

Chapter V Form 2

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION  
CORPORATIONS LIST

No. 5059  
~~F~~

IN THE MATTER OF **ANSETT AUSTRALIA LIMITED (A.C.N. 004 209 410) & ORS** (in accordance with the Schedule attached) (All Administrators Appointed) ("the Companies")

**MARK ANTHONY KORDA AND MARK FRANCIS XAVIER MENTHA** (as Administrators of the Companies)

Plaintiffs

- and -

**ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD (ACN 065 590 178)** (as trustee of the Ansett Australia Ground Staff Superannuation Plan)

**ANSETT AUSTRALIA PILOTS/MANAGEMENT SUPERANNUATION PLAN PTY LTD (ACN 065 590 043)** (as trustee of the Ansett Transport Industries Limited Pilots/Management Superannuation Plan)

Defendants

**ORIGINATING PROCESS**

Date of Document: 5 April 2002  
Filed on behalf of: The Plaintiffs

Prepared by:  
**Arnold Bloch Leibler**  
Level 21  
333 Collins Street  
Melbourne Vic 3000

Solicitors Code: 54  
DX 38455 Melbourne  
Tel No. 9229 9999  
Fax No. 9229 9900  
Ref: LZ:DMM  
#137587

**A. DETAILS OF APPLICATION**

This application is made under sections 447A and 447D of the Corporations Act 2001.

This is an application for directions by the Administrators of the Companies.

On the facts stated in the supporting affidavit, the plaintiffs seek:

1. A direction as to whether, in the event that a deed of company arrangement is executed in accordance with the Outline of Deed of Company Arrangement as amended and resolved upon by the creditors of the Companies at the meetings held on 27 March 2002, the Court has the power to amend such a deed by:

(a) deleting clauses 3.44 and 18; and

(b) amending clauses 3.30, 21.2.4 and 21.2.5 so as to delete the references to the "Top Up Retrenchment Benefit Creditors";

if the Court were to hold that the said clauses are illegal, void or unfairly prejudicial to a class of creditors.

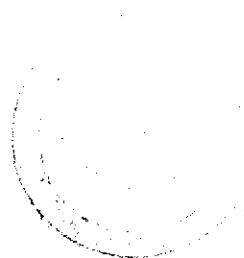
2. Such further or other directions or orders as to the Court seem fit.

Date: 5 April 2002

*Arnold Bloch Leibler*

**Arnold Bloch Leibler**

Solicitors for the Plaintiffs



This application will be heard by Her Honour Justice Warren at ~~210 William Street~~  
Melbourne at 9:45am on Monday, 8 April 2002.

**B. NOTICE TO DEFENDANTS**

**TO: ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD (ACN 065 590 178)** (as trustee of the Ansett Australia Ground Staff Superannuation Plan) **OF** Level 17, 501 Swanston Street, Melbourne, Victoria, 3000.

**ANSETT AUSTRALIA PILOTS/MANAGEMENT SUPERANNUATION PLAN PTY LTD (ACN 065 590 043)** (as trustee of the Ansett Transport Industries Limited Pilots/Management Superannuation Plan) **OF** Level 17, 501 Swanston Street, Melbourne, Victoria, 3000.

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen-

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the office of the Prothonotary and serve a copy of it on the plaintiff.

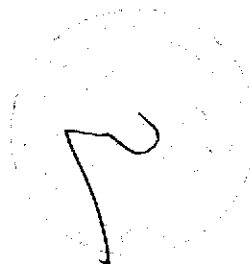
Note: Except with the leave of the Court, a defendant that is a corporation cannot appear at a hearing otherwise than by a legal practitioner.

**D. FILING**

Date of filing: 5 April 2002

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Prothonotary

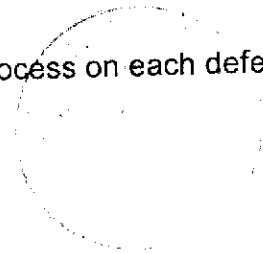


This originating process is filed by Messrs Arnold Bloch Leibler, solicitors for the plaintiffs.

**E. SERVICE**

The plaintiffs' address for service is Level 21, 333 Collins Street, Melbourne, Victoria, 3000.

It is intended to serve a copy of this originating process on each defendant.



