



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT ASBURY  
DEPUTY PRESIDENT O'NEILL  
DEPUTY PRESIDENT SLEVIN  
DEPUTY PRESIDENT GRAYSON**

**AM2024/20**

**s.157 - FWC may vary etc. modern awards if necessary to achieve modern awards objective**

**Gender undervaluation — priority awards review — Health Professionals and Support Services Award 2020**

**Sydney**

**10.00 AM, TUESDAY, 21 OCTOBER 2025**

**Continued from 20/10/2025**

PN183

JUSTICE HATCHER: I will take the appearances. Ms Schreier-Joffe, you appear for the Dental Assistants Professional Association?

PN184

MS S SCHREIER-JOFFE: Yes, I do, as it pleases the Commission.

PN185

JUSTICE HATCHER: Yes, all right. Mr Lettau, you appear for the ACTU, the HSU and the UWU?

PN186

MR P LETTAU: Yes, your Honour, thank you.

PN187

JUSTICE HATCHER: Mr Seck, you appear for the Australian Dental Association?

PN188

MR M SECK: Yes, your Honour.

PN189

JUSTICE HATCHER: Ms Campbell, you appear for the Dental Service Business Council?

PN190

MS N CAMPBELL: May it please the Commission.

PN191

JUSTICE HATCHER: All right. Are we ready to go with the first witness who will be Ms Boroky, if I'm pronounced it correctly.

PN192

MR SECK: I think that's correct, your Honour. She is ready and apparently online, so we are ready to call her.

PN193

JUSTICE HATCHER: All right. We will get her in, please. Sorry, before we start that I understand – just give me a second – there are two witness statements that are not required for cross-examination. That's Dr Simard and Mr Manns; is that correct?

PN194

MR SECK: I understand that's so, your Honour.

PN195

JUSTICE HATCHER: I will mark those.

**EXHIBIT #HPSS125 WITNESS STATEMENT OF DR MEER  
SIMARD DATED 10/09/2025**

**EXHIBIT #HPSS126 WITNESS STATEMENT OF SAMUEL MANNS  
DATED 13/10/2025**

PN196

MR SECK: Your Honour, can I just check one thing in relation to Mr Simard. Sorry, your Honour, I'm told, and I apologise, your Honour, Mr Simard's affidavit is not relied upon. I apologise, I was not aware of that.

PN197

JUSTICE HATCHER: We will strike that out. So I will amend that to say that the witness statement of Samuel Manns dated 13 October 2025 will be marked exhibit HPSS125.

**EXHIBIT #HPSS125 WITNESS STATEMENT OF SAMUEL MANNS  
DATED 13/10/2025**

PN198

MR SECK: May it please your Honour.

PN199

JUSTICE HATCHER: Yes, all right. So let's get the witness in, please.

PN200

MR SECK: I call Dr Jane Boroky.

PN201

THE ASSOCIATE: Dr Boroky, it's the associate speaking in the Sydney hearing room. Can you hear me okay?

PN202

DR BOROKY: I can hear you.

PN203

THE ASSOCIATE: Thank you. In a moment I will ask you to give your full name and address for the record, and then I'll ask you if you agree with an affirmation before you give your evidence. If you do agree then please say 'I do'. Please state your full name and address for the record.

PN204

DR BOROKY: My name is Jane Elisabeth Emese Boroky, (address supplied).

**<JANE ELISABETH EMESE BOROKY, AFFIRMED [10.20 AM]**

**EXAMINATION-IN-CHIEF BY MR SECK [10.20 AM]**

PN205

JUSTICE HATCHER: Mr Seck.

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JANE ELISABETH EMESE BOROKY

XN MR SECK

PN206

MR SECK: May it please your Honour. Dr Boroky, my name is Michael Seck, I'm the counsel for the Australian Dental Association. Can you please state your full name?---My name is Jane Elisabeth Emese Boroky.

PN207

And what is your address?---(Address supplied.)

PN208

What is your current occupation?---I'm a dentist.

PN209

Dr Boroky, you have prepared a statement dated 4 September 2025?---Correct.

PN210

Do you have a copy of your statement with you at the moment?---Yes, I do.

PN211

Have you read that statement recently?---Yes.

PN212

Do you wish to make any changes to your statement?---No.

PN213

Are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN214

I tender the statement of Dr Jane Elisabeth Emese Boroky dated 4 September 2025.

**EXHIBIT #HPSS126 WITNESS STATEMENT OF DR JANE BOROKY DATED 04/09/2025**

PN215

No further questions in-chief.

PN216

JUSTICE HATCHER: So who is cross-examining this witness; Mr Lattau?

PN217

MR LETTAU: Yes, your Honour, thank you.

**CROSS-EXAMINATION BY MR LETTAU**

**[10.21 AM]**

PN218

Good morning, Ms Boroky. Can you see and hear me clearly?---I can.

**CONFIDENTIAL TRANSCRIPT PN 219 TO 222**

PN223

What else is it based on?---I have worked previous to that in the country and overseas, and also the public sector.

## CONFIDENTIAL TRANSCRIPT PN 224

PN225

You've got one part-time dentist as well?---Yes. I now have two since that statement was made.

PN226

You have a part-time hygienist as well?---Yes.

PN227

And three part-time dental assistants?---(No audible response.)

PN228

Now, there should have been a document provided to you. It's titled 'Contracts' and it's a web page from dentalcareers.org.au. Do you have a copy of that document?---I have read a copy of that document.

PN229

That might be sufficient at this stage. The document sets out different models for the way dentists get paid, and I just wanted to go over it with you quickly just to see if it aligns with your understanding. According to this document there's five ways dentists can be paid. They can either be engaged as full-time or part-time salaried employees. Just correct me if I'm wrong in any of this. They can be retained on a commission. So on that basis they get a fixed salary and a retainer, plus commission payments; is that correct?---That's one option.

PN230

Another option aside from casual employment obviously, which I will skip, is to be an independent contractor?---Yes.

\*\*\* JANE ELISABETH EMESE BOROKY

XXN MR LETTAU

PN231

Then the final option is to work under what's called a services and facilities agreement. Now, I will just read from the document that I've provided. It says:

PN232

*Under these engagements you, a dentist, is essentially operating as a small independent business within another dental practice, and are viewed as a separate business by the ATO.*

PN233

It then goes on to say:

PN234

*Under a services and facilities agreement it requires you to pay the practice an agreed percentage of the fees or a set fee of what you earn to compensate the use of the practice's administrative services and professional facilities.*

PN235

Are any of your dentists employed under one of these services, or engaged I should say rather than employed. Are any of your dentists engaged a services and facilities agreement?---Yes, one of them.

PN236

One of the part-time dentists?---Yes.

PN237

How is the other one engaged?---She's an employee.

PN238

Is she the one that was recently engaged?---No, it's the other way around. The one who was recently engaged is under a services and facilities agreement.

PN239

Okay. Thank you. And all the dental assistants obviously they're all direct employees?---Correct.

PN240

Now, what about the way you get paid as a dentist owner of the dental clinic? Do you receive a salary, are you an independent contractor, are you under a services and facilities agreement, or is there some other ways you receive income?---I'm an employee.

PN241

A direct employee?---Correct.

#### **CONFIDENTIAL TRANSCRIPT PN 242 TO 244**

PN245

Before or after tax?---Before tax. As best I can recall. I'm sure you have the documents that will be more accurate.

PN246

Sure. Yes. Okay. I wanted to ask some questions now about your profit and loss statement. So I'd just like to understand a few aspects of the statement. Now, just to clarify you prepared your statement on 4 September 2025?---Yes.

PN247

And at that time, on 4 September 2025, did you have your current profit and loss statements for the 2024 and 2025 financial years?---We didn't have the current year ones, but in the meantime between preparing the statement and this hearing we were able to get access to the profit and loss statement.

PN248

Okay. Do you have a copy of the 2025 profit and loss statement on you?---I do.

PN249

Could I ask you to bring it in front of yourself?---Sure.

PN250

Have you got it now?---Yes, I do.

PN251

Can you see at the bottom in the footer it says 'Profit and loss cash printed on 11 July 2025'?---Yes.

PN252

That's before you prepared your statement?---This is printed from our practice management software.

PN253

Yes. Printed on 11 July 2025, which is before you signed off on your statement on 4 September 2025?---So that means that we must have been able to print whatever was current at the time. So that must be correct. If it says printed on the 11th it was printed on the 11th.

PN254

So you would accept that contrary to what you believed a moment ago you could have accessed this data at the time that you signed off on your witness statement on 4 September?---Yes.

PN255

Do you have a copy - - -?---I - - -

\*\*\* JANE ELISABETH EMESE BOROKY

XXN MR LETTAU

PN256

Go on, please?---I think we can access profit and loss statements from the software at any time.

PN257

That's right, and you could have accessed it before 4 September as you could have accessed it at any time, and included information from the profit and loss statement in your statement, couldn't you?---I could have included it, but when I made the statement I did not take information directly from the profit and loss statement.

PN258

Understood. Have you got a copy of the 2024 statement?---I do.

PN259

Did you base your evidence in your statement on the 2024 profit and loss statement?---I based my evidence on neither statement. I based my evidence on general information. I did not refer to the particular documents in front of me at the time.

PN260

What's general information?---I'm a business owner and I have a reasonable understanding of how the business is running. When I filled out the survey and wrote the witness statement I did not have those detailed documents in front of me.

**CONFIDENTIAL TRANSCRIPT PN 261 TO 264**

PN265

Would you accept that generally speaking when one compares the 2025 profit and loss statement to the 2024 profit and loss statement your evidence doesn't align with the complete picture of the financial position of St James, according to these profit and loss statements?---I don't accept that.

PN266

No further questions, your Honour.

**CONFIDENTIAL TRANSCRIPT PN 267 TO 270**

PN271

All right. Thank you. Any further cross-examination?

PN272

MR LETTAU: No, your Honour, but we will tender the documents handed up.

PN273

JUSTICE HATCHER: All right.

PN274

MR LETTAU: Your Honour, I have been asked by my friend if those profit and loss statements could be kept confidential.

PN275

JUSTICE HATCHER: Yes. Let me just mark them first and I will deal with that.

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JANE ELISABETH EMESE BOROKY

XXN MR LETTAU

**EXHIBIT #HPSS127 ST PETERS DENTAL CLINIC PROFIT AND  
LOSS CASH STATEMENT FOR THE FINANCIAL YEAR 2023/2024**

**EXHIBIT #HPSS128 ST PETERS DENTAL CLINIC PROFIT AND  
LOSS CASH STATEMENT FOR THE FINANCIAL YEAR 2024/2025**

PN276

So is there any opposition to a confidentiality order being made?

PN277

MR LETTAU: Not from us, your Honour.

PN278

JUSTICE HATCHER: All right. Mr Seck, can you send a minute through of the order you want made and we will make that order.

PN279

MR SECK: May it please your Honour. We have got one ready and we will send that through shortly.

PN280

MR LETTAU: Could we please tender the contracts website document?

PN281

JUSTICE HATCHER: Has anybody identified what that is? I'm not sure that's necessary.

PN282

MR LETTAU: Sure. That's fine.

PN283

JUSTICE HATCHER: Ms Schreier-Joffe, did you want to ask anything?

PN284

MS SCHREIER-JOFFE: Yes, thank you.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE**

**[10.38 AM]**

PN285

Good morning, Dr Boroky, how are you? You can hear me?---I can hear you.

PN286

I'm Shana Schreier-Joffe, I'm a lawyer acting for the Dental Assistants Professional Association. I'm going to ask you some questions. You say in your statement at paragraph 7 that you employed three part-time dental assistants. That on my calculation is about half your staff component of your practice. That's correct, isn't it?---That's possible, likely.

PN287

And at paragraph 11 you talk about the costs of those dental assistants and others in your practice, but you do also say, and I will read from your statement:

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JANE ELISABETH EMESE BOROKY

XXN MS SCHREIER-JOFFE

PN288

*Another reason for employing a higher number of dental assistants is to assist with the high level of compliance and record keeping obligations.*

PN289

You agree with your own statement?---I do.

PN290

Okay. So you would agree that your dental assistants are an essential part of your practice, wouldn't you?---They are.

PN291

And you would agree that your practice would not be able to manage or operate without the dental assistants?---Correct.

PN292

Can I ask you, do you know how much your dental assistants earn per hour?---I do.

PN293

Can you share that?---Yes. The current dental assistants earn \$33 an hour and \$35 an hour.

PN294

By chance do you know what a dental assistant with let's say 12 to 24 months of experience who isn't a certified, or doesn't have any certification, do you know what they earn per hour under the award?---Less than what I pay my staff.

PN295

So you agree that you pay your staff – I might tell you, the award amount is \$26.76 for an unqualified dental assistant, and slightly more for a Cert III qualified dental assistant. So you would agree based on what you've just told us that you pay a considerable amount more than what the award provides for dental assistants?---My staff are employed on a casual basis, so I'm also obliged to pay them casual loading. The wage includes the casual loading.

PN296

Thank you. Now, you say in your statement at paragraph 16 that there is a high level of dental assistant turnover, and that's one of the reasons why you employ three part-time dental assistants. I put it to you that there's a significant turnover because of the low level of wages paid to dental assistants. Would you agree?---Not really. That's one reason, but in my opinion it's not the only reason.

PN297

But it certainly is a reason for staff to leave?---Yes.

PN298

JUSTICE HATCHER: What are the other reasons, Dr Boroky?---The other reasons are generation changes. People clearly do not stay in one job or in one career for life. They change much more rapidly. Conditions, the team work, the environment they work in, those are all really important factors, not just wages.

\*\*\* JANE ELISABETH EMESE BOROKY

XXN MS SCHREIER-JOFFE

PN299

Thank you.

PN300

MS SCHREIER-JOFFE: Dr Boroky, at paragraph 23 of your statement you make a number of comments about your views of dental assistants. You've just told us that you are of the view that your practice wouldn't operate without dental assistants and that they're a valuable part of your practice. You would agree that the primary role of your dental assistants is to support the dentist; is that correct?---Yes.

PN301

And to ensure, I would put it to you, that the patients are comfortable, that they are cared for, and that the practice itself is running in a manner that optimises patient care. Would you agree with that?---It's also – I agree with that, but it is also the clinician's responsibility to look after the patient.

PN302

Of course, without a doubt. You would agree that one of the primary roles of a dental assistant is to ensure that while the dentist is doing their work they are looking at the patient ensuring that the patient is comfortable, is not showing signs of distress, and generally observing what is going on in the room or in the chair; is that correct?---I would hope so.

PN303

Do your dental assistants display those qualities?---Yes.

PN304

Now, what I have described to you, I would suggest, are soft skills. Would you not agree?---I agree.

PN305

So your comment that in your experience dental assistants do not possess such skills is not entirely accurate. Would you agree?---I did not say dental assistants do not possess such skills. I said many do not possess those skills. They tend to be the ones that move on, hence the high turnover. But current dental assistants I employ do have those skills.

