

Whistleblower win

By Cam Lucadou-Wells

A whistleblower in the I Cook Foods 'slug-gate' saga has reached a confidential workers-comp settlement with her former employer Greater Dandenong Council.

Kim Rogerson, a former council food inspector, had been in a two-year battle for compensation whilst accusing the council of being "intent on destroying" ICF.

She alleged mental injury as a result of workplace bullying, harassment and work-related stress.

Ms Rogerson's claim was twice rejected by the council's insurer – in May 2019 and December 2019.

On 15 March, Ms Rogerson took the council to Melbourne Magistrates' Court.

The matter was resolved that day out of court for an undisclosed sum.

Greater Dandenong Council agreed to pay for Ms Rogerson's legal costs.

For several years, Ms Rogerson had been inspecting ICF's factory in Dandenong South.

As part of an investigation into a hospital patient's death, she'd collected the first listeria samples and swabbing of surfaces on 1 February 2019.

She was on leave during subsequent council inspections that led to the forced closure of ICF – including when a live slug was allegedly planted on the factory floor.

Ms Rogerson later told a parliamentary inquiry that the closure was "over the top".

"It really infuriated me because I knew this company didn't deserve it," Ms Rogerson told the inquiry.

"I just couldn't stand by. It's just horrible that they've decimated this multi-million-dollar company for no real reason.

"It's not how we normally operate."

Ms Rogerson identified three co-workers who subjected her to bullying and harassment.

She claims a pair of managers tried to pressure her to inflate her two-page report about her visit to I Cook Foods to 11 pages, which she refused to sign off on.

She said a manager asked her to change her statement, to delete "weak" sentences and "positive" words such as "clean".

He told her to add the words "filthy" and "shouldn't be operating".

One of the managers changed the statement without her permission, she claimed.

The "blatantly incorrect" addition stated that she'd verbally warned ICF that the factory didn't comply with food standards.

In her worker's compensation case, Ms Rogerson submitted in court documents that another manager allegedly told her in early 2019 that "there are going to be consequences for you".

The manager also allegedly said words to the effect of "you're going to have to answer why this happened" and "this didn't happen overnight, there will be meetings and things happening to you", the submission stated.

On 2 April, Ms Rogerson was advised at a meeting that she would be removed from food inspection duties.

The next month, Ms Rogerson filed for workers' compensation and publicly 'blew the whistle' that council management allegedly tried to pressure her to fabricate evidence against I Cook Foods.

In its notice of defence filed at Melbourne Magistrates' Court, the council denied Ms Rogerson's allegations and her entitlement to compensation.

It submitted that the plaintiff's "claimed mental injury" was caused wholly or predominantly by "reasonable management action".

The management "action" included counselling Ms Rogerson, suspending or standing her down, investigating alleged misconduct, appraising her performance, and providing leave of absence.

Those matters were never assessed by a magistrate, due to the confidential 15 March settlement.

Star Journal successfully applied to the court for copies of Ms Rogerson's statement-of-claim and the council's submitted defence against the claim.

The council opposed Star's application, arguing the submissions should be kept "confidential", and contained several "unproven" and "untested" allegations against Ms Rogerson's three co-workers.

When asked to comment on the case and the settlement, a Greater Dandenong spokesperson said: "That matter has been decided upon by the Workcover insurer, not Council, the details of which are confidential."

The council argued at the inquiry that its inspectors observed poor food handling and processes at the factory just prior to the health department-ordered closure.

The alleged defects included inadequate staff training in food handling, washing down from high-pressure hoses near where food was being prepared, unclean equipment not properly cleaned and a slug on the floor.

At the inquiry, one of the inspectors denied planting the slug.

Greater Dandenong laid 96 food-safety charges against ICF – all of which were dropped just before a hearing at Dandenong Magistrates' Court in late 2019.

The council stated it aimed to avoid a legal bill of up to \$1.2 million.

ICF is suing the council and the Department of Health for \$50 million, claiming it was wrongfully shut down which ruined its business.

Slug-gate review

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A statement by former employee and whistleblower Kim Rogerson depicted a "workplace intent on destroying I Cook Foods", he wrpte.

Figures in the council had allegedly spoken about the opportunity to "nail the b*****s". Environmental health officers were allegedly offered promotions to bring in "the big fines", Det Sgt Penry wrote.

Swabs taken by an environmental health officer around the time of the hospital patient's death had shown no issue with ICF's own facilities, but some food samples returned traces of listeria in externally sourced smallgoods. Those traces were apparently within accepted limits, the report noted.

But the laboratory results that cleared ICF were withheld for some time, until ICF's contracts were "null and void", Det Sgt Penry wrote.

Det Sgt Penry recommended that police investigations continue but that Greater Dandenong CIU didn't have the resources and expertise.

The police unit was also conflicted because "Greater Dandenong Council is a key stakeholder", he stated.

A month after his report, the case was handed to Casey CIU. Nine months later, the case was closed.

ICF had submitted to police a 14-volume brief of evidence with 61 hours of CCTV footage prepared by two retired police detectives, working pro bono.

The detectives expressed shock that council staff weren't even questioned by police, despite a "clear prima facie case".

The allegations have been constantly denied by Greater Dandenong Council.

A Greater Dandenong spokesperson said the council "remains extremely confident an investigation will clear it of any wrongdoing".

Opposition health spokesperson Georgie Crozier called for a "full and proper investigation of all concerned in this matter".

In August, a Parliamentary inquiry found the ICF closure was "valid" and in accordance with the Food Act, but "not fair".

It did not rule on whether the alleged food safety issues were "adequate to warrant the closure".

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