

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION

No. 2115 of 2001

BETWEEN:

ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN
PTY LTD (ACN 004 209 410)
(As Trustee of the Ansett Australia Ground Staff Superannuation Plan)

Appellant

and

ANSETT AUSTRALIA LTD (Subject to Deed of Company Arrangement)
(ACN 004 209 410)

First Respondent

MARK FRANCIS XAVIER MENTHA

Second Respondent

MARK ANTHONY KORDA

Third Respondent

ORDER OF THE COURT OF APPEAL

JUDGES:

The Honourable Mr Justice Ormiston
The Honourable Mr Justice Callaway
The Honourable Mr Justice Batt

DATE MADE:

21 August 2003

ORIGINATING PROCESS: Notice of Appeal

HOW OBTAINED:

On the hearing of the appeal.

ATTENDANCE:

Mr. J.G. Santamaria, one of Her Majesty's Counsel, with Mr. D.M. MacLean and Mr. P.D. Crutchfield of Counsel appeared for the Appellants.
Mr. S.P. Whelan, one of Her Majesty's Counsel, with Ms. B. McMahon of Counsel appeared for the Respondents.

OTHER MATTERS:

This matter coming on to be heard before the Court on 11-12 August 2003 and the Court having directed that this matter should stand for judgment and this matter standing for judgment this day accordingly.

This order is not to prevent grounds 21 and 22 in the amended notice of appeal from being raised at the hearing of the cross-appeal and decided pursuant to Rule 64.22(7).



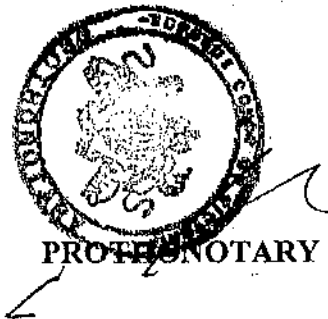
THE COURT OF APPEAL ORDERS THAT:

1. Leave to appeal is granted *nunc pro tunc*, if such leave be needed, from that part of paragraph 1 of the order made by the Honourable Justice Warren on 7 February 2003 which responds to paragraph 14 of the fourth amended originating motion stated to be filed on 21 August 2002 but in fact filed on 20 February 2003.

2. The appeal be allowed.
3. The declarations made by the Honourable Justice Warren in response to the said paragraph 14 be set aside and the following be substituted:

“It is inappropriate to answer these questions or make any declaration in the present circumstances.”
4. The hearing of the cross-appeal be adjourned to a date to be fixed.
5. The Appellant pay the Respondents’ costs of the appeal including costs reserved by the Court of Appeal on 9 May 2003.
6. The costs of the cross-appeal be reserved.

DATE AUTHENTICATED: 28 August 2003



RJS: 28/08/03