PN306

Thank you. Now, you've testified that you employ three dental assistants and one works on the session. That's correct, is that not?---When we - when we can.

PN307

And you've also testified in your statement that you think that the Cert III is an essential requirement and in particular because of their need to have infectious disease control modules and training. That is correct?---Correct.

\*\*\* JANE ELISABETH EMESE BOROKY

XXN MS SCHREIER-JOFFE

PN308

And I take it from that that you have dental assistants who work in your sterilisation area, is that correct?---Yes.

PN309

And I take it that you are not in that sterilisation area when dental assistants are doing whatever functions they are required to do in that area?---I'm not there most of the time but I am there occasionally to supervise and check.

PN310

But on the times - and when you said most of the time - when they are there on their own they are doing that unsupervised?---Correct.

PN311

And when your receptionist is providing reception duties and I assume taking payments, making appointments and the like, is that (indistinct), is that correct? Do they do those tasks at the reception?---They do.

PN312

And am I correct in saying that they do those tasks unsupervised?---It depends on their level of experience. But our aim is for them to be able to do those tasks unsupervised.

PN313

Thank you.

PN314

JUSTICE HATCHER: Dr Boroky, how many hours a week do your dental assistants work?---Um, all of them are part-time. One works one morning a week. One works four and a half days a week. The third one works approximately three days a week.

PN315

And did you say you have a full-time receptionist?---No, we don't. When we have a dentist and a hygienist working we have one of the dental assistants on reception.

PN316

I see, thank you.

PN317

MS SMITH: So, Dr Boroky, at paragraph 23 of your statement you say dental assistants do not work independently. Given the evidence you've just given, that is not entirely correct, is that the case?---I was referring to the responsibility if there is a patient complaint or an infection control breach, that the clinician has to take responsibility. The dental assistant doing the work does not take responsibility. I also - sorry, I also would make the point that the dental assistants mostly do support the dentist. They don't work independently as in providing an independent service. That doesn't take away from their tasks at reception or in steri. But they wouldn't have those tasks if the dentist wasn't working. That was my point.

\*\*\* JANE ELISABETH EMESE BOROKY

XXN MS SCHREIER-JOFFE

PN318

Thank you. Thank you for the clarification. No further questions.

PN319

JUSTICE HATCHER: Any re-examination, Mr Seck?

PN320

MS CAMPBELL: No cross-examination for the Dental Business Service Council.

PN321

JUSTICE HATCHER: No, I would hope not. Any re-examination, Mr Seck?

PN322

MR SECK: Just a few questions, your Honour.

**RE-EXAMINATION BY MR SECK**

**[10.50 AM]**

**CONFIDENTIAL TRANSCRIPT PN 323 TO 327**

PN328

You also gave evidence, Dr Boroky, about paying your dental assistants on an hourly basis. One was being paid \$33 per hour and one was being paid \$35 per hour including casual loading. For the dental assistant who was earning \$33 per hour can you explain to the Commission how many years of experience that dental assistant has?---This is a slightly unusual case because this dental assistant is an overseas qualified dentist working in Australia temporarily as a dental assistant. So she has less than a year of experience working in Australia as a dental assistant. She has worked in New Zealand as a dental assistant but she doesn't have a dental assisting qualification. She is an overseas qualified dentist. She is here on a temporary visa because her husband is working in Australia and she'll return to her home country in another three years.

PN329

Do you know how much experience she had in New Zealand working as a dental assistant?---I believe three or four years.

PN330

And for the dental assistant who was earning \$35 per hour including casual loading, how much experience does that dental assistant have?---She has two years with us and I think one year previous to that and she has a Cert III qualification.

PN331

No further questions in re-examination.

PN332

JUSTICE HATCHER: Thank you. Thank you for your evidence, Dr Boroky. You're excused, which means you can disconnect from the call, thank you?---Thank you.

**<THE WITNESS WITHDREW**

**[10.54 AM]**

PN333

MR SECK: The next witness we have schedule is Mr - Dr Kang Kim. Hopefully he's online.

PN334

JUSTICE HATCHER: Yes.

PN335

MR SECK: I call Dr Kang Kim.

PN336

THE ASSOCIATE: Dr Kim, it's the associate speaking in the Sydney hearing room. Can you hear me okay?

PN337

DR KIM: I can.

\*\*\* JANE ELISABETH EMESE BOROKY

RXN MR SECK

PN338

THE ASSOCIATE: Thank you. In a moment I'm going to ask you to affirm your evidence, so I will ask you to state your full name and address, and then I will read the affirmation to you. If you agree please say 'I do'. Please state your full name and address for the record.

PN339

DR KIM: Kang J Kim, (address supplied).

**<KANG J KIM, AFFIRMED [10.55 AM]**

**EXAMINATION-IN-CHIEF BY MR SECK [10.55 AM]**

PN340

MR SECK: May it please your Honour. Dr Kim, my name is Michael Seck. I'm counsel for the Australian Dental Association. Could you please state your full name for the record?---Keng J Kim.

PN341

What is your current work address?---My work address is – I mainly work out of home, (address supplied).

**CONFIDENTIAL TRANSCRIPT PN 342**

PN343

Dr Kim, you've prepared a statement dated 9 September 2025 in these proceedings; that's so?---Yes.

PN344

Do you have a copy of that statement with you at the moment?---I do.

PN345

Have you read that statement recently?---I have.

PN346

Do you wish to make any changes to your statement?---No.

PN347

Are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN348

I tender the statement of Dr Kang Kim dated 9 September 2025.

\*\*\* KANG J KIM

XN MR SECK

**EXHIBIT #HPSS129 WITNESS STATEMENT OF DR KANG KIM  
DATED 09/09/2025**

PN349

May it please the Commission no further questions in-chief.

PN350

JUSTICE HATCHER: All right. Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[10.57 AM]**

PN351

Good morning, Mr Kim. Can you see and hear me clearly?---Yes.

PN352

I wanted to ask you some questions, first just a little bit about some of the data you give in your evidence. So the evidence you give, I assume, was this based on your experience in these various roles you've just explained for the Commission?---They were analyses when I was acting as a business broker for these – for these businesses.

PN353

That's what the specific data was based on, that one particular role?---Yes. And my consulting role.

PN354

And your consulting role. And I assume that in those roles that involved you reviewing financial statements, profitability assessments, other financial data of individual practices?---Yes.

PN355

I won't give all your evidence, but you refer to in your statement to a few specific figures. For example at paragraph 13 you say, 'Ten to 30 per cent of revenue relates to delivering staff wages'?---Yes.

PN356

You say at paragraph 11 that the average profit margin in your experience is 15 to 25 per cent for dental practices?---Typically, yes.

PN357

Can I just ask, when you were preparing this evidence did you or anyone on your behalf conduct a review of the underlying financial documents that you base those opinions on?---The three practices that I mentioned were all reviewed by their respective accountants prior to – prior to finalisation, prior to going to the buyers with those figures.

PN358

You relied on the figures provided to you by the accountants?---Correct.

\*\*\* KANG J KIM

XXN MR LETTAU

PN359

Of three practices?---Correct. The three example practices, yes. Some of the profit figures and other general figures had more than those, just those three practices.

PN360

And where did you draw those other figures from?---The same. The reason that I didn't draw the wage costs is because sometimes there are dentist costs and other dental practitioner costs roped in with those wage costs. So it's difficult to determine whether it's only the auxiliary staff wage costs in those other practices.

PN361

You haven't provided any of that underlying data, have you?---No.

PN362

You could have provided that if you wanted to?---I could, but it would be misleading. They are more supportive of the ADA's (audio malfunction).

PN363

I don't understand that statement. It would be misleading did you say?---The auxiliary costs will be higher in those other practices, perhaps unfairly.

PN364

Leaving aside specifically the data on the auxiliary staff costs, but just in general in the various opinions you give in your evidence you could have provided the data underlying those opinions?---I believe I have; not in the auxiliary costs, but in the profit.

PN365

Thank you, Mr Kim. I want to ask you now about (indistinct) services and facilities agreements. Are you aware of these?---Yes.

PN366

So my understanding of these agreements is that under a services and facilities agreement a dentist works in a dental practice, and they work independently, either as a sole trader or under a company, and they collect all the patient billings revenue, and then the dental practice bills them a set proportion of the patient billings revenue. Is that correct?---There are variations in that arrangement, but broadly, yes, they work as independent contractors and they take away a certain percentage of the total billings.

PN367

What are the main variations?---Either it's structured so that they technically receive the fees directly from the patient and then pay a service fee, or the practice receives the billings from the patient and they receive a commission.

\*\*\* KANG J KIM

XXN MR LETTAU

PN368

Just sticking to the structure where the dentists themselves do the billing and then pay the fee to the dental practice and the (indistinct) commission model, in your experience what does a dentist typically earn under these arrangements?---It varies.

PN369

Perhaps you could give it as a range, a lower range to a higher range, immediate mid range?---I can't answer that question confidently. It varies wildly is what I

can say. A lot of dentists work part-time, some dentists work five and a half days a week. It's very, very different.

PN370

Could you give an example of a full-time dentist working under one of these arrangements? You don't need to give the full range, just one example?---That wasn't part of my research. It will be difficult to say. I could say at a broad range, but I can't say it with any confidence enough to talk about it in this particular (audio malfunction).

PN371

All right. Do you know what the agreed split tends to be in these arrangements between dentists and the practice?---Generally speaking it's accepted to be around 40 per cent. As you mentioned it does vary, but that would be I think what most dentists would consider typical, 40 per cent.

PN372

Yes. Industry standard reads 40 per cent goes to the dentist?---Correct. Not industry standard as much, but what might be typically accepted. There's no – there's no set standard.

PN373

Yes, understood?---Yep.

PN374

JUSTICE HATCHER: Dr Kim, in paragraph 11 of your statement in the last sentence where you make a reference to dentist commissions is that the arrangement you're talking about?---I'll just quickly reread it if that's okay.

PN375

Yes?---Yes, correct. Yes. The dentist commissions whether it's by employment or through an SFA generally is the highest cost for a dental practice.

PN376

When you use the word 'commissions' that can refer to wages and salaries as well as the type of arrangements you have been asked about?---When it's an employment I believe that there usually is a retainer, but generally speaking – whether it's an employment agreement or an SFA generally we accept dentists – the widely accepted commission percentage by the profession is around 40 per cent. But as I mentioned that does vary.

PN377

Thank you.

\*\*\* KANG J KIM

XXN MR LETTAU

PN378

MR LETTAU: I have some questions following on from this, just in relation to how services and facilities agreements affect the reporting of revenue of a dental practice and this might become clear when I put my questions to you. Do you accept that it's possible in some circumstances that a dentist owner of a dental

practice could operate under a services and facilities agreement if they wished to?---Could you ask that question again, sorry?

PN379

Could a dentist - say I'm a dental practice owner. Could I operate under an ABN as an individual and have a services and facilities agreement with my - with the company, with the business and earn income that way?---Yes, that's - that does happen, yes.

PN380

You're aware of that happening?---Wasn't that what we discussed before? Sorry, I'm just making sure that we're not on - - -

PN381

Yes, I'll just clarify: the distinction I'm making is between an external dentist coming into someone's dental practice and the second example I've just given you is a dentist - so in this case me - who owns my own dental practice. I'm a business owner?---Yes.

PN382

And I'm, you know - and separately I run as a sole trader for example and have an agreement with my business, my separate - - -?---With your own - effectively with your own practice?

PN383

Yes?---Broadly that does happen, although sometimes the company entity is owned by more than just the dentist themselves but yes, effectively yes.

PN384

Now, in those circumstances, wouldn't it be the case that the dental practice's financial records wouldn't necessarily reflect the full patient billing revenue passing through the practice?---No, not in most cases, especially when we're talking about analysing practice financials for sale. We have to be very accurate with the operational income of the practice, no matter what entity or (indistinct) treatments are applied to the financial statements because obviously the buyer needs a very clear understanding of the operational profit and expenses of the practice. So we do tend to adjust financial statements, sometimes relatively heavily, and then reviewed by the accountant to make sure that they're accurate and they represent the full operational performance of the practice. Generally speaking even if the dentist or the dentists were engaged on an SFA, technically don't - I guess they don't - the practice doesn't take the billings but the dentists do. In our analyses, as in most workers - so certainly mine - and most corporate (indistinct) I believe as well although I'm not 100 per cent sure about that - they will always, almost always look at the operational revenue of the business, which is usually represented by reports from the practice (indistinct).

\*\*\* KANG J KIM

XXN MR LETTAU

PN385

Sure?---I hope that answers your question.

PN386

It does. You said relatively heavily, sometimes, the valuations can be adjusted relatively heavily because of services and facilities agreements, for example?---Heavily is a subjective term, but yes - - -

PN387

What does it mean to you?---It's about, for example, there are instances where - where for example - I mean, depreciation and (indistinct) is a big one that we have to work back. Sometimes there are for example costs that are earned by family members who work in the business that might not accurately reflect their contribution to the clinical operations of the business so we have to take that into account sometimes as well and sometimes there are - sometimes there are dentists who will claim or the business will pay for the principle dentist's travel to conferences. If that's not considered an operational part of the business then we will add that back.

PN388

And just to clarify, you said before that you made these adjustments - this is in the context of you preparing for example valuations for the dental practice?---Correct.

PN389

If I were to pull up a profit and loss statement, which line would I see services and facilities agreement revenue on?---Depends on the accountant, depends on the practice, but some practices will have a contractors' - a separate line item for contractors and they'll go into that. Unfortunately, you know, for us I guess when we're doing our analyses some dentists are engaged on an SFA, others aren't. Junior dentists tend to be engaged on an employment agreement because there's a lot of mentoring from the practice principal and their practice staff. So it can be split between the - well, the contractors will generally represent the - the contractors' line item will generally represent the SFA. Employee dentists can sometimes in the general wages and salaries and in other cases, I have seen one other case for example where it's been combined, the associate dentist or specialist wages have been combined with other consultancy fees for the business. So it can vary, I guess is the short answer. Sorry to extend that answer so long.

PN390

Yes, so - and to the extent that it does appear on the profit and loss statement, that would only be the proportion of the dental practice's share in that revenue passing through the practice?---Sorry, would you mind repeating that question?

\*\*\* KANG J KIM

XXN MR LETTAU

PN391

To the extent it does show up on an income and loss statement, that is services and facilities agreement revenue, that would only be the percentage share that the dental practice gets, since the dentist is independently billing the patient for the full patient fees?---Again, it depends on the way that the accountant has prepared the financial statement. So that can vary. When you're talking about statutory financial statements, that can vary from business to business and even between accountant to accountant.

PN392

Sure, okay. Thank you, Mr Kim. I don't have any further questions.

PN393

JUSTICE HATCHER: Anything from you, Ms Schreier-Joffe?

