

**Workplace Relations Act 1996**

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

IN THE MATTER of an application by the Australian Municipal,  
Administrative, Clerical and Services Union for  
Order for protected action ballot be held

BP2008/3401

**WITNESS STATEMENT OF SALLY McMANUS – 30 JUNE 2008**

I, Sally McManus of 39 Renwick Street Redfern New South Wales, Union Official, make the following statement based on my own knowledge and belief, unless otherwise stated.

1. I hold the position of Branch Secretary in the NSW and ACT (Services) Branch of the ASU (hereafter “the Branch”). I have held this position since August 2005.
2. The NSW and ACT (Services) Branch is a branch of the Australian Municipal, Clerical and Administrative Services Union (hereafter “the ASU”). I am a member of the ASU national executive. I have held this positions since August 2005.
3. I was employed as an Organiser of the Branch in March 1994. My responsibilities included organising and representing members to improve their working conditions through the avenues of negotiated industrial agreements, variations to industrial awards and resolution of collective and individual workplace grievances.
4. Between 1996 and 2002 I was the Organiser responsible for the Information Technology Industry Division of the Branch. I have been involved in many negotiations with employers in the industry for the collective agreements, including supporting members in the taking of protected industrial action.

5. I have also represented ASU members who were employees of IBM in individual disputes. One example of this is Olivia Pui-Ting Liu in 2001. I do not recall IBM at any time questioning our ability to enrol and represent these workers.
6. I am aware the IBM is a respondent to the *Business Equipment (Technical Services) Award 1999*. Annexed hereto and marked “**MFI-1**” is a copy of a page from the schedule of the Award listing respondents.
7. I became a Team Leader for Organisers in the Branch early in 2002 where I supervised the Organisers responsible for the Information Technology Industry Division of the Union.
8. I became Assistant Branch Secretary, an elected officer position in the Branch, in July 2002. I retained my previous responsibilities for supervising Organisers, including those representing and organising members in the Information Technology Division.
9. I became Branch Secretary in August 2005 and have continued up until now, long with my other responsibilities, directly supervise the Organiser responsible for this Division Mr Carl Harris.
10. I have attended three meetings of ASU members from IBM Flightdeck on 22 January 2008, 27 February 2008 and the 23 June 2008. There was one other meeting on 15 May which I did not attend.
11. On 1 May 2008 the ASU lodged a Notice to Initiate a Bargaining Period. Paul Slape, ASU National Secretary sent correspondence to IBM in relation to this. Annexed hereto and marked “**MFI-2**” is a copy of the letter.
12. Mr Carl Harris also wrote to Mr Glen Boreham of IBM on 1 May 2008 on behalf of the Branch seeking the commencement of negotiations. Annexed hereto and marked “**MFI-3**” is a copy of the letter.

13. Mr Carl Harris wrote to Mr Glen Boreham of IBM on 5 May 2008, reiterating our request for negotiations. Annexed hereto and marked “**MFI-4**” is a copy of the letter.
14. The Branch received correspondence from Mr Graham Halls on 6 May 2008. Annexed hereto and marked “**MFI-5**” is a copy of that letter.
15. I have ensured that our members have been keep informed of all correspondence between the Union and IBM, including this correspondence.
16. I attended and chaired meetings held this Monday 23 June 2008 with IBM ASU members. At this meeting ASU members considered the following resolution:

*“That ASU members at the IBM Flightdeck, National Operations Centre, NSW authorise the ASU to apply for an order to hold a ballot to take industrial action”*

The vote was 46 people in favour and no one against.

17. As a result of the decision of our members I requested that Paul Slape, National Secretary lodge an application for an Order for a Protected Action Ballot. Hereto annexed and marked “**MFI-6**” is a copy of the application.
18. I am familiar with the “Industry and Eligibility” Rules of the ASU, in particular Rule 5, b, Part V which describes the eligibility for coverage of workers in the information technology industry. Annexed hereto and marked “**MFI-7**” is a copy of Rule 5, b, Part V.
19. I have had many discussions with ASU members at the IBM Flightdeck at Baulkham Hills and have no doubt that their work fits within this industry as defined in the Rule above. The ASU has many members who perform similar work at other companies.

20. Mr Shane Micudaj is a member of the ASU.
21. I have viewed the job description of Shane Micudaj “The National Operations Centre – Infrastructure Operator Team Leader”. Annexed hereto and marked “**MFI-8**” is a copy of the job description.
22. I interviewed Mr Shane Micudaj on 26 June 2008 and he told me the following facts. Mr Micudaj works with mainframe and mid-range servers. These are computers. His position involves maintaining, servicing, repairing and structurally altering this equipment. He monitors computer hardware and infrastructure of IBM customers and seeks to resolve problems as they arise. Should the problem involve the need for an on-site technician, Mr Micudaj will work with them to repair, maintaining, service or structurally alter the equipment.
23. Over the years I have been involved in the Industry, I have observed the way workers service, repair, maintain or structurally alter business equipment; including computers evolve. This evolution has come about because of technological advancement.
24. I have an understanding of the development of our Information Technology Industry Division rules. I understand that the Technical Services Guild (TSG) amalgamated with the ASU in 1991 to form this Industry Division and the rules of the old TSG were reflected in what is now Rule 5, b, Part V of the ASU rules.
25. I understand that the TSG organised workers in the 1960s and 1970s with the development of mainframe computers as no other union had coverage of this industry. In 1971 they established the Business Equipment (Technical Services) Award as workers who maintained, serviced, repaired and/or structurally altered this equipment had no Award coverage. This included workers who worked with equipment that are the same as or the predecessors of the current equipment or hardware that IBM Flightdeck workers maintain. IBM were one of the first respondents to this Award.

26. The ASU is a party to the Business Equipment (Technical Services) Award 1999.
27. Very few of our members have the university qualifications that would make them eligible to be enrolled by the Association of Professional Professional Engineers, Scientists & Managers, Australia (APESMA).
28. If the ASU were not able to enrol these workers, I do not believe any other Union could do so.
29. Mr Micudaj is the team leader for other employees who do the same work in relation to mainframe and mid-range servers. Annexed hereto and marked "**MFI-9**" is a copy of the position description for the position of "National Operations Centre – Infrastructure Operator". These employees are members of the ASU.
30. Our members monitor of the equipment of IBM customers, this is an essential part of the maintaining of this equipment. Our members do routine checks of this equipment; this is part of servicing the equipment. When our members identify a problem with the equipment, they repair it. If part of maintaining or repairing the equipment requires it, they would structurally alter this equipment. In my view, this is very clearly detailed in the position description for the "National Operations Centre – Infrastructure Operator".
31. The equipment IBM maintains and services for their customers is computer hardware and infrastructure.

32. I believe that the work performed by Mr Shane Micudaj and his fellow workers falls clearly within the scope of the eligibility rules of the ASU.

Signed: .....

Sally McManus

Dated: 30 June 2008

Witnessed: .....

JP