

Ansett superannuation deed unfair, says QC

Leonie Wood

Ansett employees were not provided with crucial information when they voted to support a deed of company arrangement in early 2002, a deal that relegated one of the airline employees' biggest superannuation funds to the ranks of unsecured creditors, the Federal Court was told yesterday.

Joseph Santamaria, QC, representing trustees of the Ansett ground staff superannuation fund, told Justice Alan Goldberg that the deed agreed by creditors was unfair and ought to be varied or terminated.

He argued that the guiding principle of the ACTU and senior union officials all through the

Ansett administration was for workers to be paid as soon as possible, rather than have their benefits deferred until retirement, and that dictate permeated the administrators' actions when they promoted the deed.

The Federal Court case, which started yesterday and will run for about two weeks, is critical to resolving an impasse over the distribution of about \$415 million of cash currently held by Ansett's administrators, Mark Korda and Mark Mentha of KordaMentha.

The ground staff fund, which represented about half of Ansett Airlines' 16,000 employees, wants KordaMentha to pay about

\$200 million, which the trustees say is required to meet retrenchment and other payments to fund members.

This is the third time the case has come before the courts. Justice Marilyn Warren in the Victorian Supreme Court heard four Queen's counsel and numerous barristers argue the issue over several weeks in mid-2002.

The trustees were unsuccessful in appealing against her decision in the Court of Appeal.

The administrators so far have paid Ansett workers all their entitlements for annual leave and long service, and redundancy payments up to eight weeks of salary.

The administrators previously

have said that if they lose the superannuation case, Ansett employees would have to wait some years before they are paid all their entitlements. About \$360 million is still owed to workers who were entitled to redundancy payments equivalent to more than eight weeks of salary.

If the trustees lose, the administrators immediately could pay \$190 million to the Federal Government and 25¢ in the dollar for the balance of employees' claims and Government claims.

To help fund the payments, the administrators in October 2001 borrowed \$335 million from the Commonwealth, and in

turn the Federal Government imposed a \$10 per seat airline ticket tax to supplement any shortfall.

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Mr Santamaria's opening arguments continue today. The court is expected to hear cross-examination of witnesses next week and final submissions run for four days from November 21.