PN394

MS SCHREIER-JOFFE: Just one question.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE**

**[11.11 AM]**

PN395

MS SCHREIER-JOFFE: Dr Kim, hi. I'm Shana Schreier-Joffe and I'm going to ask you one question in relation to your statement. You stated that the commissions, the Dentists' commissions which you've just clarified is either the commissions earned under the services and facilities type agreement or employment contracts are the highest cost to a dental practice. By contrast would you agree that the dental assistants individually earn the lowest in any dental practice?---There are usually only really two categories of staff with a dental practice. It's either - it's the clinicians and it's the dental assistants. So yes, if that's - if you were saying that's the statement, yes, they earn the second-highest wage, which is the lowest, because there are really only two broad categories of staff in a dental practice.

PN396

Well, there could be hygienists?---In a typical - yes, hygienists, hygienists are clinicians as well, yes. So hygienists, obviously, they're higher grade. They actually perform the procedures so they'll earn more than a dental assistant, yes.

PN397

And would you agree that for the dentists to earn the commissions that they do earn dental assistants are an essential part of their practice? They could not earn those commissions without the dental assistants' assistance?---Yes, yes. Dental assistants are an important part of the overall treatment provision.

PN398

No further questions.

PN399

JUSTICE HATCHER: Thank you. Any re-examination, Mr Seck?

PN400

MR SECK: No, Your Honour.

PN401

JUSTICE HATCHER: Right, thank you for your evidence, Dr Kim. You're excused, which means you can disconnect from the call?---Thank you.

\*\*\* KANG J KIM

XXN MS SCHREIER-JOFFE

**<THE WITNESS WITHDREW**

**[11.13 AM]**

PN402

MR SECK: Your Honour, the next witness on the schedule is Dr Arosha Weerakoon. Hopefully Dr Weerakoon is online. I call Dr Weerakoon. No? We'll make contact with him to - we're a bit early. I suspect we had 11.30 on the schedule so - - -

PN403

JUSTICE HATCHER: I see, all right. Well, we'll take a short adjournment and we'll resume at 11.30.

**SHORT ADJOURNMENT [11.14 AM]**

**RESUMED [11.34 AM]**

PN404

JUSTICE HATCHER: All right. Next witness?

PN405

MR SECK: May it please your Honour, Dr Arosha Weerakoon is the next witness. I understand he's on Microsoft Teams. I call Dr Arosha Weerakoon.

PN406

JUSTICE HATCHER: All right.

PN407

THE ASSOCIATE: Dr Weerakoon, it's the associate speaking in the Sydney hearing room. Can you hear me okay? Dr Weerakoon, it's the associate speaking in Sydney. Can you hear me okay?

PN408

DR WEERAKOON: Yes.

PN409

THE ASSOCIATE: Thank you. I'm going to ask you to give an affirmation before you give your evidence, but I will ask you to state your full name and address for the record first, please.

**CONFIDENTIAL TRANSCRIPT PN 410**

**<AROSHA TANIA WEERAKOON, AFFIRMED [11.35 AM]**

**EXAMINATION-IN-CHIEF BY MR SECK [11.35 AM]**

PN411

JUSTICE HATCHER: Mr Seck.

\*\*\*

AROSHA TANIA WEERAKOON

XN MR SECK

PN412

MR SECK: Please state your full name?---Dr Arosha – sorry, are you speaking to me?

PN413

Yes. Sorry. My name is Michael Seck. I'm counsel for the Australian Dental Association. I'm just going to ask you a few questions, Dr Weerakoon. Please state your full name for the record?---Sure. It's Arosha Tania Weerakoon.

**CONFIDENTIAL TRANSCRIPT PN 414 TO 415**

PN416

Dr Weerakoon, you've prepared a statement dated 5 September 2025 in these proceedings?---Yes, I did.

PN417

Do you have a copy of your statement with you at the moment?---I do.

PN418

Have you read that statement recently?---Just a few seconds ago, because I thought I was going to be speaking in about two hours. But anyway, that's okay.

PN419

Do you wish to make any changes to your statement?---No.

PN420

Are the contents of your statement true and correct to the best of your knowledge and belief?---To the best of my knowledge and belief, yeah.

PN421

I tender the witness statement of Dr Arosha Weerakoon dated 5 September 2025.

**EXHIBIT #HPSS130 WITNESS STATEMENT OF DR AROSHA WEERAKOON DATED 05/09/2025**

PN422

May it please no further questions in-chief.

PN423

JUSTICE HATCHER: Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[11.37 AM]**

\*\*\*

AROSHA TANIA WEERAKOON

XXN MR LETTAU

PN424

Good morning, Ms Weerakoon. Can you see and hear me clearly?---I can just see you, but I can hear you clearly, thank you.

**CONFIDENTIAL TRANSCRIPT PN 425**

PN426

VICE PRESIDENT ASBURY: Sorry, Mr Lettau, I can't help myself, it's Tewantin.

PN427

THE WITNESS: Thank you for correcting.

PN428

MR LETTAU: Please forgive me. So Tewanin?---Yes.

PN429

I want to ask first just about your – I won't say employees, but your head count at this stage. So you've got nine, a head count of nine at the practice?---Yes. At the time that I wrote this I did. Since then one of the staff members resigned, and she left last week. So now I have two casual members that have joined. So I guess that takes it to 10 now.

PN430

Okay. Which role was it who resigned?---Amanda was a dental assistant, and she has decided to study nursing, and she was finding her study commitment was a bit too much with work, so – yeah.

PN431

Now, you practice as a dentist at the practice?---Yes, I do.

PN432

Are you employed by the practice?---Well, the first year I wasn't. The second year I wasn't. I'm not sure, I can't remember, but I am at the moment. So I do earn a wage, which – yes. So the answer is 'Yes'.

PN433

Okay. Could I ask you to bring up a copy of the profit and loss statement, which hopefully was provided to you?---Is that for the year ended June 2025?

PN434

Yes?---Yes, sure.

PN435

And can I take you to page 2 of the profit and loss statement?---Mm-hm.

\*\*\*

AROSHA TANIA WEERAKOON

XXN MR LETTAU

PN436

So when did you become salaried or waged as an employee?---I think it was last financial year.

### **CONFIDENTIAL TRANSCRIPT PN 437 TO 439**

PN440

And the remaining amounts once we take away your salary and the prosthetist's salary is the wages for the staff, four dental assistants and one receptionist?---Yes, it is, yeah.

### **CONFIDENTIAL TRANSCRIPT PN 441 TO 442**

PN443

And then you also contract with the practice as a dentist?---No.

PN444

No?---No.

\*\*\* AROSHA TANIA WEERAKOON

XXN MR LETTAU

**CONFIDENTIAL TRANSCRIPT PN 445**

PN446

Yes. All right. Just sticking with the profit and loss statements for the time being?---Sure.

**CONFIDENTIAL TRANSCRIPT PN 447 TO 449**

PN450

Sorry, I just want to clarify that. You said he became an employee in 2025. Prior to that was he not receiving any - - - ?---He was - - -

**CONFIDENTIAL TRANSCRIPT PN 451 TO 452**

PN453

Can I just draw - or take you to the trading income line of the profit and loss statement?---(Indistinct), yes.

**CONFIDENTIAL TRANSCRIPT PN 454 TO 457**

PN458

Understood. Where in the profit and loss statement does this - is this recorded?---I would say this would be in subcontractors.

PN459

So are these individuals working full time?---No.

PN460

How many days a week?---They started one day a week for a few months and now she's at two. And Jo started one day a week from December last year and she started working two days a week from March this year and of course they're not - like I said they're new and they're not busy and because I've been working in the same location for 23 years, because I've but back from five to three, people who want to see me are filling in my three days and we're trying to fill Jo and Viv, if that makes - - -

PN461

I might just interrupt you because it is obviously important information for your business but we probably (indistinct) that. But can you just clarify, you mentioned names. I'm just not sure what roles these names are, yeah?---Sure, who they are?

PN462

So a dentist and a hygienist - what were their names you just mentioned?---Okay, so Jo is the dentist and Vivian is the hygienist.

PN463

Okay, thank you?---That's okay.

PN464

So you say in your statement at paragraph 8: 'We pay our dental assistants at least 20 per cent of the minimum award rates'?---Yes.

PN465

Except for the dental assistants with less than six months' experience?---Yes.

\*\*\* AROSHA TANIA WEERAKOON

XXN MR LETTAU

PN466

You're aware I gather that the average pay increase proposed for dental assistants is leading up to that level one (indistinct) change, is about eight and a half per cent?---Mm-hm.

PN467

And that means that if we apply the 8.5 per cent your dental assistants will still be 11.5 per cent above the award?---Yes, I would be, yes.

PN468

And paragraph 11 you say: 'I can't really pay my dental assistants' - sorry. I withdraw that, bear with me one moment.

PN469

JUSTICE HATCHER: I assume we're reading that as 20 per cent above the award rates.

PN470

MR SECK: Yes, yes?---Yes.

PN471

Above the award minimum rates?---Yes.

PN472

I'll just read to you the statement from paragraph 11: 'Although I may have the option of absorbing any minimum award rates increase resulting from the proposed changes into the above the award rates I currently pay my dental assistants, in my view I would forced to further increase the dental assistants' wages to retain staff and mitigate the risk that they will move on to other practices and increase their pay to comply with the proposed changes'?---Yes.

PN473

Are you suggesting there that other dental practices that you're aware of also pay above award rates and that they might catch up to you?---So to give you some context, we have a shortage of dental assistants on the Sunshine Coast. The cost of living on the Coast has gone up so people I guess who are earning that kind of wage can no longer live in the area unless they already lived here or they - you know, and they're younger and they live with their parents. So to give you context, every person that works for me has - was either born here or has lived here for over 30 years. It's incredibly difficult to get staff, like dental assistants or receptionists in dental on the Coast. So consequently what's happened is it's increased the competition. It's almost like a price war for wages. I'd like to think that I treat my dental assistants very well. I think I do - and receptionists and

everybody. But I mean one of the things that separates me from probably some of the other practices is the fact that I do pay above the wage rate. They're all aware of that. So effectively by increasing the award and many of our practices and many of my friends I know are already doing this anyway but paying above the award, what you're doing is diminishing - it's almost like diminishing the bonus that they feel they've been paid in addition to the base rate, if that makes sense.

\*\*\* AROSHA TANIA WEERAKOON

XXN MR LETTAU

PN474

Can I just take you back to the profit and loss statement?---Sure.

PN475

I just want to just point out a few things to you?---Sure.

#### **CONFIDENTIAL TRANSCRIPT PN 476 TO 479**

PN480

Can I get you to bring up the balance sheets as well?---Yes.

#### **CONFIDENTIAL TRANSCRIPT PN 481**

PN482

There's a line there that says 'Drawings'. I think it's on page 2?---Mm-hm.

#### **CONFIDENTIAL TRANSCRIPT PN 483 TO 484**

PN485

And the same for Rob, drawings?---Mm-hm.

\*\*\* AROSHA TANIA WEERAKOON

XXN MR LETTAU

#### **CONFIDENTIAL TRANSCRIPT PN 486 TO 488**

PN489

You didn't sell a house every year I assume, but - - -?---Pardon?

PN490

You didn't sell a house every year?---Wouldn't that be amazing though.

PN491

Would you accept just as a general proposition now that we've gone over a few of these figures that the business that you operate would be fairly comfortably capable of absorbing the proposed rate increases for dental assistants?---I'm going to add a few things to your statement. I would love to say that all of this money is, you know, paid towards my – whatever it is – my lifestyle. So a lot of the times the money that you're seeing in the bank accounts I'm actually having to put aside for – because most of my staff bar the two new ones are permanent part-time. Some of the things I'd be recommended to do is to set aside three months worth of wages, for instance what happened with COVID. We had an instance where, you know, people had – like there was no money coming in to a business because, you know, we couldn't work essentially, but we have to pay our

wages. So the money that you're seeing in a pool is actually really I'm putting aside for two accounts. So three months worth of wages, as well as the tax bill, and it's helped significantly that we are drawing a wage, because that means that (audio malfunction) be paying tax as I go, but those are some of the things I've had to factor in, if that helps.

PN492

Thank you. I have got no further questions. We would just seek to tender the profit and loss statement and the balance sheet, your Honour.

PN493

JUSTICE HATCHER: All right.

\*\*\*

AROSHA TANIA WEERAKOON

XXN MR LETTAU

PN494

MR SECK: No objection, your Honour, subject to the same confidentiality orders we seek.

**EXHIBIT #HPSS131 PROFIT AND LOSS STATEMENT FOR THE  
AROSHA WEERAKOON FAMILY TRUST FOR THE YEAR  
ENDED 30/06/2025**

**EXHIBIT #HPSS132 BALANCE SHEET FOR THE AROSHA  
WEERAKOON FAMILY TRUST AS AT 30/06/2025**

PN495

JUSTICE HATCHER: Ms Schreier-Joffe, do you want to ask any questions?

PN496

MS SCHREIER-JOFFE: Yes, thank you.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE [12.01 PM]**

PN497

Good morning, Dr Weerakoon. My name is Shana Schreier-Joffe, and I'm just going to ask you some questions on behalf of the Dental Assistants Professional Association. You mentioned that you worked part-time in the practice, and I think you said you worked there three days a week?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 498**

PN499

Thank you?---That's all right.

PN500

You have already testified that you employ 10 people or thereabouts in your practice, and that four of those are dental assistants and one is a receptionist. Is the receptionist a dental assistant as well?---She was. She was originally a dental assistant. Then she left assisting to work in retail for about six years, or five years, and when she came back she didn't want to go into the surgery any more, so

she decided she wanted to only work in reception. So she doesn't actually work in the surgery.

PN501

And you've also stated in your statement that you pay your dental assistants 20 per cent above the minimum award rate, and I assume you do so because you value what they provide to your practice?---Yeah.

\*\*\* AROSHA TANIA WEERAKOON

XXN MS SCHREIER-JOFFE

PN502

And you also commented or stated that it's very difficult to find dental assistants on the Sunshine Coast, and I think one of your comments was because it's very expensive and the amount earned by dental assistants may not be sufficient. Is that correct?---Correct.

PN503

Is that even in the circumstances where you're paying them 20 per cent above the award rate?---I don't think so. I guess – I do know of other practices that pay effectively the award rate, and I do know that dental assistants effectively have the capacity on the Sunshine Coast to negotiate what they want to earn, and that's effectively how - it appears to be working at the moment. So you can interview a dental assistant, and they effectively will tell you what they want to be paid, whether it's the award – it's always going to be above the award rate, but they effectively tell you what they want to be paid, and that's what you have to go with.

PN504

In your statement you say, at paragraph 30 of your statement – do you have your statement in front of you - you say:

**CONFIDENTIAL TRANSCRIPT PN 505**

PN506

And then you go on to enumerate some of the expected duties. From your statement it's apparent that you agree that dental assistants provide more than just assisting the dentist in the dental chair?---I do, which is why they get paid more than the current award rate.

PN507

Would you agree that your dental practice would not operate without your dental assistants?---I think I'd agree that we'd both be unable to operate without each other.

