



HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY

BETWEEN:

PETER VINCENT RIDD

Appellant

and

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JAMES COOK UNIVERSITY

Respondent

RESPONDENT'S OUTLINE OF ORAL SUBMISSIONS

Part I: Certification

1. This outline of oral submissions is in a form suitable for publication on the internet.

Part II: Outline of oral submissions

2. *First point:* Clause 14.1 of the *James Cook University Enterprise Agreement 2013-2016* (the **Enterprise Agreement**) is not the source of a right to “intellectual freedom”. The clause records that the Respondent (**University**) is committed to acting in a manner consistent with the protection and promotion of “*intellectual freedom*” and in accordance with the Code of Conduct. The University’s obligation pursuant to cl 14 is to give effect to its commitment and the promotion of “intellectual freedom” through the Code of Conduct.

RS [11], [14], [43]-[45]

3. *Second point:* The Code of Conduct is the mechanism by which the University was to protect and promote intellectual freedom.

RS [15]-[18]

4. **Third point:** The Code of Conduct applies to all employees, at all times. The University has a statutory obligation to implement and maintain a Code of Conduct: *Public Sector Ethics Act 1994* (Qld).

RS [32]

5. **Fourth point:** Clause 13.3 does not alter the analysis. The parties' noted intention that the Code of Conduct not detract from cl 14 is targeted to the whole of cl 14. When cl 14 is read as a whole, it is evident that there is no tension between cl 14 and the Code of Conduct. This is particularly so in light of cl 14.3 which imposes a limitation on any exercise of "intellectual freedom", namely to treat others with respect.

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RS [26]-[32], [23]

6. **Fifth point:** To only limit the burden on the so-called "right" by the proscription in cl 14.3 that staff not harass, vilify, bully or intimidate ignores not only the text of cl 14.3, but also cl 14.1.

RS [21]-[23]

7. **Sixth point:** In the proceedings below, the Appellant (**Dr Ridd**) put his case on the basis that he admitted that relevant conduct engaged in by him breached the terms of the Code of Conduct. Both his conduct, and the characterisation of that conduct as being a breach of the provisions of the Code of Conduct, were admitted. Dr Ridd's case was that the "right" in cl 14.1 prevailed over the Code of Conduct. This argument was correctly rejected by the majority.

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RS [3]

8. **Seventh point:** Clause 14.1 did not operate to immunise Dr Ridd from conduct in breach of his obligations of confidentiality under the Enterprise Agreement or at law, or to follow the directions of the University.

RS [49]

9. **Eighth point:** In the event that the Court does not accept the interpretation advanced by the University, it does not follow that the orders of the Full Court are to be set aside. That is because the majority found that the primary judge erred in holding that, in each case the subject of the findings by the University, Dr Ridd had

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been exercising a right under cl 14 and that Dr Ridd's conduct subsequent to the Final Censure, and on which his termination was grounded, had nothing to do with the exercise of intellectual freedom pursuant to cl 14. Dr Ridd does not address this point in his submissions in any real way. In any event, the termination of Dr Ridd's employment was justified on the basis of his refusal to comply with directions given to him as to confidentiality. This ground alone is sufficient to have justified the termination separate to any other ground.

RS [47]-[48]

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The respondent is represented by Clayton Utz.

20