearing to verify their witness statements to the detriment of Woolworths. Can you see how stupid **Exhibit 8** is starting to look.

[39] All the Federal authorities have to do is talk to Ray and Cheryl to find out that they were interfered with by Woolworths management. The person whose name appears on Exhibit 8 is Mr Hassall, Partner of Sparks Helmore Lawyers. Mr Hassall, you idiot – You have implicated yourself in a criminal conspiracy at a Federal level and, risk losing your licence to practice law.

[40] So there it is – Woolworths pathetic lack of reasoning for getting rid of staff. The brutish animal behaviour against those innocent people. The Woolworths manager committing those crimes against staff perjured himself. The attack on the Fair Work Commission and Fair Work Act 2009 and the applicant (Myself) by Woolworths. Then, to top it off, the criminal act of removing witnesses, to the matter, from the scene. What is this telling us?

[41] It's called corporate corruption and it can bring down Governments and destroy societies. The Fair Work Commission is the policing authority in matters of Unlawful Workplace Practice so, do the policing and knock this on the head. Send a message to all corporates – It will not be tolerated.

[42] I don't see anything that even vaguely resembles a defence or an excuse for Woolworths unlawful and criminal activity. Activity fully sanctioned by the Woolworths Group Executive Committee and the Woolworths Board of Directors so, the corruption goes right to the top.

[43] Perhaps we should advertise and track down every Woolworths employee betrayed by Woolworths management, over the past seven years, and start a class action for damages. The gravity of the situation Woolworths now finds themselves in may then start to sink in.

[44] Time to change the business model Woolworths – Don't you think! And, there is a simple solution – Be good enough for good people to believe in you! Because, at the moment, if it wasn't for Food Standards Australia New Zealand (FSANZ), you would not trust Woolworths to feed your children.

[45] This case has cost myself and my good wife exactly nine months of our life – Nine months of persecution and nine months of sheer hell at the hand of Woolworths top managers... Let's hope something good is born from this to save other innocent people from the same brutish animal behaviour. The cancer that runs through the backbone of Woolworths management as proven by this case.

I STEPHEN FITZGERALD BELIEVE THE FACTS STATED IN THIS CLOSING STATEMENT ARE TRUE

A handwritten signature in black ink, appearing to read 'Fitzgerald', written in a cursive style.

Stephen Fitzgerald
5th September 2017

IN THE FAIR WORK COMMISSION
IN THE MATTER OF THE FAIR WORK ACT s.394
APPLICATION FOR UNFAIR DISMISAL REMEDY

Statement for: (Applicant)
Witness: Ray Plater
Statement No: U2016/14484/WS02
Made: 29TH January 2017
Case No: U2016/14484

BETWEEN:

APPLICANT: Fitzgerald, Stephen Geoffrey

-and-

RESPONDENT: Woolworths Limited T/A Woolworths Supermarket

WITNESS STATEMENT ON BEHALF OF THE APPLICANT

I Ray Plater of I THE APPLICANT WAY AVALON BEACH.
Duty Manager at Woolworths Avalon Supermarket, make this witness statement on behalf
of the applicant Stephen Fitzgerald.

(1) After the time, Stephen Fitzgerald left Woolworths Avalon the Woolworths Avalon
Manager 2IC Will Lose approached me and said he got rid of Stephen Fitzgerald because he
wasn't performing.

(2) Then he said that it was my fault for not keeping Stephen Fitzgerald working. So, he
blamed me.

(3) I said that Stephen Fitzgerald started at 5:30pm did a mop-up and prepped the store to
receive the loads. He then unloaded all the delivery trucks, did all the empty pallet and roll
cage returns and all the paperwork for the day. He finished at 10:30pm.

(4) I also said that if there was an opportunity he would take a break and go home to check
on his disabled wife – Take her to the bathroom...

(5) I said to Stephen Fitzgerald that the actions of Management had impacted staff moral
with multiple resignations and good staff going across to Coles Supermarket.

I RAY PLATER BELIEVE THE FACTS STATED IN THIS STATEMENT ARE TRUE



Ray Plater
29th January 2017

EXHIBIT 2

IN THE FAIR WORK COMMISSION
IN THE MATTER OF THE FAIR WORK ACT s.394
APPLICATION FOR UNFAIR DISMISAL REMEDY

Statement for: (Applicant)
Witness: Cheryle Whilesmith
Statement No: U2016/14484/WS03
Made: 29TH January 2017
Case No: U2016/14484

BETWEEN:

APPLICANT: Fitzgerald, Stephen Geoffrey

-and-

RESPONDENT: Woolworths Limited T/A Woolworths Supermarket

WITNESS STATEMENT ON BEHALF OF THE APPLICANT,

WHILESMTIH CW
I Cheryle Whilesmith of 11 BARRINGBAR STREET NTH BALGOWLAH
Meat Department Manager and Team Support at Woolworths Avalon Supermarket, make
this witness statement on behalf of the applicant Stephen Fitzgerald.