PN508

At paragraph 21 you say:

PN509

*In my view the dental profession would not benefit from a revised classification structure with dental assistants.*

\*\*\* AROSHA TANIA WEERAKOON

XXN MS SCHREIER-JOFFE

PN510

Given what you've just said, that they are valued, that your dental assistants would not – your practice wouldn't operate without them, and that you value them and therefore pay them 20 per cent above the award rate, why would it be the case that other practices and other dental assistants should not benefit from an uplift?---It's not necessarily not benefiting from an uplift. I think it's based more on the fact that – say for example the classification assumes that if you have a certificate that you are capable of working in so many clinical situations, and my best performing dental assistant never completed a Cert III. She's incredible. She started when she was 16, and I value what she does and what she brings to the workplace. So then if we start saying that my junior dental assistant, who has a Certificate III, and even after working for a few years may be the equivalent in pay rate to my senior dental assistant. Perhaps what I should say is that the classification should include, if you are going to, should actually include a lot more than simply the number of years and a certificate, because sometimes you can have someone who's worked for five – I worked with someone who (indistinct) chairside in the previous practice for 10 years, and I still carried her. I was assisting her for those 10 years. So I decided when I had my own practice that that was not going to happen again. I don't think the number of years - and that goes for dentists as well – just because you have a degree in dentistry and you perhaps worked for 10 years it doesn't actually make you a skilled practitioner, and that's probably more of the issue I take with the classification not necessarily, but dental assistants don't deserve a pay rise. I hope that makes sense.

PN511

Thank you?---That's all right.

PN512

JUSTICE HATCHER: Sorry, does it follow from that answer, leaving aside qualifications, that the number of years experience may not be a good indicator of the quality of the service?---Yes. I have worked with dental assistants who – yeah. Okay, I'm sorry, I'll try and keep it short. Yes. It doesn't – it doesn't necessarily equate to the quality of their performance and their ability, just like any individual in any profession. You can have the certificate and you can say, 'I've worked for this number of years', but some people just like capacity, and there needs to be a different way of differentiating that. So as a practice owner and as a dentist the way to differentiate it is by my skill level and the way I treat my patients and the way I run my business, and it's wonderful that I'm making a profit, but I'm making a profit because of all of that work that has gone into working as a dentist and (indistinct) up my skills. So simply by saying, you know, if that's the case then we could say that dentists who have worked for 10 years should be earning this amount of money, but that's not always going to be the case, because if you don't have the capacity you just don't have the capacity, and that goes for everyone.

PN513

The example you gave of a dental assistant you worked with some time back you said had been there 10 years and you had to help that person do the job, is that a case of a normal difference in the quality of dental assistants, or is that a person

who was simply not performing the basic expectations of what a dental assistant should be able to do?---Sorry, could you ask that question - - -

\*\*\* AROSHA TANIA WEERAKOON

XXN MS SCHREIER-JOFFE

PN514

Yes. The example you gave, I'm just trying to work out whether that person was in the normal range of difference of quality of dental assistant, or whether that person was simply not performing at the basic level that a dental assistant should be able to perform at?---Well, the basic level or expectation that I'd have is - it's very, very low when it came to her – is to be able to, you know, clean the chair side, sterilise everything, and perhaps greet the patient or, you know, make them feel comfortable. It was probably what you would expect from everybody. The issue more so was that she couldn't consistently maintain that level of work, I guess. So there would be some days where she was great and other days that she (indistinct), and other days that she wasn't. I would have to help her clean up and sterilise. Well, not sterilise so much, but at least clean up the surgery and set up so that we could bring the next patient in, depending on how she was going.

PN515

Thank you?---That's all right.

PN516

MS SCHREIER-JOFFE: One further question?---Sure.

PN517

The corollary would also be true – I'm assuming that the dental assistants you work with now and in your practice, and that you have worked with in the past, would have had less than 10 years of experience and are competent at what they do?---Sorry, could you ask that question again.

PN518

Yes. I will break it up?---Sure.

PN519

So you've given some evidence about a particular individual who had 10 years experience, but wasn't of a standard that you would consider acceptable. I'm suggesting that there are many, and perhaps you can – my question to you is you have worked with dental assistants of far less experience who are very competent?---I think part of the competency will depend on their background and their training and the expectations placed on them. In the context of that dental assistant I said who wasn't a great performer I wasn't the business owner, I was a contractor. So I didn't have much of a say in how the practice was run. Previously I have come across other dental assistants who have worked for, and have experience for many, many years who just wouldn't cope or 'I can't work' to the expectation that I would have. So, yes, I don't think it's necessarily related to – this is what I'm trying to say, I guess, is that it's not related to time. It's not related to whether you have a Certificate III, because every one that I've worked with bar my most – my high performing dental assistant – has a Certificate III minimum, and time is not necessarily a factor. So to give you context I have a permanent part-time who works for me who has been doing dental assisting for at

least – since she left high school. I think she turns 50 this year, or she might be even just a bit over 50, and she still struggles with basically just coming to work and assisting. We know that, and that's okay. So everyone else in the workplace will try to compensate for the things that she isn't capable of doing. So I'm not about putting people down because they lack certain skills or ability. I'm more about seeing what people are able to do and giving them the opportunity to do that work and sharing the load with others who may be skilled differently.

PN520

No further questions.

\*\*\* AROSHA TANIA WEERAKOON

XXN MS SCHREIER-JOFFE

PN521

JUSTICE HATCHER: Any re-examination, Mr Seck?

PN522

MR SECK: No re-examination.

PN523

JUSTICE HATCHER: Thanks for your evidence, Dr Weerakoon. You're excused, which means you can disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW**

**[12.15 PM]**

PN524

MR SECK: Your Honour, the next witness is Dr Catherine Bailey. Hopefully Dr Bailey - - -

PN525

JUSTICE HATCHER: Not there?

PN526

MR SECK: Not yet. We will make enquiries as to where she's located, but I think my learned friend Ms Campbell wishes to raise something.

PN527

MS CAMPBELL: Your Honour, there's an outstanding issue relating to a notice to produce that has been issued to the ACTU. Parts of that have been resolved, but there's one aspect to it that has not been. If it's a convenient time I could address you on that now.

PN528

JUSTICE HATCHER: Yes.

PN529

MS CAMPBELL: Thank you, your Honour. So a notice to produce has been issued concerning the report of Dr Stanford. Dr Stanford has given a supplementary report in the proceeding and he will be giving evidence, and I understand that that report will be relied upon tomorrow.

PN530

The Form 52 was provided yesterday. The critical part of it, or the part that remains in issue, is that my client is seeking in relation to the report of Dr Stanford dated 14 October 2025 electronic communications comprising of emails, letters and text messages.

PN531

Now, the relevance of those emails, letters and text messages have been put in issue, because Dr Stanford says that he has complied with the expert practice note, and we would seek to test that assertion in cross-examination with him.

\*\*\* AROSHA TANIA WEERAKOON

XXN MS SCHREIER-JOFFE

PN532

JUSTICE HATCHER: What are you testing? In what respect are you alleging that he hasn't complied?

PN533

MS CAMPBELL: Well, we would think to test his independence by virtue of the communications that have been provided to him.

PN534

JUSTICE HATCHER: But what is likely to be on the cards in the material that would support some proposition that he hasn't complied?

PN535

MS CAMPBELL: Your Honour, what we have been provided with to date is three amended reports. We have not received the logistical emails that underpin those reports. So for example who it was that marked them up, whether it was the expert himself or whether it was the other people involved in the ACTU, and we're seeking the communications that support those amendments.

PN536

JUSTICE HATCHER: All right. I mean they will almost certainly be privilege, won't they?

PN537

MS CAMPBELL: In this area, your Honour, where a privileged communication influences the outcome of a report that is taken to be a waiver of the privilege, but they are not privileged for those purposes.

PN538

JUSTICE HATCHER: How can you assert that?

PN539

MS CAMPBELL: That's what the Federal Court authority - - -

PN540

JUSTICE HATCHER: No, no, not the proposition. It seems to me that you're trying to find some documents which might give you an argument that the code wasn't complied with. You don't have an argument that the code wasn't complied with, do you?

PN541

MS CAMPBELL: But we are entitled to test that issue, because that has been put in the report. So that's been put in issue by the expert, and we're entitled to test whether or not - - -

PN542

JUSTICE HATCHER: Are you trying to find something in the documents which might support an argument that there has been non-compliance with the code?

PN543

MS CAMPBELL: Correct.

PN544

JUSTICE HATCHER: That's a classic description of a fishing expedition.

PN545

MS CAMPBELL: But in this space, your Honour, compliance with the code is very important and it must be upheld, and both in spirit and technical compliance is important, and these communications will allow us to cross-examine the expert on that.

PN546

VICE PRESIDENT ASBURY: If the expert report, if there's been three versions of it why can't you cross-examine about the differences between the three versions?

PN547

MS CAMPBELL: Without the underlying supporting logistical emails about those versions we're unable to see who made the changes.

PN548

VICE PRESIDENT ASBURY: But if there are changes you can ask the witness, can't you?

PN549

MS CAMPBELL: Potentially.

PN550

VICE PRESIDENT ASBURY: You could just put the two documents beside each other and do a comparison, or the three documents electronically, take the witness to – it's pretty easy to do – take the witness to the amendments and ask the witness how they came about.

PN551

MS CAMPBELL: We would be able to do that, but it could be (indistinct) if we were able to see whether it was the witness himself who made the changes, whether it's somebody else.

PN552

VICE PRESIDENT ASBURY: We don't even know what the changes are. Are they substantive? (Indistinct) the witness to answer that?

PN553

MS CAMPBELL: Well, that's something that we will cross-examine on, but there is a change, at least one that I have seen that I will cross-examine on the substantive nature of the change or what its source was.

PN554

VICE PRESIDENT ASBURY: If there's one how will we short circuiting? Wouldn't it just be easier to cross-examine on why the change was made?

PN555

MS CAMPBELL: Perhaps that would be the safest course, but at this point where we don't necessarily have an indication of what the other emails, notes, changes are, in my submission they are relevant to how the report was produced, and in order for the Commission to rely upon this report we should be entitled to refer to them.

PN556

The other aspect of the relevance is that this was a report that was provided in reply. There was no expert report filed by any of the other interested parties prior to the (indistinct) tender, which was the date for the evidence-in-chief. We contested the expert, how he says that this is an expert report in reply in circumstances where we haven't been able to respond to it at the level of expert evidence due to the time provided.

PN557

JUSTICE HATCHER: I mean I don't know how the witness is going to assist you with that. The ACTU has made, and (indistinct) has made a forensic decision to put on an expert report. I am not sure how the witness can assist us whether it's truly in a reply or not. He's just presumably provided a report about the matters he was requested to. Is the substantive complaint that you hadn't had a chance to deal with it by way of a response, in which case why don't you simply ask for an opportunity to do so?

PN558

MS CAMPBELL: Ultimately the decision has been to allow the report to go forward. So I was not (indistinct) the hearing that we had today. We will make that submission in relation to weight, in that if there's a criticism of us that we haven't provided competing economic evidence we haven't had time to do so.

PN559

JUSTICE HATCHER: Well, I'm saying that you could ask for that opportunity and we will obviously consider it. Mr Lettau?

PN560

MR LETTAU: Thank you, your Honour.

PN561

JUSTICE HATCHER: Is the material likely to be produced privileged?

PN562

MR LETTAU: Yes. It contains – the issue is that it's addressed in a statement. There's a mix of - - -

PN563

DEPUTY PRESIDENT GRAYSON: Are you talking about the affidavit of Ms McLelland?

PN564

MR LETTAU: Yes. I understood it was filed with chambers. I hope it is. It addresses the fact that there is a long email chain that covers all manner of proceedings and topics, and that's the main issue there.

PN565

I might just address, begin with the question of relevance. We're confused really what this could possibly be relevant to. As my learned friend said there's no objection to the evidence, no formal objection. There's no application to have that evidence excluded, and my friend has just indicated there's no intent to seek leave to file their own expert evidence in reply. They will have an opportunity to respond to the evidence in some other way.

PN566

The other issue is on the question of timing of the report, or the nature, or whether it's a reply report or not. Dr Stanford can't address those questions. They're not questions relevant to his expert opinion contained in the report. So there's no relevance there.

PN567

What we've provided today, and this is addressed again in the affidavit, is all the instructive materials that were provided to Dr Stanford, including the drafts, including the marked up drafts, including all the written instructions, and including a written file note to one of the conferences, which is the only written file note that was kept. We've given them everything that could possibly be related to the substance of Dr Stanford's expert opinion, which is the only relevant question that my learned friend can cross-examine Dr Stanford on. So other than that, we rely on our written outline on the question of privilege, and we also rely on some matters raised in the letter to Piper Alderman yesterday and filed with the Commission yesterday.

PN568

JUSTICE HATCHER: Thank you. We'll rule on this after lunch. Is the next witness available yet?

PN569

MR SECK: I'm told contact has been made with her, or contact has been sought to be made with her, and she hasn't appeared yet online. So it might be necessary just to adjourn it for a moment so we can ascertain why she isn't available because she'd been told to log on at 12.15.

PN570

JUSTICE HATCHER: All right. Well, can you advise my associates if she's located?

PN571

MR SECK: Yes.

PN572

JUSTICE HATCHER: All right. We'll now adjourn.

**SHORT ADJOURNMENT**

**[12.25 PM]**

**RESUMED**

**[12.34 PM]**

PN573

JUSTICE HATCHER: Mr Seck.

PN574

MR SECK: May it please Your Honour. We have Dr Bailey available, so I call Dr Katherine Bailey.

PN575

JUSTICE HATCHER: All right.

PN576

THE ASSOCIATE: Dr Bailey, it's the associate speaking again. I'm going to ask you to affirm your evidence but first could you please state your full name and address for the record?

PN577

DR BAILEY: Yes, it's Katherine Elizabeth Bailey and my residential address is (address supplied).

**<KATHERINE ELIZABETH BAILEY, AFFIRMED**

**[12.35 PM]**

**EXAMINATION-IN-CHIEF BY MR SECK**

**[12.35 PM]**

PN578

MR SECK: May it please Your Honour. What is your - my name is Michael Seck. I'm the counsel for the Australian Dental Association. I'm just going to ask you a few questions. Dr Bailey, what's your full name?---My full name? Katherine Elizabeth Bailey.

**CONFIDENTIAL TRANSCRIPT PN 579**

PN580

What is your current occupation?---I'm a general dentist.

PN581

Dr Bailey, you have prepared a witness statement in these proceedings dated 5 September 2025?---That's correct.

PN582

Do you have a copy of your statement with you?---I do.

PN583

Have you read that statement recently?---I read it last night and this morning.

PN584

And do you wish to make any changes to your statement?---No, I do not.

PN585

Are the contents of your statement true and correct to the best of your knowledge and belief?---To the best of my knowledge and belief, yes.

\*\*\*

KATHERINE ELIZABETH BAILEY

XN MR SECK

PN586

I tender the statement of Dr Katherine Bailey dated 5 September 2025.

