



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: S119/2024  
File Title: Helensburgh Coal Pty Ltd v. Bartley & Ors  
Registry: Sydney  
Document filed: Form 27B - Appellant's chronology  
Filing party: Appellant  
Date filed: 24 Oct 2024

#### Important Information

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IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY

BETWEEN:

**HELENSBURGH COAL PTY LTD**

Appellant

and

**NEIL BARTLEY AND OTHERS NAMED IN THE SCHEDULE TO THE NOTICE  
OF APPEAL**

Respondents

**APPELLANT'S CHRONOLOGY**

**PART I: CERTIFICATION**

1. This chronology is in a form suitable for publication on the internet.

**PART II: PRINCIPAL EVENTS**

2. This chronology is intended to be read with the appellant's submissions, and the terms defined therein.

DATE	EVENT	REFERENCE
1 August 2018	Nexus is engaged to provide various services at the Mine on a two-year contract with a 12 month extension.	<b>FC [10] CAB 140</b> <b>Third Decision [68(b)]</b> <b>CAB 71</b> <b>Statement of Grennell</b> <b>at [6] ABFM 14</b>
Early 2019	A fire occurs at an underground conveyor at the Mine and Mentser is engaged to undertake inspections of the Mine's conveyor systems.	<b>FC [10] CAB 140</b>

<b>DATE</b>	<b>EVENT</b>	<b>REFERENCE</b>
Late 2019	The appellant resolves to outsource the servicing, inspection, auditing and rectification of belt-related work at the Mine.	<b>FC [10] CAB 140</b>
March 2020	Mentser is engaged on a Standing Offer Agreement (SOA) in respect of conveyor management at the Mine for a 36 month period with the option for an extension of 24 months.	<b>FC [10] CAB 140</b> <b>Third Decision [68(b)] CAB 71</b> <b>Statement of Abbott at [11] ABFM 8</b>
March 2020	The COVID-19 pandemic begins to have significant impacts on the Mine's operations and on the price of coking coal, which is the type of coal mined at the Mine.	<b>FC [11] CAB 141</b> <b>Third Decision [5] CAB 48</b>
April 2020	Mentster commences work pursuant to the SOA.	<b>FC [10] CAB 140</b>
May 2020	Representatives of the appellant meet with employees, unions, and other employee representatives and advise them that, in response to market conditions caused by the COVID-19, it has made a preliminary decision eliminate one day of production and to consolidate its production workforce into four, rather than five, crews.	<b>FC [11] CAB 141</b>
May and June 2020	Consultation process takes place in respect of the appellant's preliminary decision.  As a result of that consultation, the appellant insourced some aspects of work that had been performed by contractors, including some performed by Nexus, but the Construction, Forestry, Maritime, Mining	<b>FC [12]-[13] CAB 141</b>

DATE	EVENT	REFERENCE
	and Energy Union (as it then was) pressed for further insourcing. The appellant did not agree to insource the work being undertaken by Mentser or the balance of work being undertaken by Nexus.	
24 June 2020	The respondent employees (amongst others) are dismissed from their employment.	<b>FC [14] CAB 141</b>
10 July 2020	The respondent employees file applications for unfair dismissal remedies in the FWC.	<b>FC [15] CAB 141</b>
20 October 2020	The first hearing takes place before Riordan C.	
24 December 2020	Riordan C issues the First Decision.	<b>CAB 7</b>
14 January 2021	The appellant files a notice of appeal in respect of the First Decision.	<b>FCFC Application Book, Part A 140</b>
18 March 2021	An appeal hearing takes place before the Full Bench of the Fair Work Commission ( <b>FWCFB</b> ).	<b>CAB 45</b>
19 May 2021	The FWCFB issues the Second Decision.	<b>CAB 26</b>
6, 7 and 27 October 2021	The second hearing takes place before Riordan C.	
24 December 2021	Riordan C issues the Third Decision.	<b>CAB 47</b>
14 January 2022	The appellant files a notice of appeal in respect of the Third Decision.	<b>FCFC Application Book, Part A 147</b>
25 March 2022	A second appeal hearing takes place before the FWCFB.	<b>CAB 123</b>
1 September 2022	The FWCFB issues the Fourth Decision.	<b>CAB 96</b>

DATE	EVENT	REFERENCE
18 November 2022	The appellant files its originating application for relief under section 39B <i>Judiciary Act 1903</i> (Cth).	<b>FC [6] CAB 138</b>
10 August 2023	The hearing before the Full Court of the Federal Court takes place.	<b>CAB 136</b>
5 April 2024	The FC decision is handed down.	<b>CAB 135</b>
3 May 2024	The appellant files its application for special leave to the High Court.	
5 September 2024	Special leave to appeal is granted.	<b>CAB 181</b>
18 September 2024	The appellant files its notice of appeal.	<b>CAB 185</b>

Dated 24 October 2024



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## **SCHEDULE OF PARTIES**

**JAKE BENNETT**

Second Respondent

**JAMES BRAJAK**

Third Respondent

**ALEX WINDISCH**

Fourth Respondent

**CHRISTOPHER DALE**

Fifth Respondent

**KENNETH DRYDEN**

Sixth Respondent

**LUKE DUFFY**

Seventh Respondent

**LEONARD FARRANCE**

Eighth Respondent

**STEPHEN GILMOUR**

Ninth Respondent

**BRENDAN GORNALL**

Tenth Respondent

**TAYLOR GOSLING**

Eleventh Respondent

**MURRAY GRAY**

Twelfth Respondent

**TIM HENDERSON**

Thirteenth Respondent

**JOSHUA HOGG**

Fourteenth Respondent

**STUART KEMP**

Fifteenth Respondent

**CLINT LUCK**

Sixteenth Respondent

**RYAN MARTIN**

Seventeenth Respondent

**SIMON WALDER**

Eighteenth Respondent

**CHRISTOPHER MURDOCH**

Nineteenth Respondent

**GREGORY REMFRY**

Twentieth Respondent

**RYAN SCHUSTER**

Twenty-First Respondent

**BORO SELAK**

Twenty-Second Respondent

**FAIR WORK COMMISSION**

Twenty-Third Respondent