(1) Around September 2016, I was bullied and harassed by Woolworths Avalon Manager 2IC
Will Lose to the point where I required two weeks' stress leave with bullying and
harassment as the reason. At that time, I was told I had been made redundant but, after 30
years dedicated service, I never received a redundancy payment.

I CHERYLE WHILESMTIH BELIEVE THE FACTS STATED IN THIS STATEMENT ARE TRUE

Whilesmith
Cheryle Whilesmith *WHILESMTIH CW*
29th January 2017

EXHIBIT 8

sparke
HELMORE
 LAWYERS
Exhibit 8

24 February 2017

Stephen Fitzgerald
 Unit 2, 1 Avalon Parade
 AVALON BEACH NSW 2107

By email: info@hootgallery.com

Dear Mr Fitzgerald

Fitzgerald v Woolworths Limited
Unfair Dismissal Claim in the Fair Work Commission (FWC Ref: U2016/14484)
Our ref: IAB/WOO049-00121

We confirm this matter is listed for hearing before the Fair Work Commission next Friday, 3 March 2017.

At present, you have indicated that you intend to rely upon witness statements of:

- Yourself
- Cheryl Wilesmith, and
- Ray Plater.

We note that you will be attending and available for cross-examination.

In the event you seek to rely upon the witness statements from Ms Wilesmith and Mr Plater as your evidence in chief at the hearing, we advise that each of the witnesses will be required to attend the Fair Work Commission for cross-examination by Woolworths Ltd.

Accordingly, please ensure they are in attendance next Friday.

Yours faithfully



Partner responsible:
 Roland Hassall
 t: +61 2 9260 2449
 e: roland.hassall@sparke.com.au

Contact:
 Ian Bennett, Senior Associate
 t: +61 2 9373 1445
 e: ian.bennett@sparke.com.au

cc: Nicole Barclay
 Employee Relations Specialist - NSW/ACT (Woolworths Ltd)
 t: +61 427 492 626
 e: nbarclay@woolworths.com.au

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IAB\IAB\545553113

APPENDIX "B"

*2/1-3 Avalon Pde.
Avalon Beach NSW 2107
Ph. (02) 99 732 831
info@hootgallery.com*

Andrew Tiller - Store Manager
Woolworths Avalon
74 Old Barrenjoey Rd.
Avalon Beach NSW 2107

RE: LETTER OF RESIGNATION

In view of ongoing and persistent bullying, harassment and intimidation by Will Lose, the 2IC of Woolworths Avalon, and the associated dangers of working in a disruptive environment and also, since my leave entitlements have now expired, I am left no choice but to resign.

In view of the above, my employer and employee relationship with Woolworths is extinguished as of 27th November 2016.

Forwarded for your information and appropriate action.

Sincerely



Stephen Fitzgerald
27th November 2016



Link Market Services Limited
ABN 54 083 214 537

All Correspondence to:
Locked Bag A14
Sydney South NSW 1235
Australia

18/05/2017

STEPHEN FITZGERALD
2/1-3 AVALON PARADE
AVALON NSW 2107

Dear Stephen

Management of your Share Plans shares now that you've left the Woolworths Limited

Link Market Services administers the **Woolworths Limited** Employee Share Plans.

Woolworths Limited has advised us that as at 18/12/2016 you are no longer employed with the company and we've updated the status of your shares in line with the Plan rules.

You can view the current status of your shares and sell shares by going online to <https://investorcentre.linkmarketservices.com.au/Employee/WOWE> and logging into the Investor Centre. If you have not previously registered, you can do so by clicking "Register Now".

It is important that you update your email address so that we can continue to communicate with you about your share holdings. You can also update your contact details online.

If you would like any assistance or information in relation to your holding, please contact Link Market Services Limited on 1800 111 281 or via email to wow.esp@linkmarketservices.com.au.

Yours sincerely,

Plan Administrators
Equity Plan Solutions
Link Market Services Limited

NOTE:

Woolworths don't terminate your employment until after the 21 day period to lodge an Unfair Dismissal Remedy claim with the Fair Work Commission to void Section 394 of the Fair Work Act 2009.

The only remedy then is Section 286(1)(b) and, woven into that is Woolworths hidden jurisdictional objection. Then comes dismissal of the case and a cost order against the applicant not apparent at the beginning of the case. That's what happened to me.