PN587

JUSTICE HATCHER: The witness statement of Dr Katherine Bailey dated 5 September 2025 will be marked exhibit HPSS133.

**EXHIBIT #HPSS133 WITNESS STATEMENT OF DR KATHERINE  
BAILEY DATED 05/09/2025**

PN588

MR SECK: May it please Your Honour, no further questions in chief.

PN589

JUSTICE HATCHER: Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[12.37 PM]**

PN590

MR LETTAU: Thank Your Honour. Good afternoon, Ms Bailey. Can you see and hear me clearly?---Yes, I can see you.

PN591

So you're an owner and dentist working at your practice?---Correct.

PN592

I want to ask you first up just about your head count. You say you have 12 employees working for the practice including yourself?---That's correct, although we had one staff member who resigned since the statement that I made so we are one less.

PN593

Okay. Which staff member was that one?---It's one of our dental nurses. She was actually our trainee nurse. She was juggling a difficult work/life balance as a single mother with two boys.

PN594

Okay. Can I ask you just in relation to yourself, are you a direct employee of the practice?---Yes, I am an employee of the practice as well, yes.

PN595

And you're given an income through a salary?---Yes, I nominate a salary. So dentists are on essentially a commission and salary basis, so I'm the same as the other dentists here.

\*\*\* KATHERINE ELIZABETH BAILEY

XXN MR LETTAU

PN596

How does the commission and salary work?---We base it on a retainer, base retainer that's paid weekly. At the end of every month, the takings of each dentist are tallied and their commission of 40 per cent is calculated from that. Obviously we pay super, tax and obviously lab fees come off that as well. And the balance at the end of each month is then paid as a monthly bonus, effectively.

PN597

And that applies to you and the two other employee dentists?---Correct.

PN598

And what about the practice manager?---The practice manager is hourly rate of pay as an employee.

PN599

Okay?---So same as the other dental nurses but a different rate because (indistinct)  
- - -

PN600

JUSTICE HATCHER: Dr Bailey, to be clear, is the 40 per cent - is the retainer set off against the 40 per cent commission?---It is, correct, yes.

PN601

Thank you.

PN602

MR LETTAU: Now, in your statement you make - you make a number of observations. I'll just read out a few of them. Paragraph 8 you say: 'The practice's profit margins are not high enough to absorb the cost of increased wages'. That's at paragraph 8. At paragraph 10 you say that you pay dental assistants above award rates to attract and retain staff?---Yes.

PN603

Given the practice is located in regional Victoria?---Yes.

PN604

Paragraph 12, you say the 3.5 per cent annual wage review increase this year was manageable but if the practice incurs further increased wage costs, 'We would not be able to absorb these higher wages'. Another one final example, paragraph 13:

PN605

*In my view I can't see any other way to manage the increase in wages resulting from the proposed changes as I already run the practice on a minimum of one dental assistant per dentist for chairside assisting.*

\*\*\* KATHERINE ELIZABETH BAILEY

XXN MR LETTAU

PN606

Just a general question: when you prepared your witness statement and you made these observations, among others, did you inform yourself of the current financial position of the business by looking at the current at that time profit and loss statements, for example, or other financial documents?---Yes, although I would just clarify that I've only been a business owner for essentially two full financial year cycles and our current tax return is only just being finalised. So I don't have years and years of data to sort of really pull up on. But I do prefer to pay my staff above award because I think it gives me the flexibility to be able to reward my staff. I like the idea of having award rates as the basis for discussion for employment. I think it's good if you can offer more than just what is the absolute bare minimum for the industry.

PN607

JUSTICE HATCHER: So, Dr Bailey, how much above the award do you pay? Is it - - -?---We probably - at the moment, we have different rates for some of our different nurses but we're probably about 5 per cent - between 5 and 10 per cent above, bearing in mind you also have to look at things like leave loading, so all those sorts of things get factored in. There's allowances for things like uniform and washing and laundry and things like that that get factored into the pay rate for our nurses.

PN608

And do you envisage that you would be able to absorb any award wage increases into your over award payments to minimise the cost?---At the moment, yes, but I - most of my nurses have young families and I'd like to be able to offer a pay increase regularly, every year. I think it would be a shame if there isn't that to offer because it's something the nurses look for.

PN609

Thank you.

PN610

MR LETTAU: When you're preparing your statement and you looked at the financials, as you said you have, did you calculate - I withdraw that question. I might ask you one question before I ask this question. Are you aware that the average pay increase, leaving aside level one, which is unchanged, is around 8.5 per cent? That's the proposed minimum rate increase?---Do you mean for - - -

PN611

For dental assistants?---What's the 8 per cent for, is that out of - across all the support services in the award or do you mean for dental assistants?

PN612

Yes, I'll rephrase the question for you more clearly. So for dental assistants - - - ?---Yes.

PN613

- - - are you aware that the average proposed minimum wage increase is about 8.5 per cent?---I'm not aware of it being that much, no.

PN614

So when you made the statements in your witness statement about the ability of the practice to absorb those increases, you didn't take into account the amount that the increases were proposed to be?---Not that amount, no.

\*\*\* KATHERINE ELIZABETH BAILEY

XXN MR LETTAU

PN615

Can I take you to your interim financial report from 2025?---Yes, just got to bring that one up. Sorry, are you still there?

PN616

I am, yes?---Yes, sorry. I lost the screen.

PN617

I'll wait for you to let me know when you've got it?---Yes. Yes, I've got that one there.

PN618

So can I take you first to page 4?---That would be the profit and loss?

PN619

Yes, that's right?---Yes.

PN620

And so it says at the top there, this is for the 10 months ended 30 April 2025?---Correct.

PN621

This is the most recent profit and loss statement you provided?---Yes – yes.

**CONFIDENTIAL TRANSCRIPT PN 622**

PN623

From 2024 to 2025?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 624**

PN625

I might just rephrase that question, because - - -?---Sorry, I didn't (indistinct) a question.

**CONFIDENTIAL TRANSCRIPT PN 626**

PN627

Just bear with me one moment, I've got - - -?---What's the question?

**CONFIDENTIAL TRANSCRIPT PN 628**

PN629

Yes?---Yes.

PN630

Sorry for – there was many income lines, and I kept reading from the wrong one. If you go down to page 5?---Yes.

PN631

Right down to the bottom there, where it says, 'Total expenses'?---Total expenses. On page 5?

PN632

Yes?---Yes, 'Total expenses', yes, I'm with you there.

**CONFIDENTIAL TRANSCRIPT PN 633 TO 634**

PN635

Go over the page to page 6?---I'm on page 6.

PN636

This is a tax reconciliation report?---Yes.

PN637

Just there, below deductions, it has the line for taxable profit?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 638 TO 640**

PN641

And finally, over the page - page 7?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 642**

PN643

Total retained – under equity – retained earnings, which is the same as total (indistinct)?---Yes, yes, I can see.

PN644

Now, I'm going to ask you to flip back to page 3 of this interim report?---Right.

PN645

Which includes an executive summary?---Yes. Page 3, it's got – yes – yes, got it.

PN646

Executive summary?---Yes.

**CONFIDENTIAL TRANSCRIPT PN 647**

PN648

Including the final item there that you can salary sacrifice some additional super contributions. Would you agree that your practice is in a – has ample capacity to absorb the proposed increases to minimum rates of wage – minimum rates of pay

for dental assistants, based on everything I've just drawn your attention to?---I would – it has some capacity, but bear in mind that the profit from the – from the business does serve a purpose. It's income for my husband as well. So we're both owners. It's also – we have plans for next year to do substantial renovations that still require doing, because it's a fairly aged practice. If you don't have the profit there then you don't have the capacity to be able to make some of those necessary changes, and a lot of them relate to Workplace Health and Safety; making the place run more efficiently and effectively for staff; staff comfort. So areas such as the staff room and upgrades. As anyone who runs a business knows, you have to have some sort of resilience, so if you're not making any profit then your ability to be able to, kind of, weather the storm or improve your business or expand it becomes quite limited.

PN649

In this instance I withdraw the question. I've actually got no further questions. Thank you, Ms Bailey?---Okay.

PN650

Your Honour, we seek to tender that financial statement – the interim report for the 2025 financial year.

**EXHIBIT #HPSS134 Interim reports 2024 financial year for Fangs and Dongs Pty Ltd**

PN651

MR LETTAU: Thank you, Ms Bailey?---Thank you.

PN652

JUSTICE HATCHER: Ms Schreier-Joffe, do you have any questions?

PN653

MS SCHREIER-JOFFE: Yes. Just a couple.

**CROSS-EXAMINATION BY MS SCHREIER-JOFFE [12.50 PM]**

\*\*\* KATHERINE ELIZABETH BAILEY

XXN MS SCHREIER-JOFFE

PN654

MS SCHREIER-JOFFE: I think it's good afternoon, Ms Bailey?---Good afternoon.

PN655

My name is Shana Schreier-Joffe, I'm just going to ask you a couple of questions on behalf of the Dental Assistants Professional Association. You – sorry, my apologies – you've described your practice as now employing 11 people. Almost half or just over half of those are dental assistants?---Correct.

PN656

Can I just clarify: when you talked earlier of dental nurses, were you meaning dental assistants or?---Yes. Sorry, I do – I think I slipped back into 'dental nurses'; dental assistants, correct.

PN657

And you would agree that – and I think you state as much in your statement – that you value your dental assistants; you agree with that?---Yes.

PN658

And you would agree that they're an essential part of your practice?---Yes.

PN659

At paragraph 26 of your statement, you state the following: 'The proposed changes fail to recognise that the highly valuable soft or invisible skills are acquired by experience in the role of dental assistant', you see that?---Yes, I'm looking at that paragraph.

PN660

Now, I'm assuming, from that paragraph, what you're really saying is the proposed changes to the proposed structure of the Award classification doesn't recognise these soft – in your opinion – doesn't recognise the soft skills and the value of those soft skills attained by experience; is that correct?---Yes. I – the experience doesn't seem to be reflected in the new classification.

PN661

But there is no doubt that your view is that dental assistants certainly possess soft skills that are highly valuable to your practice?---Yes. Yes, definitely.

PN662

And you've also given evidence that you pay your dental assistants above Award wages to recognise the value they bring to your practice?---Yes.

\*\*\*

KATHERINE ELIZABETH BAILEY

XXN MS SCHREIER-JOFFE

PN663

Would you agree with the statement that, at a bare minimum, these skills should be recognised for all dental assistants, not just the ones that work in your practice?---I think the pressures on our staff and what they need depends on every practice, practice type, location in Australia. Living costs do vary. And I think, as an employer, it is important that we have a degree of flexibility in how we can present an attractive employment package to our staff, based on our ability, financially, and the circumstances of where we live, and the costs of living there. And we would like – I would like flexibility in how I can make my workplace an attractive workplace for the staff that I want to attract and retain.

PN664

So to clarify, do you mean that you want to have the ability to pay them more than the Award rate and have that flexibility?---Yes. I would like it also known that my staff know that that's something I've chosen to do because of how I value them, not because it was necessarily imposed upon me.

PN665

Thank you. No further questions.

PN666

JUSTICE HATCHER: Mr Seck, any re-examination?

PN667

MR SECK: No questions in re-examination, Your Honour.

PN668

JUSTICE HATCHER: All right. Thank you for your evidence, Dr Bailey, you're excused, which means you can disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW**

**[12.54 PM]**

PN669

JUSTICE HATCHER: All right. So that's all the witnesses for this morning. So we should adjourn now and resume at 1.30.

PN670

MR SECK: May it please, your Honour.

PN671

JUSTICE HATCHER: Yes. All right. We'll adjourn for lunch. Thank you.

**LUNCHEON ADJOURNMENT**

**[12.54 PM]**

**RESUMED**

**[1.43 PM]**

PN672

JUSTICE HATCHER: In relation to the issue of the order for production sought by the Dental Service Business Council, we decline to issue the order sought, noting that the Dental Service Business Council has already been provided with the letters of instructions and the draft reports for Dr Stanford. We don't consider that the search for additional documents would be of any probative value and we consider that it likely constitutes a fishing expedition.

\*\*\*

KATHERINE ELIZABETH BAILEY

XXN MS SCHREIER-JOFFE

PN673

However, we grant leave to the Dental Service Business Council to make an application to serve an expert report in response to Dr Stanford's report. That application should be made before the luncheon adjournment tomorrow. All right. The next witness is who, Ms Schreier-Joffe?

PN674

MS SCHREIER-JOFFE: Yes. Thank you, Commissioner. Before I go there, I just want to - a very small housekeeping matter. I understand that Thursday is set aside for submissions at this stage.

PN675

JUSTICE HATCHER: Well, we hadn't, on the advice of the parties, vacated Friday yet, but obviously we're willing to do so if the parties think Thursday would be sufficient.

PN676

MS SCHREIER-JOFFE: If it is going to be Thursday and we can wait to - we're just wanting to clarify that we'll have transcripts ready by close of business on Wednesday.

PN677

JUSTICE HATCHER: I'm told yes.

PN678

MS SCHREIER-JOFFE: Thank you. We call Martin Harris Thomas.

PN679

JUSTICE HATCHER: All right.

PN680

THE ASSOCIATE: Can you please state your full name and address.

PN681

MR THOMAS: Martin Harris Thomas, (address supplied).

**<MARTIN HARRIS THOMAS, SWORN [1.46 PM]**

**EXAMINATION-IN-CHIEF BY MS SCHREIER-JOFFE [1.46 PM]**

PN682

Good afternoon, Mr Thomas. Can you state your full name for the record?---Certainly. Martin Harris Thomas.

PN683

And your address?---(Address supplied.)

PN684

Can you tell me what your occupation is?---The chief executive officer of the Dental Assistants Professional Association.

\*\*\*

MARTIN HARRIS THOMAS

XN MS SCHREIER-JOFFE

PN685

Mr Thomas, you made a statement in these proceedings, dated 5 September 2025; that's correct?---Yes, that's correct.

PN686

Do you have a copy of that statement?---I do.

PN687

Have you read your statement recently?---I have.

PN688

Is everything in the statement true and correct to the best of your knowledge and belief?---To the best of my knowledge, yes.

PN689

Is there anything you want to change in your statement?---No.

PN690

I tender the statement.

PN691

JUSTICE HATCHER: The witness statement of Martin Thomas, dated 5 September 2025, will be marked exhibit HPSS135.

**EXHIBIT #HPSS135 WITNESS STATEMENT OF MARTIN THOMAS DATED 05/09/2025**

PN692

MS SCHREIER-JOFFE: Nothing further.

PN693

JUSTICE HATCHER: Who would like to cross-examine this witness? Ms Campbell?

PN694

MS CAMPBELL: If I can. Thank you.

**CROSS-EXAMINATION BY MS CAMPBELL**

**[1.47 PM]**

PN695

Mr Thomas, I understand that you have been at DAPA - the Dental Assistants Professional Association - for 18 months; is that correct?---That's correct. I joined in December of 2023.

