

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

No. 2115/01
F.5382

BETWEEN

ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD
(A.C.N. 065 590 178) (as trustee of the Ansett Australia Ground Staff Superannuation Plan) **AND OTHERS**

Plaintiffs

and

ANSETT AUSTRALIA LIMITED (A.C.N. 004 209 410) (Administrators Appointed) **AND OTHERS**

Defendants

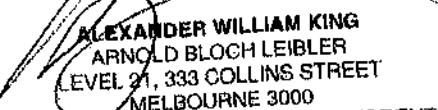
AFFIDAVIT OF PAUL FRANCIS CHIAPPI

Date of document: 9 January 2002
Filed on behalf of: the defendants
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I, **PAUL FRANCIS CHIAPPI**, of Level 21, 333 Collins Street, Melbourne Victoria, solicitor, make oath and say:

- 1 I am a solicitor and partner of the firm Arnold Bloch Leibler of Level 21, 333 Collins Street, Melbourne Victoria. I have the care of this matter on behalf of the defendants.
- 2 On 27 November 2001, the second and third defendants herein, Mark Mentha and Mark Korda ("the administrators"), issued an originating process in the Federal Court of Australia seeking directions pursuant to section 447D of the Corporations Act and a declaration pursuant to section 21 of the Federal Court


ALEXANDER WILLIAM KING
ARNOLD BLOCH LEIBLER
LEVEL 21, 333 COLLINS STREET
MELBOURNE 3000
A NATURAL PERSON WHO IS A CURRENT
PRACTITIONER WITHIN THE MEANING OF
THE LEGAL PRACTICE ACT 1996

Act as to whether the termination of the employment of various employees of Ansett Australia Limited (Administrators Appointed) was a "retrenchment" for the purposes of the relevant trust deeds of three Ansett Australia staff superannuation plans ("the Federal Court proceeding"). Now produced and shown to me marked "PFC1" is a copy of the originating process. The defendants in the Federal Court proceeding ("the trustees") are the plaintiffs in this proceeding.

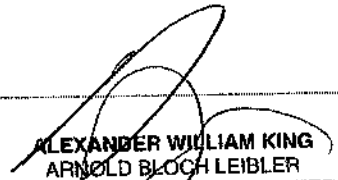
- 3 The Federal Court proceeding was instituted by the administrators on the request of the trustees. The trustees filed and served seven affidavits in that proceeding. The affidavits exhibit a substantial number of documents.
- 4 The Federal Court proceeding came on before Mr Justice Goldberg of the Federal Court on 29 November 2001 for directions. Now produced and shown to me marked "PFC2" is a copy of the order made by Mr Justice Goldberg at that time.
- 5 The proceeding returned before Mr Justice Goldberg for further directions on 20 December 2001. The trustees sought the adjournment of the Federal Court proceeding to allow the trustees to issue proceedings in this honourable Court to deal with a broader range of issues than were raised in the Federal Court proceeding. The trustees' counsel submitted that there were jurisdictional issues which rendered this Court the appropriate forum. Counsel for the administrators, Timothy J Walker, submitted that any question as to jurisdiction which the trustees were concerned about ought to be determined in the Federal Court. His Honour rejected the submission for, amongst other reasons, the lack of any precise issue being then before his Honour for determination on the question of jurisdiction. Now produced and shown to me marked "PFC3" is a copy of the transcript of 20 December 2001.
- 6 There have been a number of Court applications brought in relation to the administration of the Ansett group of companies. The applications have, in the

main, been brought in the Federal Court before Mr Justice Goldberg. Those applications include an application to extend the date of holding the second creditors meeting, an application to approve a memorandum of understanding involving Air New Zealand, an application for directions in relation to aircraft disclaimed by the administrators, an application as to the notice required to be given for the second meeting of creditors and an application in relation to monies advanced to the administrators by the Commonwealth Government and the treatment of those monies as a debt within the administration. Mr Justice Goldberg has dealt with all of these applications.

SWORN by PAUL FRANCIS CHIAPPI at)
Melbourne in the State of Victoria on)
9 January 2002)



Before me: _____



ALEXANDER WILLIAM KING
ARNOLD BLOCH LEIBLER
LEVEL 21, 336 COLLINS STREET
MELBOURNE 3000

Print Name: _____

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