

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION  
COMMERCIAL LIST**

F.5382  
No. 2115 of 2001

BETWEEN:

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD  
(ACN 065 590 178) (as Trustee of the Ansett Australia Ground Staff  
Superannuation Plan) AND ANOTHER**

Plaintiffs

and

**ANSETT AUSTRALIA LIMITED (subject to deed of company arrangement)  
(ACN 004 209 410) AND OTHERS**

Defendants

**AFFIDAVIT OF DOMINIC EMMETT**

Date of document: 21 June 2002  
Filed on behalf of: the first and second defendants  
Prepared by:  
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I, **DOMINIC EMMETT** of Level 17, 501 Swanston Street, Melbourne, in the State of Victoria, Solicitor, **MAKE OATH AND SAY:**

- 1 I am a partner of Corrs Chambers Westgarth. I was previously a partner of Andersen Legal, and I have acted for the Administrators of Ansett Australia Limited in relation to Ansett matters since September 2001.
- 2 On 7 December 2001, I received an email from Nigel Fish, Ansett Superannuation Manager, informing me that the Actuary for the four Ansett defined benefit superannuation plans had drafted new Funding and Solvency certificates, and that the actuary had advised an increase to the employer contribution rate for the Ground Staff Plan from 9% to 14%. He stated that the actuary was keen to discuss the issue with me. Now produced and shown to me marked "DE-1" is a copy of the email dated 7 December 2001.

3 In December 2001, I met with Paul Daniel Francis, actuary for the Ground Staff Superannuation Plan at the premises of Ansett in Swanston Street, Melbourne. I advised Mr Francis at the outset of the meeting, that I would neither agree to nor refuse any recommendations as to employer contributions to be paid by Ansett Australia Limited to the Plans.

4 At that meeting, he told me that he intended to certify, in the Funding and Solvency Certificate for Ground Staff Plan, a contribution rate by Ansett Australia Limited of 14%, and this was an increase from the 9% contribution rate previously paid by Ansett Australia Limited.

5 I listened to everything Mr Francis said, and did not agree to, or refuse the suggested contributions on behalf of the administrators. I told Mr Francis that silence by the administrators or me did not constitute consent to a proposed 14% contribution rate.

SWORN by **DOMINIC EMMETT** at )  
 Sydney Melbourne in the State of ~~Victoria~~ on 24 )  
 June 2002 NSW )



Before me:



Print name:

MATTHEW RICHARDS  
 SOLICITOR