PN696

Is that the extent of your experience in the dental industry more broadly?---That's correct.

PN697

DAPA offers an accredited registered training organisation Certificate III and Certificate IV to dental assistants; is that correct?---That's correct.

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN698

In order to offer those, you must be registered with the Commonwealth training provision regulator; is that correct?---That's correct. We are registered with ASQA, which are the regulator for the sector.

PN699

Thank you. I understand that a student can either undertake a Certificate III or a Certificate IV; is that correct?---Not quite accurate. A student has to undertake a Certificate III before proceeding to a Certificate IV.

PN700

So it's not possible to undertake a Certificate IV no having done a Certificate III?---That's correct.

PN701

Now, in your statement you attach a media release about a survey that was jointly conducted between the ADA and DAPA?---Mm-hm.

PN702

You haven't provided the results of the survey per se; is that correct?---That's correct.

PN703

It's the media release summary of those results?---Could you repeat that, please.

PN704

It's the media release - - -?---That's correct.

PN705

- - - or a summary of those results?---Yeah, that's correct.

PN706

Now, the purpose of that survey was to understand what attracted and retained dental assistants and staff; is that correct?---I think that was part of the direction. The survey started before I joined DAPA, so we really just - my role was just to bring it home or finalise it.

PN707

I see. To your knowledge, did DAPA look at that issue as one issue or did it look at it as two separate issues?---Which issue?

PN708

Sorry. To clarify it, the issues of attracting staff and retaining staff, was that looked at as one issue in its entirety or was it separated out in the survey as two issues?---I can't remember.

PN709

You can't recall. That's okay?---I don't know the details on that.

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN710

I understand that the purpose of the survey was to consider strategies to address shortages concerning dental assistants?---That's correct.

PN711

Do you recall that two-thirds of the dental assistants who responded, which was 169, stated that they were seeking additional responsibilities?---That, I can't remember exactly.

PN712

The survey, according to the media release, identified four main factors for attraction and retention. I can take you to it, but I can also just tell you what they were. They were paid, flexible work, team work and the ability to work in complimentary roles?---Mm-hm.

PN713

As part of the recommendation, the ADA and DAPA jointly suggested regular pay reviews and they suggested looking at market rates, competition and the cost of living. To your understanding, was that in relation to dental assistants being paid at above award rates, that recommendation?---From my recollection, it's because dental assistants were paid at the award rates or below.

PN714

Thank you. There is a second survey that you have attached to your statement. This one was completed a little bit more recently. Was that survey completed for the purposes of this proceeding or to do with a different project?---The survey had two parts. Part 1 was for this proceeding, but part 2 we were on a journey to discover more information about the sector.

PN715

So of the 491 respondees, only one - - -

PN716

JUSTICE HATCHER: Before we go on - - -

PN717

MS SCHREIER-JOFFE: I'm sorry.

PN718

JUSTICE HATCHER: - - - what is in annexure C, is that part of part 1 or part 2?---It's combined.

PN719

Combined. Thank you.

PN720

MS SCHREIER-JOFFE: So that addresses both the issues concerning this proceeding and your broader understanding of the sector; is that right?---That's correct.

\*\*\* MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN721

Thank you. There were 491 responses to this survey; do you recall that?---That's correct.

PN722

One employee stated that they knew that they were being paid at the award rate. Is that the result?---I would need to look that up, but I think that was correct.

PN723

If you just go to page C - I don't think these pages are numbered, but it's the 16th page of your statement. Sorry, annexure C, not page C?---Not page C. Yep.

PN724

So in the bottom table it has got the heading 'Headline numbers'?---Mm-hm.

PN725

The second bottom row states:

PN726

*Pay relative to the award, 490 were unclear and one appears to have known that they were at the award.*

PN727

?---Yes, that's correct.

PN728

As part of this survey, you asked people why it was that they were considering leaving dental assisting as a profession?---That's correct.

PN729

I understand from this summary that this question was not directed towards people who had left, but it was directed towards all of the survey participants; is that right?---That's not quite accurate. We reached out to people who had left dental assisting, as well.

PN730

So I think it was 46 people were no longer in dental assisting roles - - -?---That's correct.

PN731

- - - of the 491 responding; is that right?---Yep.

PN732

But this particular question wasn't limited to people who had actually left. It was question that anybody could answer; is that correct?---That is correct.

PN733

And the approach taken to this question was that there were a number of factors that people could select from?---Mm-hm.

\*\*\* MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN734

And they were able to select up to five factors that were accurate as they applied to them?---Yes, that's correct.

PN735

I also understand that they did not have to select five factors. They could have selected less than five?---That's correct.

PN736

Now, this turned up a slightly different set of issues as to the earlier survey, didn't it?---Completely, yes.

PN737

It revealed that in addition lack of appreciation or recognition and stress were also issues?---That's correct.

PN738

The issue with the selection of five options is that there is not an individual weighting towards which of those issues mattered most to the respondent, is there?---I don't think that that was the purpose of our survey.

PN739

The purpose was to select whether any five were impacting on the person?---No, no, the purpose was to understand the wider scope, of why there was a problem with attracting and retaining DAs.

PN740

Thank you. You also conducted a different assessment in this survey, or a further assessment, I should say, in this survey. The respondents had an opportunity to make a free text comment?---That's correct.

PN741

And 46 people made such a comment?---That's correct.

PN742

Am I right in assuming that anybody of the 491 could have made a comment? This wasn't limited to people who had actually left?---That's correct.

PN743

Now, in this analysis it turned up a different set of priorities. The highest - you used a word recognition or word repetition pattern test?---Is that a question?

PN744

Is that - did you use a word recognition or word pattern test?---Yes, we did.

PN745

And in this situation, the most common issue was progression and recognition?---Yes, that's correct.

\*\*\* MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN746

Sorry, if it would - I don't know whether you have the table. I can take you to it - -?---No, I have the table in front of me.

PN747

It's not a memory test. And the second most common issue was career pathways and scope of practice?---Sure, that's correct.

PN748

The third was flexibility and work/life balance?---That's correct.

PN749

And that issue had not arisen in the earlier survey at all?---The ADA survey?

PN750

The joint earlier survey, yes?---Right - no, that's correct.

PN751

And in this analysis pay only came up in 17 per cent of the responses?---That's correct.

PN752

Now, of the cohort who were surveyed as part of this survey a large number of the dental assistants were qualified. Do you recall that? I believe it was 75 per cent?---I don't reflect the number unless it's in the record here.

PN753

Sorry, I can take you to this line in the report - sorry, in the summary.

PN754

JUSTICE HATCHER: Page 17 of the PDF.

PN755

MS CAMPBELL: Yes, I'm not sure that Mr Thomas is - he's operating from a hard copy. But if you go to attachment C it's just on the second page of the summary?---Got you. Okay.

PN756

So the - sorry, I did say 75 per cent. But my understanding is that those were not qualified taken out of those who responded were approximately at 75 per cent or so who were qualified?---Okay, thank you, yes.

PN757

To your knowledge is that representative of dental assistants more broadly or you couldn't comment?---I don't think I can really comment on that, no.

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN758

You also asked some questions or gave some results around time on current level without progression. So these questions, when you referred to level were you talking about the levels in the award that's under consideration by the expert panel? Is that what you meant by level?---I'd need to refer back on that one. I can't tell you exactly. We were talking about both but I can't remember what the - what the end result was for the survey.

PN759

And were you able - did you also ask the individual respondents what level they were actually on in giving that information?---We did, yes, where they could answer.

PN760

But you have not given us an explanation of whether or not there's a particular level where the career progression doesn't occur?---No.

PN761

Now, the next attachment to your statement is a submission that was made in the inquiry into the application of contract of employment (indistinct) provisions of

the Pay Roll Tax Act 2007. Have you got that there at D? I think that's at page 20 of anyone who's using the PDF?---Which annexure is it?

PN762

It's D?---I don't have D.

PN763

You don't have D?---No.

PN764

Let me just turn that up for you.

PN765

JUSTICE HATCHER: Ms Schreier-Joffe, can you provide a copy of the annexure to the witness, please?---Thank you.

PN766

MS CAMPBELL: Now, this submission concerns - sorry, this is a submission from the Australian Dental Industry Association and the Dental Service Business Council. Now, are you aware that this submission concerns changes to pay roll tax law in New South Wales?---Yes, broadly I was aware of that.

PN767

And are you aware that there's also a pay roll tax - there are changes to pay roll tax in other states at present?---I was not aware of that.

PN768

Not aware of that? Okay. Now, this submission explains a model whereby an operator offers facilities and services to practitioners to engage - and engages practitioners and the practitioner has use of their facilities to enable the practitioner to operate as a sole trader. Are you familiar with that model of dental care?---I've heard of it but I'm not familiar with it.

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN769

Not familiar with it. Now, what this report indicates is that subject to pay roll tax act interpretations, and if there are not other legislative changes, that there is likely to be an historical liability applied to operators in the industry. Are you aware of that issue?---No, I'm not.

PN770

The report also goes on to talk about the nature of dental care more generally. It states that dental care is an expensive form of care to offer. Do you agree with that?---Overall, do you mean overall?

PN771

Yes?---I'm not sure how I can benchmark that against medicine. I mean, is it expensive for me? Is it - I can't state that - - -

PN772

Not something you can comment on (indistinct)?---No.

PN773

And the submission in the report is that there is not likely to be any amnesty or any sort of break, as it were, from pay roll tax issues in New South Wales for dentists as there would be for example, that had been provided in other states for general practitioners in the medical space. Are you aware of this amnesty issue?---No.

PN774

Thank you. Now, you've said in your statement, Mr Thomas, that the industry is largely privately funded. Do you recall saying that? Would you like me - - - ?---For consumers? The patients are private, yes.

PN775

But the - - -?---What do you mean by privately funded?

PN776

I'm going to ask you some questions about what you mean by privately funded?---Right.

PN777

So I think you said the industry is largely privately funded but when you say privately funded what you mean is that it's in part funded by consumers?---Mostly funded by consumers, yes.

PN778

And it's also in part funded by the private health providers that consumers may have private health insurance with?---That's correct.

PN779

And is that what you consider private funding in your assessment of what is privately funded?---When I was considering this my overall assessment was privately funded was consumer funded, not health funds.

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN780

Not health funds. So I'm just going to provide you with a copy of another report. This is an IBISWorld report. Could I have this marked for identification, (indistinct)?

PN781

JUSTICE HATCHER: Yes, when I get one.

PN782

MS CAMPBELL: Yes. So this is a report from September 2025. The context is this is being relied upon by the expert, Dr Stanford, in his report.

PN783

JUSTICE HATCHER: Have you seen this?---No.

PN784

Mr (indistinct), Ms Schreirer-Joffe?

PN785

MS SCHREIER-JOFFE: No.

PN786

JUSTICE HATCHER: Have you a copy? I mean, we can just mark it if there's no objection.

PN787

MS CAMPBELL: I may have given away all my copies. I'm not certain. We might have copies emailed to you if that's okay. I think we - did we receive a copy of it from you? Okay, thank you.

PN788

JUSTICE HATCHER: Is there any objection to me marking it as an exhibit? All right.

PN789

MS CAMPBELL: Thank you.

PN790

JUSTICE HATCHER: The IBISWorld report entitled, 'Dental Services In Australia', published in September 2025 will be marked exhibit 136.

**EXHIBIT #HPSS136 IBISWORLD REPORT ENTITLED 'DENTAL SERVICES IN AUSTRALIA'**

PN791

MS CAMPBELL: Just for those that are using the electronic copy, there is a summary document. That's not the one that I'm relying upon. This is the full report which is - - -

\*\*\*

MARTIN HARRIS THOMAS

XXN MS CAMPBELL

PN792

JUSTICE HATCHER: Has this been sent to us in electronic form?

PN793

MS CAMPBELL: I'm not certain that it has, I'm sorry. I believe it forms part of the annexures that underlie Dr Stanford's report, which is why I thought that that may have already been provided but it may be that they haven't been tendered yet.

PN794

JUSTICE HATCHER: Well, if you can get your instructor to send through - - -

PN795

MS CAMPBELL: I will do that.

PN796

JUSTICE HATCHER: - - - an electronic copy, that would be good.

PN797

MS CAMPBELL: Dr Thomas, if I can just take you to - - -?---Mr Thomas.

PN798

Sorry. Too many doctors. Mr Thomas, if I just take you to page 7 of that report, dot point 1 says that it's consumers covering more than 60 per cent of all expenditure on dental services. But I understand that that dot point relates to those that are provided on a private or fee for service basis. Is that your understanding of what you meant when you said that the industry is largely privately funded?---That would be my interpretation, yes.

PN799

And this report therefore indicates that there's also a substantial portion of dental work that is publicly funded, doesn't it?---I'm not sure we can draw the fact that it's publicly funded. There is a percentage of work that's funded by other means, yes.

PN800

And what are those other means, that you're aware of?---Health funds and the private - the public health sector.

PN801

Thank you. Mr Thomas, I have no further questions for you, thank you.

PN802

JUSTICE HATCHER: Anything from you, Mr Seck?

**CROSS-EXAMINATION BY MR SECK**

**[2.07 PM]**

PN803

MR SECK: Just a few questions. Mr Thomas, can I invite you to go back to annexure C of your statement?---Sure.

\*\*\* MARTIN HARRIS THOMAS

XXN MR SECK

PN804

Which contains the survey responses?---Mm-hm.

PN805

It's - for the benefit of the expert panel it's page 16 of the PDF?---Got it.

PN806

My learned friend Ms Campbell took you to this document. Just so I understand how the survey responses were given, were they in answer to categories which were identified in the survey which can be selected by survey participants or were they part of a free text response?---Selected.

PN807

Right. And was there any explanation given for each of the categories or each of the reasons which were identified?---There was a line explanation for some of them.

PN808

Right. The line explanation given for some of them, is that contained on page - in any part of the survey?---You probably don't have the survey questions here, I don't think.

PN809

That's okay?---Yes.

PN810

So just looking at the reasons which are identified for people leaving the role of dental assistant, do you recall an explanation being given for pay is too low?---No.

PN811

Was there an explanation or additional line given for pay is too low?---No.

PN812

And for lack of recognition or appreciation, was - to the best of your recollection - any additional explanation or information given for that particular reason?---No.

PN813

And for lack of pay increases, to the best of your recollection was there any further information or explanation given for that particular reason?---No.

PN814

And when you say no, do you mean you don't recall or there was no further explanation?---We never expanded on those questions.

PN815

Right, I understand.

PN816

JUSTICE HATCHER: Mr Thomas, were there other propositions suggested which aren't included in that table?---Your Honour, that's - I can't remember all the questions but I think this pretty well encapsulates it, yes.

\*\*\* MARTIN HARRIS THOMAS

XXN MR SECK

PN817

So more or less what we see in the table are the suggested propositions and then you've got numbers of people who regarded one - at least one to five of those as a reason?---That's correct.

PN818

Thank you.

