Australian worker challenges union-company wage-cutting deal

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A legal challenge to a wage-cutting deal between supermarket giant, Coles, and the Shop, Distributive and Allied Employees Association (SDA), a trade union that covers many retail workers, has been the subject of nervous commentary this month.

Senior business figures, Labor and Liberal-National Coalition politicians and union officials have warned that an overturn of the agreement threatens the framework of company-union enterprise bargaining which has been central to the decimation of jobs, wages and conditions since the 1990s.

The challenge to the deal, struck by Coles and the SDA in 2011, was brought to the Fair Work Commission (FWC), the federal government's industrial tribunal, by Penny Vickers, a Brisbane Coles worker and SDA delegate last year. Since then, despite multiple hearings and mentions, no date has been set for the case to be decided.

Vickers, who works night and weekend shifts, is alleging that the agreement, one of a series of pro-business deals between the union and the company, resulted in her weekly pay being slashed to $33 below the mandated award wage for the industry. While the deal contained marginal increases in base pay rates, it cut weekend and night penalty rates for affected workers, eliminating them entirely on Saturdays.

As a result of agreements between Coles and the SDA since 2011, an estimated 43,000 workers, or 56 percent of Coles supermarket employees, have been underpaid. According to Fairfax Media, the average underpayment has been around $1,500 a year, saving Coles between $70 million and $100 million per year. Up to 80 percent of the workforce is casual or part-time, with supermarket workers among the lowest paid. Some have annual wages of as little as $10,000–$15,000.

Vickers has stated that when workers voted on the agreement, they were not informed, by the SDA or Coles that it contained pay cuts.

Vickers is not the first worker to challenge Coles-SDA wage-cutting deals. In 2015, Duncan Hart, a Brisbane Coles employee, lodged a FWC case challenging the 2014 Coles-SDA enterprise bargaining agreement, which contained substantial cuts to weekend and night penalty rates.

In May 2016, the FWC ruled that the 2014 deal would be invalid, unless the company increased penalty rates. It refused, and instead reverted to the 2011 agreement, which is the subject of Vickers' case.

In both instances, the SDA has collaborated with Coles in seeking to quash the legal challenges. The alliance of the SDA and the company against the supermarket workers is a graphic expression of the utterly corporatised and anti-working-class character of the unions.

Other unions are also implicated in similar wage-cutting. The Australian Workers Union (AWU), the largest in the country, was a party to the 2011 and 2014 agreements. The AWU, formerly headed by Labor Party leader Bill Shorten, signed a host of other deals reducing the pay of cleaners, farm labourers and other low-paid workers.

Unions across the board, including those promoted as "left-wing" and "militant," such as the Construction Forestry Mining and Energy Union (CFMEU), have established enterprise agreements that contain real wage cuts for workers they falsely claim to represent. In February, for instance, the CFMEU pushed through an agreement covering about 900 workers at the Maryvale paper mill in Victoria's Latrobe Valley, slashing wages by 5 percent.

Such agreements have played a central role in creating the conditions for last year's national wage

growth, across the private sector, to fall to its lowest-level since records began in 1969—just 1.8 percent.

The SDA has vehemently opposed Vickers' case, citing slight increases in base pay rates, particularly for workers on day shifts. SDA national secretary Gerard Dwyer declared that the "rolling up" of penalty rates at Coles and Woolworths, another supermarket chain, had delivered higher wage rates to some workers.

Under current industrial legislation, however, an agreement must pass a Better Off Overall Test (BOOT), which supposedly requires that no worker be worse off "overall."

Senator Eric Abetz, a leading figure in the federal Liberal-National government and a former industrial relations minister, called this month for the Labor Party to assist the government to remove the BOOT clauses from the legislation.

The Labor Party has fraudulently postured as an opponent of recent cuts to penalty rates. But Abetz pointed to the central role of Labor governments in creating the enterprise bargaining framework under which company-union wage-cutting deals are struck. "I think the enterprise bargaining system should be supported, it is one of those good things that came from the Hawke-Keating-Kelty era," Abetz declared.

Enterprise bargaining, as it currently exists, was put in place by the Labor government of Paul Keating in the early 1990s, working hand-in-glove with the Australian Council of Trade Unions (ACTU) and its secretary, Bill Kelty.

The move was part of a broader agenda begun under Keating's predecessor, Bob Hawke, which included the establishment of Accords between the government, the major corporations and the unions providing for the deregulation of the economy, and the destruction of hundreds of thousands of manufacturing jobs.

Greg Combet, another former ACTU secretary and a leading member of federal Labor governments from 2007 to 2013, echoed Abetz's comments this month.

Combet pointed to the pro-business character of the system, stating: "Continuing a system of enterprise bargaining in our economy is extremely important because it allows companies to adjust to competitive circumstances." In other words, enterprise bargaining allows the companies, working through the unions, to slash the wages and conditions of employees to boost profits.

Underscoring the ongoing company-union-government alignment, Business Council of Australia chief executive Jane Westacott also warned that "no one wanted enterprise bargaining to collapse." She called for bipartisanship between Labor and the Liberal-National Coalition to defend it.

As these responses indicate, the case launched by Vickers has once again shown that any struggle by workers against the corporate assault on jobs, wages and conditions must be carried out in direct opposition to Labor and the unions.