



*Friday*  
**Workplace  
Briefing**

with Andrew Douglas and Karen Luu

## Disclaimer

This webinar is intended for guidance purposes only on the considerations to which a business should have regard in managing their workplace issues.

This guidance is not a substitute for legal advice which is tailored to the specific circumstances of your business.

## This week

- COVID/JobKeeper update:
  - Stand down when reduction in work of Qantas
  - CFMEU v Hutchison Ports – stop work for COVID
- Managing RTW in a post-COVID world
  - Part 3: Flexible work arrangements policy
- Rossato v Workpac: Special leave – what does it mean?
- DA v Baptist Care: Limitations on work
- AMWU v CSL: Acting in the best interests of the business and the second job
- CFMEU v ABCC: Safety rights of entry

## COVID19 / JobKeeper update

- Buttress v Preston James
- Nina's updated changes to restrictions - [link](#)
- 30.11.20 RTW - rules in Victoria
- CFMEU v Hutchison Ports
  - HSR Direction cease work, industrial action
  - Hutchinson pay until CMO said safe in Zoom

# Managing RTW in a post-COVID world

## Part 3: Flexible work arrangements policy

- S.65 and Government Direction
- Home, hub and spoke and alternate spaces (risk assessment)
- IFA or variations to contract
- Lawful and reasonable directions

# Employment Law Casuals

- Rossato v Workpac
  - Special Leave

# Employment Law Policy and unfair dismissal

- Stevens v ISS: Labour Hire
- DA v Baptist Care: Legislative Policy
  - Inherent requirements
  - Roll over effect - Registration, Police Check etc

## Employment Law: Duty best interest of the business

- AMWU v CSL Bearing
- EA dispute seeking revocation of warning
- Contract (and Code) say do not do anything that could be considered a conflict of interest to the business
- Photo shoot with The Block whilst on annual leave
- Photos did not create safety risk - adequate rest
- Interesting that the case did not argue best interests of the business



## Case study

Janine was a microbiologist at a bio-medical start up Vaccines-R-Us (VRU). There was great pressure to develop and test a COVID vaccine.

When Janine commenced work with VRU she read the code of conduct that said she must seek consent to undertake any other work. Her contract stated the common law duties to act in the best interest of the company at all times.

In April 2020 she separated from her partner and was left to pay expensive rent and outgoings on her flat in South Yarra.

VRU were working long hours to complete stage 2 of the trial of its vaccine. However her money was not stretching sufficiently to keep a good quality of life.

She took up Uber food delivery often working between 8pm-1am 6 days a week and all day Sunday.

## Case study - continued

On 21 July 2020 she presented to work limping, had a badly bruised face and appeared unable to stay awake.

A doctor working with her assessed her medical condition and found she had severe concussion syndrome. She was taken home and took two weeks off work. Upon her return she said she slipped and fell in her front garden on the way to work. It was icy and slippery.

Her manager was subsequently supplied with a Facebook post where she had a photograph of her car smashed up, a drunken man lying on the ground and her with the exact injuries she presented to work.

Underneath the photo was a post “Hard enough working around the clock on a vaccine and doing Uber work to make money then smashed up by this drunk.” In the photo she was wearing a shirt with Uber Food Delivery on it.

# Safety Law

## OHS Right of Entry

- CFMEU v ABCC (Bruce Highway)

## Next week

- COVID/JobKeeper update
- Part 4 of 5 COVID RTW: Client experience
- Latest developments and case updates

# Stay up-to-date

**Workplace  
in-Brief**

**Safety** in-Brief

**Commercial  
in-Brief**



## Stay in touch



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