PN819

MR SECK: Was it the case that people could give other reasons beyond the reasons which are specified in the survey?---Yes, we had free text box for that.

PN820

And just going to the free text summary, which is at page 18 of the PDF, which is two pages forward, some of those reasons which emerge in the free text summary (indistinct) acknowledge appear to mirror the reasons which were available to be

selected as part of the survey response. Would you agree with that?---That's correct, yes. The free text was about the reasons why they were leaving.

PN821

And you've summarised some representative comments for each of those key themes at the bottom half of that page and the next page, correct?---That's correct.

PN822

Were you responsible for picking out the representative comments?---I was.

PN823

Now, in relation to the lack of progression/recognition, you can see that you've identified two comments under that heading there. You see that?---Yes.

PN824

Was there any indication in the free text responses that lack of progression was a reference to a lack of progression in terms of pay increases or some other type of progression in their role?---Well, lack of career progression to me meant the lack of opportunity in the role.

PN825

Just so I'm clear, so you - when you use the expression or the words, 'lack of progression', that's referring to a lack of career progression as opposed to some other type of progression?---Generally, yes.

PN826

Okay. There wasn't any reference to a lack of pay progression or anything of that nature summarised in that category?---Not in that category, no.

PN827

No further questions.

PN828

JUSTICE HATCHER: All right. Any re-examination?

\*\*\*

MARTIN HARRIS THOMAS

XXN MR SECK

**RE-EXAMINATION BY MS SCHREIER-JOFFE**

**[2.12 PM]**

PN829

MS SCHREIER-JOFFE: Just one question. Mr Thomas, you've just been asked about your understanding of what the lack of progression means and your response was lack of career progression?---Mm-hm.

PN830

Would that in your experience - would lack of career progression equal lack of progression under the award from a remuneration perspective?

PN831

MR SECK: I object. That's seeking to interpret the responses from the - - -

PN832

JUSTICE HATCHER: I think that's effectively a leading question. Do you have another question?

PN833

MS SCHREIER-JOFFE: Would you say that there is a lack of progression from a remuneration perspective?---I would agree.

PN834

In your experience, having looked at the responses provided by the respondents in this questionnaire is there any indication from what you've collated that there is evidence of lack of progression in a remunerative sense?---Not as such but to draw back on to the responses, and the first questions about lack of pay, or low pay, I think, you know, you've got to encapsulate all of that into the one thing. In other words, people have been stuck on low salaries for a long time.

PN835

Thank you.

PN836

JUSTICE HATCHER: Thank you, for your evidence, Mr Thomas. You're excused, and you're free to stay or go as you please?---Thank you, your Honour.

**<THE WITNESS WITHDREW [2.14 PM]**

PN837

JUSTICE HATCHER: The next witness is Ms Hayes.

PN838

MS SCHREIER-JOFFE: I call Barbara Hayes.

**<BARBARA HAYES, SWORN [2.14 PM]**

**EXAMINATION-IN-CHIEF BY MS SCHREIER-JOFFE [2.15 PM]**

\*\*\* BARBARA HAYES

XN MS SCHREIER-JOFFE

PN839

MS SCHREIER-JOFFE: Good afternoon, Ms Hayes. Can you state your full name for the record?---Barbara Hayes.

PN840

And your address?---(Address supplied.)

PN841

And what is your current occupation?---I'm currently the board chair of Dental Assistants Association.

PN842

Ms Hayes, you made a statement in these proceedings, dated 5 September 2025. In fact, you've made two statements, the most recent one being the statement dated 5 September 2025, is that correct?---That's correct, yes.

PN843

Have you got a copy of that statement in front of you?---I do, yes.

PN844

Have you read that statement recently?---Yes, I have.

PN845

Is everything that is in that statement, to your knowledge, true and correct?---It is.

PN846

Is there anything you wish to correct in that statement?---No.

PN847

I tender the statement.

**EXHIBIT #HPSS137 SECOND WITNESS STATEMENT OF  
BARBARA HAYES, DATED 10/10/2025**

PN848

JUSTICE HATCHER: Mr Seck.

PN849

MR SECK: May it please your Honour.

**CROSS-EXAMINATION BY MR SECK**

**[2.16 PM]**

PN850

MR SECK: Ms Hayes, you retired as a practising dental assistant in 2021, that's correct?---Yes.

PN851

But you're still involved as a trainer, would that be correct?---Yes. Sorry, I will clarify that. I'm not actually training. I'm still involved in a voluntary capacity at the training organisation.

\*\*\* BARBARA HAYES

XXN MR SECK

PN852

And what do you do in your voluntary capacity, Ms Hayes?---I support the students. I take phone calls from students. I do a lot of the admin work, the enrolment, induction calls to students.

PN853

And so you still have some involvement in dealing with students from time to time?---I do.

PN854

And you speak to them in your capacity as a volunteer?---Yes.

PN855

And you obviously find out about how they're doing in their roles; would that be fair?---Yes.

PN856

Now, Ms Hayes, in your first statement you speak about the multiple pathways in being trained as a dental assistant. Do you recall giving that evidence?---Yes.

PN857

One pathway you identified was on-the-job training?---Yes.

PN858

Another pathway would be to obtain a vocational qualification, such as a Certificate III or above?---Yes.

PN859

And a third pathway would be through a traineeship?---Yes. The second and third are very similar.

PN860

Very similar. And I think you say that in your statement, that they are very similar?---Yes.

PN861

At least in terms of the second and third pathways you've identified, you would describe that as a pathway of obtaining a qualification of some sorts. Would you agree with that?---Yes.

PN862

And in relation to the on-the-job training, that you would describe as being an unqualified path?---Yes.

PN863

In your capacity as chairperson of the Dental Assistants Professional Association – I'll refer to it as DAPA – would it be fair to say you've got authority to speak on behalf of DAPA, in terms of its position, as chairperson?---I do currently, yes.

\*\*\* BARBARA HAYES

XXN MR SECK

PN864

And would it be fair to say that DAPA's position is agnostic as to the type of pathway that might be adopted by a dental assistant in acquiring the appropriate skills and expertise to become a competent dental assistant?---The Association is, yes.

PN865

Yes. And that's because, would you agree - - -

PN866

JUSTICE HATCHER: Sorry, I didn't quite catch that answer, Ms Hayes?---As an association, yes.

PN867

That you are agnostic about that?---So we're – agnostic is generally non-biased, yes.

PN868

Yes. All right. Thank you?---Yes.

PN869

MR SECK: And one of the reasons why you're agnostic is that you recognise that on-the-job training, as a means of acquiring the appropriate skills and competence, is a valid means of achieving that outcome?---With reservation.

PN870

When you say, 'with reservation', what reservations are you identifying?---The pathways are valid; they are not equal.

PN871

All right. And obviously, when you say they're not equal, that depends on a whole range of variables which might be relevant to determining which pathway might be more meritorious than other pathways, if I can use that - - -?---Possibly.

PN872

And does DAPA keep information about the number of people who are members, who are qualified, as opposed to unqualified?---We have that option, for people to declare that when they fill in the membership, yes.

PN873

And when you say there's that option, not everyone takes up that option to - - - ?---It's not mandatory, no.

PN874

All right. And based on the data that DAPA has, do you have a – firstly, how many members who are practising dental assistants – sorry. How many members are current practising dental assistants, to the best of your knowledge?---I would not have an exact number on that. Having viewed the membership list last night, I would make an estimation, there would be, 50 per cent have filled in that section with a qualification.

\*\*\* BARBARA HAYES

XXN MR SECK

PN875

JUSTICE HATCHER: Did they only fill that in upon joining the organisation, or at some later stage?---Upon joining. So yes, they could have obtained a qualification after joining. That's possible. So that would not be an accurate representation.

PN876

MR SECK: Yes. I understand. And just so I understand how that information is completed, is there a part of the form which allows the person to nominate, at the time of joining, whether or not they are qualified or not, correct?---Yes.

PN877

And does it allow someone who is unqualified to say they're unqualified?---Potentially.

PN878

Yes. And so in answer to the part of the form which is completed, would it be something along the lines of, 'Do you have qualifications? Yes or no'?---Yes. It's not validated by us at this stage.

PN879

All right. I understand. And only 50 per cent of the people have completed that part of the application form; that's correct?---Have completed it, yes.

PN880

So it would be fair to say that DAPA doesn't - - -

PN881

JUSTICE HATCHER: I've misunderstood. They've completed it, either yes or no, or they've completed it and said 'Yes'?---They've completed it, either yes or no.

PN882

All right. Thank you.

PN883

MR SECK: And do they usually describe the nature of the training that they've had?---Not the training delivery. They describe the qualification they've received.

PN884

What would be currently, to the best of your knowledge and understanding, Ms Hayes, the number of members of DAPA who are current practising dental assistants?---The total number, I'm really not certain of, I'm sorry.

PN885

That's okay. But arising out of those answers that you've given, it would be fair to say that DAPA doesn't have any complete or accurate handle as to the number of members who are qualified as dental assistants, that is, having formal qualifications?---On its membership base, no, it doesn't.

\*\*\* BARBARA HAYES

XXN MR SECK

PN886

Okay. There are other sources of information that you've obtained through the conduct of surveys, that's right?---Yes.

PN887

And have you seen Mr Thomas' statement where he has annexed the surveys?---I have seen it.

PN888

Yes. Have you read the surveys beforehand?---Some time ago.

PN889

Are you aware of the outcome of those surveys?---Roughly, yes.

PN890

That's okay?---Yes, yes, from memory.

PN891

Now, Ms Hayes, in your first statement – you refer to your first statement in your supplementary statement; correct?---Mm.

PN892

Do you adhere to the contents of your first statement?---Yes.

PN893

Do you have your first statement with you in the witness box?---I do.

PN894

For the benefit of the Expert Panel, it's contained in the hearing book at tab 28, starting at page 1334, if you wish to follow. I want to take you to paragraph 92 onwards of your first statement, Ms Hayes?---Mm-hm.

PN895

Now you'll see there's a heading above paragraph 92 which is 'Recommended Changes to Award Classification'?---Mm-hm.

PN896

Do you recall that DAPA advanced some proposed changes to the classification scale as it related to dental assistants?---Yes.

PN897

In the first phase of the gender undervaluation case; that's right?---Yes.

PN898

Those proposed amendments, would you agree in part, was based on increasing the level of a dental assistant based on two primary factors, that is, the level of experience they had as a dental assistant and their qualifications?---Yes.

\*\*\* BARBARA HAYES

XXN MR SECK

PN899

I won't go through all of it from paragraph 93 to 101, but, in effect, what DAPA was advocating as a position was that there would be progression from a level 1 to a level 7 based on one or more of those factors, that is, your qualifications or your level of experience; correct?---That's correct.

PN900

One of the fundamental tenets of DAPA's proposition was that learning experience is acquired over time through practical experience as a dental assistant; would that be fair?---Yes.

PN901

That reflects, in part, your understanding of the value that a dental assistant might have to a dental practice that, over time, people who are more qualified or who gain more experience become better at what they do; would that be fair?---Yes, it would.

PN902

Would that be because – let's talk about experience by reference to on-the-job training first. Over time, dental assistants become more accustomed to how to perform their job?---With – with a proviso on that. It depends a lot on who will train you. So that inconsistency of training is prevalent across the industry. There are different levels. Some employers or staff are good trainers, some are not, so the potential of a standardised level of experience without the underpinning knowledge is variable.

PN903

All right. So let's just unpack that, Ms Hayes. The proposition you're putting forward is that the level of training going through on practical experience will depend in part on the quality of the training which is being given by the dentist and others within the dental practice?---Yes, it is.

PN904

And that's going to be variable, depending on the individuals involved; would that be fair?---Yes.

PN905

THE PRESIDENT: Just to be clear, when you're talking about 'training', we're talking about on-the-job training?

PN906

MR SECK: Sorry, on-the-job training, that's correct.

PN907

THE WITNESS: Yes, on-the-job training would be variable.

PN908

MR SECK: In your experience, some on-the-job practical training which is given by dentists might be high quality; Yes?---It could be.

\*\*\* BARBARA HAYES

XXN MR SECK

PN909

And some of them may not be as proactive and as high quality as others; correct?---That's correct, yes, in my observation.

PN910

Would you say then, just looking at paragraphs 92 onwards of your first statement, Ms Hayes, that what you've sought to do is use experience, in part, as a proxy for determining work value?---Yes.

PN911

Because what you've said is that where dental assistants acquire more years of clinical experience, there should be a progression through the classification scale to receive higher wages?---Yes, they will learn a lot more over a period of time, and that's life experience.

PN912

In fact, it's a common-sense proposition, isn't it, the more you do something, the better you become at it?---Generally.

PN913

You can do things more efficiently; correct?---Yes, sometimes.

PN914

And you will be able to do your – you might be able to do more complex work the more experience you have?---Not necessarily, it depends on what your experience is.

PN915

Would you also agree that it might allow you to work more autonomously the more experience you have?---Once again, it depends on the experience you have. Not necessarily.

PN916

So whilst it's not a universal proposition - - -?---That's right.

PN917

- - - as a general proposition, in your experience, the more experience and on-the-job training a person receives as a dental assistant, generally their value to the dental practice becomes much higher?---That's a hard – that's a hard thing to generalise. It depends a lot on where you work and what experience you have.

PN918

Right. At paragraph 96 of your statement, Ms Hayes, you'll see that you talk about levels and pay points; do you see that?---Yes.

PN919

Reading the third line, you say:

PN920

*The additional year of clinical experience...*

\*\*\* BARBARA HAYES

XXN MR SECK

PN921

and this is after 12 months:

PN922

*...provides added experience and learning which allows a dental assistant to bear more responsibility.*

PN923

Do you see that?---Yes.

PN924

I think you're advancing here as a general proposition, would it be fair, that, at least in your experience, and it's not always going to be the case, the more time you work as a dentist[sic], you're going to get more experience and learning and therefore you'll, generally speaking, gain more responsibility; yes?---You should gain more experience.

PN925

Yes. Well, you said to bear more - 'which allows a dental assistant to bear more responsibility.' So whether or not the dental assistant, in fact, is given more responsibility is a different proposition?---Yes.

PN926

Would you agree?---Yes.

PN927

That will often depend upon the level of trust that the dentist might have in that dental assistant to give them that responsibility?---Potentially.

PN928

Conversely, it may depend upon whether or not that particular individual is ready to accept that further responsibility? Would that be consistent with your experience?---Potentially as well.

PN929

Would it vary from case to case?---It will, it will.

PN930

Just looking at paragraph 96, what you're seeking to do is create different pay points within level 3 after 12 months, 12-month increments; correct? Just looking at the last sentence, you talk about increasing the pay point from 12 months to 24 months, and then in another 12 months, you would go up to level 4?---Yes, I think this was a proposal.

PN931

Yes?---Of what would be possibly a potential recognition of the skills, along with an underpinning knowledge. So it was trying to align the skills along with an accredited or a qualified dental assistant.

