

## Excavation company faces court

31 January 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of an excavation business based in north-west Victoria.

Facing court is Theill Pipelines Pty Ltd and the company's sole director, Garry Vincent O'Neill.

The Fair Work Ombudsman alleges the company and Mr O'Neill breached the Fair Work Act by failing to comply with a Compliance Notice requiring the company to calculate and back-pay any outstanding amounts owing to an employee who worked as an excavator operator for the company between 2009 and his termination in January 2019.

Fair Work Inspectors commenced an investigation into the company, based at Irymple near Mildura in north-west Victoria, last year after receiving a request for assistance from the employee. Most of the employee's work for the company was in Queensland.

The Compliance Notice was issued after a Fair Work Inspector formed a belief that the employee had not been paid redundancy pay and annual leave loading owed under the Building and Construction General On-site Award 2010, and unused annual leave under the Fair Work Act.

Inspectors issued Theill Pipelines with a Compliance Notice requiring the company to calculate and rectify the alleged underpayments and produce reasonable evidence of its compliance.

Fair Work Ombudsman Sandra Parker says Compliance Notices are an important tool to recover unpaid wages, and they will be enforced where they are not followed.

"Under the Fair Work Act, inspectors can issue a Compliance Notice if they form a belief that an employer has breached certain workplace laws. Where employers do not comply with our notices, a court can order them to pay penalties in addition to back-paying any affected employees."

"The Fair Work Ombudsman will continue to use all its enforcement tools to ensure employers meet their lawful obligations," Ms Parker said.

The FWO is seeking penalties against Theill Pipelines Pty Ltd and Mr O'Neill. The company faces a maximum penalty of \$31,500, while Mr O'Neill faces a maximum penalty of \$6,300.

The FWO is also seeking a court order requiring the company to take the action required by the Compliance Notice, including calculating any payments owing and rectifying them in full, plus superannuation.

A directions hearing has been listed in the Federal Circuit Court in Melbourne for 24 March 2020.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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## Contact us

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Fair Work Infoline: 13 13 94

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