



Employment Law - Contempt ruling for director who deleted documents

Date : October 11, 2017

Employment Law - Background

A former director at an aged care service provider has been found guilty of contempt of court after he deleted information relevant to a confidential information claim being brought against him the night before he was due for court.

Employment Law – Facts

In essence:

- The director of technology and innovation at Mirus Australia resigned on July 13 2015, before the company terminated him on August 7 2015
- He did not deny that he removed information from the client management system and uploaded it into a laptop after he left
- Mirus became aware that he and another former employee were going to start up their own aged care business
- On August 24, 26 and 28 Mirus' lawyers sent the director letters stating he was in breach of the restraint clause in his employment contract and required that the confidential information, intellectual property and devices be returned for examination
- On September 7 2015, Mirus initiated legal proceedings against the director
- It was alleged the director deleted relevant documents on September 7 2015 - the night before he was due to attend court

Employment Law – Decision

The NSW Supreme Court:

- held that the director had interfered with the administration of justice when he destroyed evidence by deleting documents on his laptop
- stated "there is no room for doubt, on the expert evidence, that between 6.33pm and 7.19pm on 7 September 2015 the SDELETE function was run on the Surface Pro [laptop]"
- believed the director intentionally deleted the documents relevant to the litigation to prevent them from being located
- found the director in contempt of court and required he pay the company's indemnity costs

The decision is available for you to read through the hyperlink:

[Mirus Australia Pty Ltd v Gage \[2017\] NSWSC 1046 \(11 August 2017\)](#)



Tips for Employers

Our **Matthews Folbigg Workplace Solutions** employment law team recommends employers:

- review this employment law decision
- seek the assistance of an employment lawyer to understand the impacts of this employment law decision
- ensure that employment contracts contain well drafted restraint provisions which are appropriate to an employee's employment
- damages can apply for breaches of employment contracts and some employment law policies (which an employment lawyer can advise on)
- raise any employment law questions with an employment lawyer

Employment Law – More Information

Please call the leading employment lawyers in Parramatta, the **Matthews Folbigg Workplace Solutions** employment law team on **9635-7966** to speak with one of our employment lawyers.