**SCHEDULE**

ANSETT AUSTRALIA LIMITED (A.C.N. 004 209 410)  
501 SWANSTON STREET PTY LTD (A.C.N. 005 477 618)  
AEROPELICAN AIR SERVICES PTY LTD (A.C.N. 000 653 083)  
AIRPORT TERMINALS PTY LTD (A.C.N. 053 976 444)  
ALDONG SERVICES PTY LIMITED (A.C.N. 000 258 113)  
ANSETT AIRCRAFT FINANCE LIMITED (A.C.N. 008 643 276)  
ANSETT AUSTRALIA HOLDINGS LIMITED (A.C.N. 004 216 291)  
ANSETT AVIATION EQUIPMENT PTY LTD (A.C.N. 008 559 733)  
ANSETT CARTS PTY LIMITED (A.C.N. 005 181 215)  
ANSETT EQUIPMENT FINANCE LIMITED (A.C.N. 006 827 989)  
ANSETT FINANCE LIMITED (A.C.N. 006 555 166)  
ANSETT HOLDINGS LIMITED (A.C.N. 065 117 535)  
ANSETT INTERNATIONAL LIMITED (A.C.N. 060 622 460)  
ANSETT AUSTRALIA AND AIR NEW ZEALAND ENGINEERING SERVICES LTD  
(A.C.N. 089 520 696)  
BODAS PTY LTD (A.C.N. 002 158 741)  
BRAZSON PTY LIMITED (A.C.N. 055 259 008)  
EASTWEST AIRLINES (OPERATIONS) LTD (ACN 000 259 469)  
EASTWEST AIRLINES LIMITED (ACN 000 063 972)  
KENDELL AIRLINES (AUST) PTY LTD (A.C.N. 000 579 680)  
MORAEL PTY LTD (A.C.N. 003 286 440)  
NORTHERN AIRLINES LIMITED (A.C.N. 009 607 069)  
NORTHERN TERRITORY AERIAL WORK PTY LIMITED (A.C.N. 009 611 321)

~~ROCK-IT-CARGO (AUST) PTY LTD (A.C.N. 003 004 126)~~  
SHOW GROUP PTY LTD (A.C.N. 002 968 989)  
SKYWEST AIRLINES PTY LTD (A.C.N. 008 997 662)  
SKYWEST AVIATION LIMITED (A.C.N. 004 444 866)  
SKYWEST HOLDINGS PTY LTD (A.C.N. 008 905 646)  
SKYWEST JET CHARTER PTY LTD (A.C.N. 008 800 155)  
SOUTH CENTRE MAINTENANCE PTY LTD (A.C.N. 007 286 660)  
SPACA PTY LTD (A.C.N. 006 773 593)  
TRAVELAND INTERNATIONAL (AUST) PTY LIMITED (A.C.N. 000 275 936)  
TRAVELAND INTERNATIONAL PTY LIMITED (A.C.N. 000 598 452)  
TRAVELAND NEW STAFF PTY LTD (A.C.N. 080 739 037)  
TRAVELAND PTY LIMITED (A.C.N. 000 240 746)  
WALGALI PTY LTD (A.C.N. 055 258 921)  
WESTINTECH LIMITED (A.C.N. 009 084 039)  
WESTINTECH NOMINEES PTY LTD (A.C.N. 009 302 158)  
WHITSUNDAY AFFAIRS PTY LTD (A.C.N. 009 694 553)  
WHITSUNDAY HARBOUR PTY LIMITED (A.C.N. 010 375 470)  
WRIDGWAY HOLDINGS LIMITED (A.C.N. 004 449 085)  
WRIDGWAYS (VIC) PTY LTD (A.C.N. 004 153 413)  
(All Administrators Appointed)

amendment is set out in the transcript at Exhibit "LZ3". That amendment was lost on a show of hands.

- 14 Mr. Cash's proposed resolution was then voted on by a show of hands. Only 2 creditors voted in favour of the motion, namely Peter Cash and Ian Laing. The motion was declared defeated. Mr. Cash recorded his objection to the fact that his proposed amended resolution was voted for after the principal resolution was voted on. The meeting was declared closed at 3.20pm.

#### **RELIEF SOUGHT**

- 15 The Administrators have been and are proceeding on the basis that the Court has power to amend a deed by deleting or severing particular provisions if they are found to be unfairly prejudicial to a creditor. The trustees through their legal representatives have maintained that that power does not exist. As a result of this divergence, creditors have resolved that the administrators should seek a direction on the issue before executing a deed. The Administrators are concerned that the issue be clarified because

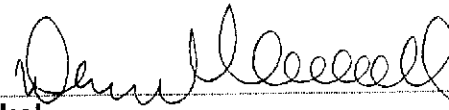


it should obviously be significant if the trustees were held to be correct and that the only option that the Court would have if a particular provision is found to be prejudicial to a creditor is to terminate the entire deed.

SWORN by **LEON ZWIER** at Melbourne )  
in the State of Victoria on 5 April 2002. )



Before me:



**Dany Merkel**

Arnold Bloch Leibler  
Level 21 333 Collins Street  
Melbourne VIC 3000

A natural person who is a current practitioner within the meaning of the Legal Practice Act 1996