

## High Court Action

22 January 2013

The Fair Work Ombudsman confirmed today it had been served legal papers by representatives of Toyota Material Handling (NSW) Pty Ltd (the company) in a case it is seeking to have heard by the High Court of Australia.

The company is 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 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 the Federal Magistrates Court decision in the Full Federal Court.

As a result of the Federal Court's decision, the Fair Work Ombudsman's litigation against the company was to proceed before the Federal Magistrates Court. However, that litigation will not proceed pending the outcome of the company's decision to seek leave to appeal to the High Court of Australia.

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](http://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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### Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

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