

High Court Action - Toyota Material Handling

22 February 2013

The Fair Work Ombudsman confirmed today that Toyota Material Handling (NSW) Pty Ltd (the company) had filed a Notice of Discontinuance in the High Court of Australia.

The company had filed an application seeking leave to appeal to the High Court against a Federal Court decision of 21 December 2012, upholding a Fair Work Ombudsman appeal against an earlier decision of the Federal Magistrates Court.

The issue in the Federal Court appeal was whether the Fair Work Ombudsman was statute-barred under the NSW Limitations Act from seeking penalties under the Workplace Relations Act in relation to allegations of duress that occurred more than 2 years before the proceedings were commenced.

The Federal Magistrates Court held that a 2 year statute of limitations applied and struck out parts of the Fair Work Ombudsman's Statement of Claim which sought penalties for the alleged conduct.

The Fair Work Ombudsman successfully appealed that decision in the Full Federal Court.

As a result of the Federal Court's decision, and Toyota Material Handling (NSW) Pty Ltd decision to discontinue the High Court action, the Fair Work Ombudsman's litigation against the company will proceed in the Federal Magistrates Court.

A directions hearing has been set for 9.30am on Thursday, 28 March 2013.

A media release on the [Fair Work Ombudsman's initial legal action against the company](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/july-2011/20110720-toyota-mh-prosecution) (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/july-2011/20110720-toyota-mh-prosecution) is available.

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