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Issue #1

Lattouf v ABC [2025] FCA 669

On 25 June 2025, the Federal Court ruled in journalist Antionette Lattouf's favour, determining that she was unlawfully terminated from her employment with the ABC.

The court found that Lattouf was terminated for reasons that included that she "held a political opinion opposing the Israeli military campaign in Gaza", resulting in the ABC being found to have contravened s.772(1) of the Fair Work Act.

In awarding Lattouf $70,000 for her non-economic loss, the court found that:

- Lattouf's expression of opposition to the conflict in Gaza in a social media post was a substantial and operative reason for the decision to terminate her employment.
- The ABC's Chief Content Officer, Christopher Oliver-Taylor, attributed to Lattouf the holding of a political opinion opposing the conflict in Gaza, which, in his view, made her unsuitable to work as a presenter at the ABC.
- The reason for the decision to terminate included Oliver-Taylor's desire to mitigate further complaints about the ABC employing someone attributed with holding that political opinion.
- The ABC did not prove that the substantial and operative reasons for the termination did not include that Lattouf was attributed with holding the political opinion.

Lattouf made numerous social media posts in relation to Gaza, following 7 October 2023.

Lattouf then commenced employment with ABC Sydney as a radio presenter from 18 December to 22 December 2023.

After Lattouf's first program, the ABC received complaints that Lattouf expressed anti-Semitic views, lacked impartiality and was unsuitable to present. The court said that: "the complaints were an orchestrated campaign by pro-Israel lobbyists to have Ms Lattouf taken off air".

The ABC said that it then gave Lattouf a "direction" not to post anything on social media that would suggest that she was not impartial in relation to Gaza.

The court disagreed that Lattouf received a direction and said that it was simply advice not to post anything controversial, which would not include fact-based information from a verified source.

On 20 December 2023, ABC managers became aware that Lattouf had reposted a Human Rights Watch video titled "The Israeli Government is using starvation as a weapon of war in Gaza", on Instagram, adding the words, "HRW reporting starvation as a tool of war".

As a result, ABC managers determined to take Lattouf off air on 21 and 22 December 2023, and Lattouf was told that she had breached the ABC's policies.

The ABC said that this was not a termination of employment, rather it did not require Lattouf to present her two remaining programs on full pay, and that the effluxion of time ended the employment on 22 December 2023.

The court found that the ABC had unlawfully terminated Lattouf's employment because of her political opinion in breach of the Fair Work Act, because the ABC's reasons for the termination included that Oliver-Taylor formed the view that Lattouf failed to follow the ABC's direction not to post anything controversial in relation to Gaza, in breach of the ABC's Personal Use of Social Media Guidelines.

The court found that no such direction was given and that Lattouf's dismissal was interconnected with the social media post, and Oliver-Taylor's opinion that Lattouf expressed support for the view contained in the post.

It was the ABC's onus under s.783 of the Fair Work Act to prove political opinion was not a substantial and operative reason for Lattouf's termination, which it failed to do.

The matter is to be set down for a further hearing to determine whether the ABC should pay pecuniary penalties.

Did You Know?

"That's it. I quit!". This may not be a binding resignation if it is made in the heat of the moment. Employers may need to double check an employee's intention, after they have had time to calm down and reflect.

Ravbar v Commonwealth of Australia [2025] HCA 25

On 18 June 2025, the High Court unanimously upheld the validity of the Fair Work (Registered Organisations) Amendment (Administration) Act 2024 (Cth), finding that it did not breach the Constitution as alleged, and that it was not invalid due to the implied freedom of political communication.

The legislation came into effect on 22 August 2024, and provided a scheme for the administration of the CFMEU and its branches, aimed at returning the CFMEU to operating lawfully and effectively in the interests of its members.

Following the Construction and General Division of the CFMEU being placed into administration, Mark Irving KC was appointed as the administrator. In this role, Irving's powers included suspending, removing, expelling or disqualifying members or office holders, undertaking investigations into current and past practices of the CFMEU and terminating the employment of employees.

Exercising these powers, Irving proceeded to remove numerous CFMEU officials from office, who then challenged the constitutional validity of the legislation, bringing a special case in the High Court.

In the case, it was alleged that the legislation breached the separation of powers and the implied freedom of political communication.

Following the High Court's decision, it is expected that the administration of the Construction and General Division of the CFMEU will continue, likely in accordance with the 2025 – 2028 Strategic Plan.

Amendments to the Work Health and Safety Act 2011 (NSW)

The Work Health and Safety Act 2011 (NSW) was amended on 3 July 2025.

As a result of the significant changes, unions in NSW have the ability to prosecute a person (or entity) conducting a business or undertaking for breaches of the WHS Act, if they have consulted with SafeWork NSW about the union's intention to bring proceedings, and SafeWork NSW has declined to bring the proceedings.

Prior to the changes, a union's ability to bring proceedings was limited to where SafeWork NSW had declined to follow the advice of the Director of Public Prosecutions to bring proceedings.

If you would like guidance in relation to your interactions with unions, including in relation to the above changes, please let us know.

Get to know

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Led by Partner Barnaby Austin, Carter Newell's Employment & Workplace Advisory team assists businesses in managing their workforce, while minimising legal risks.

As a national practice, our team delivers expert legal support across all jurisdictions.

Supporting Barnaby is a strong team of experienced employment lawyers located in Brisbane, Sydney and Melbourne, committed to supporting our clients.

Sexual Harassment Prevention Plan

From 1 March 2025, Queensland employers have been required to prepare and implement a prevention plan to manage identified risks to the health and safety of workers from sexual harassment and sex or gender-based harassment at work.

The Work Health and Safety Regulations 2011 (Qld) was amended to incorporate a duty on employers to prepare a plan which must:

- Be in writing and state each identified risk.
- Identify control measures implemented, or to be implemented, to manage each identified risk.
- Identify matters considered in determining the control measures.
- Describe the consultation undertaken with workers.
- Set out the procedure for dealing with reports of sexual harassment or sex or gender-based harassment at work.
- Be set out and expressed in a way that is readily accessible and understandable to workers.

For employers in Queensland, the plan must be in accordance with the regulation. If it is not, it is an offence with a maximum penalty of 60 penalty units, or $10,014.

For employers in multiple states, it may be prudent to prepare a plan in other states also, as best practice, although not required.

If your business is yet to implement a plan, or requires a review of its plan to ensure compliance, please let us know.

A joke from an employment lawyer...

EMPLOYEE 1: Can you play in the office mixed netball team?

EMPLOYEE 2: I'm sorry, I can't. I signed a non-compete.