

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 27/05/2021 6:24:04 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating Application for Inquiry Relating to an Election - Form 85 - Rule 34.07(5)(a)
File Number:	QUD168/2021
File Title:	THE APPLICATION OF ARTURO "BLUEY" MENON
Registry:	QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Interlocutory Hearing
Time and date for hearing:	01/06/2021, 10:15 AM
Place:	Court No. 2, Level 7, Harry Gibbs Commonwealth Law Courts Building Level 6, 119 North Quay, Brisbane



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 28/05/2021 9:39:24 AM AEST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



# Originating application for inquiry relating to an election

No. QUD of 2021

Federal Court of Australia  
District Registry: Queensland  
Division: Fair Work Division

The application of **Arturo "Bluey" Menon**  
Applicant

In the matter of an election for an office in the Construction, Forestry, Maritime, Mining and Energy Union, Manufacturing Division

To

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:**

Date:

\_\_\_\_\_  
Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party) The Applicant  
Prepared by (name of person/lawyer) Dale Blackmore, Solicitor  
Law firm (if applicable) Hall Payne Lawyers  
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(include state and postcode)



### **Applicant's application**

The applicant is a member of the Construction, Forestry, Maritime, Mining and Energy Union.

The applicant applies under section 200 of the *Fair Work (Registered Organisations) Act 2000* for an inquiry into the alleged irregularities set out below that the applicant claims have occurred in relation to the election specified in this application.

The applicant relies on the facts stated in the accompanying affidavits.

### **Accompanying affidavit**

This application must be accompanied by an affidavit stating briefly but specifically, the nature of the applicant's claim and the material facts on which the claim is based.

### **Particulars of election**

1. Organisation or branch: Construction, Forestry, Maritime, Mining and Energy Union, Manufacturing Division.
2. In respect of the first irregularity below (the electoral roll irregularity), all Divisional offices and all District Offices of the New South Wales District where there is a contest for the office are subject to the irregularity.
3. In respect of the first and second irregularity below (the eligible candidates irregularity) the following offices are subject to the irregularity:
  - (a) Divisional President;
  - (b) Divisional Senior Assistant Secretary;
  - (c) Divisional Assistant Secretary;
  - (d) New South Wales District President;
  - (e) New South Wales District Secretary;
  - (f) New South Wales District Delegates to Divisional Conference;
  - (g) Victorian District Secretary;
  - (h) Victorian District Management Committee Member; and
  - (i) Victorian District Delegates to Divisional Conference.



4. Some results of the election, including those for offices subject to the irregularity listed in paragraph 3 above, have been declared.

#### **Particulars of alleged irregularities**

1. Certain financial members of the Construction, Forestry, Maritime, Mining and Energy Union who are attached to the Manufacturing Division and entitled to vote were not included on the roll of voters (the **electoral roll irregularity**).
2. Certain nominated financial members of the Construction, Forestry, Maritime, Mining and Energy Union who are attached to the Manufacturing Division and entitled to nominate to offices in the election had their nominations rejected by the returning officer (the **eligible candidates irregularity**).

#### ***The electoral roll irregularity***

3. On 15 February 2021, the Manufacturing Division requested from the Queensland Northern Territory Divisional Branch of the Construction and General Division (**QNTDB**) a list of members of the Manufacturing Division that is kept, and maintained, by the QNTDB.
4. On 3 March 2021, the returning officer requested that the Manufacturing Division supply by 5 March 2021 the roll of voters, being those members of the Manufacturing Division financial as at 4 March 2021.
5. On 4 March 2021, the QNTDB provided to the Manufacturing Division a list of members of the Manufacturing Division that is kept and maintained by the QNTDB, which included members who live in Queensland and New South Wales.
6. Those members on the list provided by the QNTDB to the Manufacturing Division on 4 March 2021 who live in New South Wales were not subsequently included on the roll of voters prepared by the returning officer.

#### ***The eligible candidates irregularity***

7. Nominations for the election closed on 6 April 2021.
8. The returning officer issued notices to some nominees that asserted that nominees' nominations were defective under the rules of the Construction, Forestry, Maritime, Mining and Energy Union, Manufacturing Division.
9. The nominees who relevantly received such notices are:
  - (a) Jim Magee, who nominated for the office of Divisional President;



- (b) Kylie Brown, who nominated for the offices of Divisional Senior Assistant Secretary and Victorian District Secretary;
  - (c) Benjamin Smart, who nominated for the office of Divisional Assistant Secretary;
  - (d) Ian McHugh, who nominated for the office of New South Wales District President;
  - (e) Eric Dixon, who nominated for the office of New South Wales District Secretary;
  - (f) Steven Silk, who nominated for the office of New South Wales District Delegate;
  - (g) Phillip Wilson, who nominated for the office of New South Wales District Delegate;
  - (h) Greg Wimble, who nominated for the office of New South Wales District Delegate;
  - (i) Adam Tester, who nominated for the offices of District Management Committee of the Victorian District and Delegate to the Divisional Conference;
  - (j) Beau Stanic, who nominated for the offices of District Management Committee of the Victorian District and Delegate to the Divisional Conference; and
  - (k) Tim Adderly, who nominated for the offices of District Management Committee of the Victorian District and Delegate to the Divisional Conference.
10. Each of the nominees listed above responded to the returning officer's notice to provide evidence, information and material to demonstrate their eligibility to nominate to the relevant offices in accordance with the rules of the Construction, Forestry, Maritime, Mining and Energy Union, Manufacturing Division.
11. On 12 May 2021, the returning officer rejected the nominations of each of the nominees listed above.
12. On the material provided to the returning officer by them, the each of the nominees listed above is eligible to stand for the office for which they nominated and their nominations ought not to have been rejected.

### **Applicant's address**

The applicant's address for service is:

Place: c/o Hall Payne Lawyers, Ground Floor, 27 Peel Street, South Brisbane in the State of Queensland

Email: [general@hallpayne.com.au](mailto:general@hallpayne.com.au) and [daleb@hallpayne.com.au](mailto:daleb@hallpayne.com.au)



The applicant's address is the address of the applicant's solicitor.

Date: 27 May 2021

A handwritten signature in blue ink, appearing to be 'D Blackmore', written over a horizontal line.

Signed by Dale Blackmore  
Solicitor for the Applicant