So, Woolworths has made a planned and premeditated attack on Fair Work Act 2009 and the Fair Work Commission so they can continue with unlawful workplace practice unabated.

Brad Banducci
 Managing Director & CEO
 Woolworths Limited
 PO Box 8000
 Baulkham Hills NSW 2153

*Unit 2, 1 Avalon Parade,
 Avalon Beach, NSW 2107
 Ph: (02) 99 732 831
 info@hootgallery.com
 1st February 2017*

Title Matter: Fitzgerald, Stephen Geoffrey v Woolworths Limited T/A
 Woolworths Supermarket
 Section: s.394 – Application for unfair dismissal remedy
 Subject: Application for relief from unfair dismissal
 Matter Number: U2016/14484
 Hearing Date: 3rd March 2017 at 10:00am
 Location: Fair Work Commission, Terrace Tower, 80 William Street
 East Sydney, N.S.W. 2010
 Court Contact: Lidia Susac Phone: (02) 9308 1825
 Email: chambers.cambridge.c@fwc.gov.au

INVITATION TO ATTEND COURT AS OBSERVERS

Dear Brad Banducci,

The above-mentioned court case is in relation to bullying, harassment and intimidation by Woolworths Manager 21C Will Lose at the Avalon Supermarket resulting in an application for unfair dismissal remedy. Your Woolworths representative, in this case, is Ms. Nicole Barclay.

This case exposes unlawful workplace practice by a Woolworths manager resulting in the decimation of staff morale and multiple resignations from the Woolworths Avalon Store. As supported by 5 witnesses employed or previously employed at Woolworths Avalon.

This case also exposes forced redundancies and action by Woolworths to avoid making redundancy payments which, along with the above, contradicts a recent press release. This brings into question the Woolworths Limited Board Charter in relation to principals, ethics and respect for the law.

In view of the above yourself, or a representative, are invited to attend court as observers to find out what's happening in the real world, the front-line of Woolworths Supermarkets.

A copy of this letter has been sent to each member of the Woolworths Board of Directors and each member of the Woolworths Group Executive Committee.

Yours Faithfully



Stephen Fitzgerald

AUSTRALIA – Legal system

The United Nations Convention against Corruption was signed by Australia on 9 December 2003 and ratified by Parliament on 7 December 2005. The power to enter into treaties is an Executive power under section 61 of the Constitution.

Obstruction of justice (article 25)

The Criminal Code prohibits the obstruction of justice, including intimidating or corrupting witnesses, inducing false testimony, deceiving a witness, preventing the attendance of a witness in court, tampering with or destroying evidence and attempting to pervert justice. These measures go beyond the minimum standards in the Convention.

Participation and attempt (article 27)

Part 2.4 of the Criminal Code extends criminal responsibility to aiding, abetting, counselling or procuring the commission of an offence, joint commission, commission by proxy, incitement and conspiring to commit an offence. A person who attempts to commit an offence can be punished as if the offence attempted had been committed. Section 11.5 of the Criminal Code Act (1995) prohibits a person from conspiring with another person to commit an offence so long as at least one overt act (which can be an act in preparation to commit the offence) has occurred.

Protection of witnesses and reporting persons (articles 32, 33)

Australia's mechanisms to protect persons giving evidence in judicial proceedings make no distinction between victims and witnesses. The Witness Protection Act (1994) and the National Witness Protection Program provide protection and assistance to witnesses identified as being at risk because of assistance they have given to law enforcement.

FOOT NOTE:

Law enforcement in this case being the Fair Work Commission although, that may need to be tested. Other than that, it relates to pending action... Don't touch the witnesses!

Never the less, here we have it and, the whole fabric of the law starts to unravel - With Woolworths at the helm.

- (1) Woolworths involved in unlawful workplace practice Fair Work Act 2009 - Proven*
- (2) Woolworths involved in corruption of Fair Work Act 2009 section 394 and section 386 - Proven*
- (3) Woolworths involved in intimidation and corruption of witnesses: (Article 25 of the Federal criminal code) - Proven*
- (4) Woolworths involved in incitement and conspiring to commit an offence: (Article 27 of the Federal criminal code) – Proven*

As I have previously said – The Matter will be referred to the Relevant Federal Authorities with the evidence neatly packaged. That will be immediately after the Judgement of the Full Bench of the Fair Work Commission. Irrespective of the outcome. Civil action for damages will also commence and again, with the evidence neatly packaged and air tight. I will also be suggesting that the Government distance themselves from Woolworths and their managers.

Stephen Fitzgerald