\*\*\* BARBARA HAYES

XXN MR SECK

PN932

JUSTICE HATCHER: At that stage, the DAPA was seeking a discrete standalone structure?---Yes, yes, originally - - -

PN933

So the levels you refer to aren't corresponding to the levels in the award?---No, they're not.

PN934

MR SECK: So I understand it, what the DAPA was advocating was, within levels, there would be pay points which would be linked to years of experience?---Years of experience.

PN935

There would also be a linkage to the acquisition of qualifications?---Yes.

PN936

That was part of the DAPA proposal?---Yes.

PN937

At paragraph 97, you refer to Certificate III dental assistants being put at level 4. Do you see that?---Yes.

PN938

But you say that they would have also at least three years' experience in a clinical setting. Do you see that?---Yes.

PN939

Would that be in part recognising that it's not just having a classification which is sufficient to be classified at that level, but you would also have to have practical experience on top of that to, at least based on DAPA's proposal, be a level 4?---Yes, the practical experience is essential, but, moving more – moving more to the knowledge – to the knowledge out of the qualification would be the - the primary underpinning of - of the skill advance.

PN940

Indeed. And so what you're really saying there is that you can have the knowledge, based on the certificates, but you also need to have the experience to perform at that level?---You do need to have experience and skills, yes.

PN941

Yes, all right. Yes. Now, going to your expansion of these pay points, at paragraph 102, you will see the heading, 'Introducing pay points for experienced dental assistants'. Can you see that?---Yes.

PN942

And the proposition you put in the first sentence is that three pay points should be introduced in levels 4 to 7 in the award, to recognise each added year of experience?---Yes.

\*\*\* BARBARA HAYES

XXN MR SECK

PN943

Am I right in saying - because I don't have the proposal here - that within each level, there would be three pay points? That's the proposal you're putting forward?---I think that was - I really can't recall now the - that classification structure was adjusted as we progressed through, so I couldn't recall; I'm sorry.

PN944

That's fine. But at least in the second sentence, you say:

PN945

*There is additional value in recognising years of experience, should the employee not undertake any formal qualification.*

PN946

?---That's correct.

PN947

And so, again, what you're recognising is that there should be a increase in pay the more experience someone has?---There should be that potential.

PN948

Yes?---Yes.

PN949

And would it be based on the proposition that, firstly, the more years of experience someone has, the greater likelihood they will be able to have greater skills than they had beforehand?---You would hope so, yes.

PN950

Yes. And that's because there's, obviously, continuous learning and improvement the more you work in a role?---Yes.

PN951

And at paragraph 103 of your statement, you say:

PN952

*The role of a dental assistant involves a multifaceted skill set that develops with increased experience.*

PN953

Do you see that?---Yes.

PN954

And then you say:

PN955

*As dental assistants gain experience, their proficiency in managing soft skills, patient support and empathy become more refined.*

PN956

Yes?---That's through experience, yes.

\*\*\* BARBARA HAYES

XXN MR SECK

PN957

Yes, yes. And so 'soft skills' isn't something you just automatically have; it's something which you acquire and build upon progressively?---You can, yes.

PN958

Yes. And indeed, that's what you're saying: the proficiency in managing those soft skills becomes enhanced the longer you work in a role?---Yes, this is just life - - -

PN959

Yes?---Patient experience, yes.

PN960

And you also refer to the complexity of the role, as well, there; do you see that?---Yes.

PN961

And as a general proposition, what you're saying in that paragraph is, your capacity to perform more complex work will increase the more experience you have?---Not particularly. When you - when you say 'complex work', I assume that you are - you are referring to dental procedures.

PN962

Well, I'm talking about how you use the word 'complexity' there. And you refer to knowledge of dental instruments, products and procedures?---Obviously, the more years that you work, the more - the more products, procedures, you will gain experience in, the more equipment you would gain experience in.

PN963

And the other proposition you have, and that you set out in paragraph 103, is that the more experience that you acquire, the greater your problem-solving abilities will be; correct?---Through experience. Wide range of - of options. Yes.

PN964

Paragraph 104 of your statement - you've got the heading there, 'Increased value through experience'. And you talk about experience being critical to improve a dental assistant's ability to triage and assess and prepare for individual patients' needs?---Yes.

PN965

Yes?---Yes.

PN966

Again, the ability to deal with individual patient needs - that is something which you need to do on the job, as opposed to something learned in a qualification setting; correct?---Not necessarily. You could learn triage; you could learn to recognise symptoms, signs, et cetera. That's a knowledge-based option, as well.

\*\*\* BARBARA HAYES

XXN MR SECK

PN967

But it's enhanced over time the more you do it?---Your experience of different patients is enhanced. Obviously, every single person is different. Every case is different.

PN968

And the more scenarios you're dealing with, and the more times you do it, the better you become?---Potentially. Not always.

PN969

Yes. Go to paragraph 105, which is on the next page. You say, in the third sentence - fourth line:

PN970

*Experienced dental assistants are more adept at navigating patient needs and managing appointments, which directly influences patient satisfaction and retention.*

PN971

Can you see that?---Yes.

PN972

And that's because if you don't have experience dealing with patient needs, you may not - you're probably less likely to be able to identify those patient needs and navigate them competently?---Yes, and this is put in the context of the role of administration - - -

PN973

Yes?--- - - - which is something that you usually progress to, and not start off with. Obviously, you wouldn't be starting off with managing patient triage - - -

PN974

Yes?--- - - - without experience.

PN975

Now, Ms Hayes, as a dental assistant, when you started, you were working in New South Wales; that's correct?---I was.

PN976

And were you familiar with the New South Wales dental assistants' award that applied during your time as a dental assistant?---Yes, I was.

PN977

Certificate III training, as it's now known, didn't exist when you were - - -?---It was known as the proficiency certificate, and there was an award - - -

PN978

Yes, yes?---Yes - monetary award add-on to it.

\*\*\* BARBARA HAYES

XXN MR SECK

PN979

Were you aware of the classification scale which was used in the New South Wales dental assistants' award at the time?---That's going back too far. Sorry.

PN980

Yes?---I can't recall that.

PN981

That's all right?---But yes, I was at the time.

PN982

And do you have any recollection that there was a number of levels within the award where you progressed?---Yes, there were. Yes.

PN983

Were you aware that the way that people progressed was linked to higher levels of skills and expertise which were acquired over time?---Yes.

PN984

It was also based upon the level of supervision that might be given by a dentist over a dental - - -?---I wasn't aware of that.

PN985

And as you understood it, the more skills and the more competence that a dental assistant acquired over time, that they would escalate through the classification scale, under the New South Wales state award?---I'm sorry, you're going back before 2010 now, and it's - it's a long time ago since I've read the dental assistant and secretary state award.

PN986

That's fine. Now, going back to your supplementary statement, Ms Hayes. You say you've read the ADA submissions?---Yes.

PN987

And you would have seen, in the ADA submissions - and tell me if you don't - that there is a proposal to link dental assistant rates of pay to levels of experience and the certification that they receive. You recall reading that proposed classification?---Yes. Yes.

PN988

Now, putting aside the details of that, you would agree that DAPA's position, prior to the expert panel handing down its decision, was that a classification scale which was linked to years of experience as a dental assistant and classifications was something which DAPA advocated?---Sorry, could you repeat that for me?

\*\*\* BARBARA HAYES

XXN MR SECK

PN989

That's okay. Let me go back a step. Do you understand that the proposal of the Australian Dental Association, in dealing with the second phase of the gender undervaluation proceedings - that is, the translation of existing classifications and new classifications to rectify the gender undervaluation - seeks to link a dental assistant's years of experience and qualifications to the rates of pay that they receive?---Yes, I remember - - -

PN990

Yes?---Yes.

PN991

Would you agree that in general - as a general proposition - that was the position being advocated by DAPA in the first phase of the proceedings, that it be linked in that way?---In the first phase, we were basing it on the qualification and trying to align as a potential skill level. But making a progression of it.

PN992

And when you say linking it to a skill level, what you were doing in part was using years of experience?---Yes.

PN993

As a means of estimating the skill level that a dental assistant might have through on-the-job training and practical experience?---And acquired knowledge.

PN994

And acquired knowledge. And also recognising that if a dental assistant has on top of that practical experience, qualifications, they should be - that should be acknowledged with an enhanced pay?---The qualifications?

PN995

Yes?---Am I understanding that correctly?

PN996

Sorry, so your understanding of the DAPA proposition that those with qualifications should have a higher rate of pay on top of any amount they should have for their on-the-job training experience?---I don't think that quite aligns with it.

PN997

Okay?---I think we would recognise the qualification and try to align how many years somebody would take experience and would use an experience to gain the level of knowledge that you have through a qualification, which is not always guaranteed through just on-the-job training.

PN998

Paragraph 9 of your supplementary statement Ms Hayes, you say:

PN999

*Further, in my experience, once a Certificate III or IV student completes their qualification, they may often be tasked with supervising and mentoring new staff.*

PN1000

Do you see that?---Yes.

\*\*\* BARBARA HAYES

XXN MR SECK

PN1001

Now, when you refer to Certificate III or Certificate IV students, supervising other staff, are you talking about someone who hasn't had experience as a dental assistant beforehand? Or are you referring to someone who already has experience?---Well, they have to have experience in the qualifications. The qualification requires 350 hours' experience.

PN1002

Right?---And that experience needs to be competent experience, not just learning the skills. It's competently performing those skills for 350 hours. So that roughly equates to about three months' experience and you would expect somebody with that qualification and that experience to be able to train a new staff member. Yes, I have certainly experienced that.

PN1003

Yes. When you say 350 hours, if we base it on a, let's say full time 38 hours a week, you would agree with me that's just below eight weeks?---Maths.

PN1004

Yes. That's right?---Yes.

PN1005

So what you're saying is that someone who has something along eight weeks' experience would be supervising new staff members, that is people who are just entering the industry?---They are possibly doing that. Yes.

PN1006

Yes. Okay. Yes?---You wouldn't have a Certificate III or Certificate IV - sorry. Let me go back a step. Is your understanding that in order to have a Certificate IV, you must also have a Certificate III beforehand?---Yes, you do.

PN1007

And so, generally speaking, if you were a Certificate IV student, sorry, if you've got a Certificate IV qualification you would have already worked as a dental assistant for a period?---Yes.

PN1008

Yes?---I'm absolutely not certain on the requirements of Certificate IV, but prior to 2021, I know you had to have 12 months' experience before you can enrol in Certificate IV. I don't know whether that is still the case. I'd have to look that up.

\*\*\* BARBARA HAYES

XXN MR SECK

PN1009

All right. So just looking at paragraph 9 of your statement, if someone had 350 hours' experience and they've completed their certificate and have let's say roughly less than eight weeks' experience, they'd be really mentoring people who have no qualifications at all, correct? And are starting out in the position?---I doubt if - let me just think about that. Because the qualification itself is a recommended 12 months to get through the whole qualification, and you're talking about 350 hours in three months. They wouldn't have finished the qualification in three months.

PN1010

I understand that?---So you know, they would need a qualification plus that 350 hours to train new staff, which then assumes that they've had potentially a year's experience.

PN1011

Am I right in saying that 350 hours practical experience is part of that 12 month period?---It's one of the units in that - in that qualification.

PN1012

And so it's not 12 months plus 350 hours, it's 350 hours as part of the 12 month certificate course?---Within the 12 month? Yes.

PN1013

Right, yes, okay. No further questions.

PN1014

JUSTICE HATCHER: Thank you. Yes, Ms Campbell?

PN1015

MS CAMPBELL: Sorry?

PN1016

JUSTICE HATCHER: Any re-examination?

**CROSS-EXAMINATION BY MS CAMPBELL**

**[2.48 PM]**

PN1017

MS CAMPBELL: Some questions. Ms Hayes, you've been asked a lot of questions about experience and how that plays out in practice?---M'mm.

PN1018

In your experience, how long does it take for a dental assistant on entering the industry to become a competent dental assistant, able to provide a valuable service to the dentist?

PN1019

JUSTICE HATCHER: Sorry, is this without a formal qualification?

PN1020

MS CAMPBELL: Without a formal qualification?---That - that's really difficult. It depends on where they're working and what they're required to do. It would take probably a minimum of 12 months to understand what they're doing because a lot of the - the knowledge that - that they'd require as to why they're doing something and what the potential outcome would be, would be picked up, I suppose, and depending on who trained them at the workplace. For 12 months – yes, within three months they're actually doing the same skills as most of the other staff.

\*\*\* BARBARA HAYES

XXN MS CAMPBELL

PN1021

Thank you. No further question.

PN1022

DEPUTY PRESIDENT GRAYSON: Ms Hayes, I understood the evidence was that it was 300 hours, not 350 hours?---It's 350 hours total, of which 50 may be simulated.

PN1023

All right?---And so if you're doing an online course, you will not get simulation and so those trainees who or those - those students who are doing online courses only, would need to get the 350 hours, otherwise, if you were doing a face-to-face course during that face-to-face course you would have simulated experience of 50 hours.

PN1024

All right. Thank you.

PN1025

JUSTICE HATCHER: All right. Thank you, Ms Hayes?---Thank you.

PN1026

You're excused and you're free to stay or go as you please.

**<THE WITNESS WITHDREW**

**[2.50 PM]**

PN1027

JUSTICE HATCHER: Ms Schreier-Joffe, the next witness is Ms Shakespeare.

PN1028

MS SCHREIER-JOFFE: Yes, I call Ms Shakespeare.

PN1029

JUSTICE HATCHER: She's appearing via Teams, is she?

PN1030

MS SCHREIER-JOFFE: Ms Shakespeare should be online.

PN1031

THE ASSOCIATE: Ms Shakespeare, this is the associate speaking in the Sydney hearing room. Can you hear me?

PN1032

MS SHAKESPEARE: Yes, I can.

PN1033

THE ASSOCIATE: Thank you. In a moment, before you give your evidence, I'm just going to ask you to state your name and address for the record. And then I'll ask you whether you agree with the affirmation I'll read out. When we get to that, if you agree, please say I do. So please state your full name and address.

\*\*\* BARBARA HAYES

XXN MS CAMPBELL

PN1034

MS SHAKESPEARE: Katherine Mary Shakespeare, (address supplied).

**<KATHERINE MARY SHAKESPEARE, AFFIRMED**

**[2.51 PM]**

**EXAMINATION-IN-CHIEF BY MS SCHREIER-JOFFE**

**[2.51 PM]**

PN1035

JUSTICE HATCHER: All right. Ms Schreier-Joffe?

PN1036

MS SCHREIER-JOFFE: Thank you. Good afternoon, Ms Shakespeare?---Good afternoon.

PN1037

Can you state your full name for the record?---Katherine Mary Shakespeare.

PN1038

And your address?---(Address supplied.)

PN1039

And can you tell us what your occupation is?---I'm a trainer and assessor for the Dental Assistants Professional Association.

PN1040

And you have provided a statement in these proceedings dated 5 September 2025; is that correct?---That's correct.

PN1041

Do you have a copy of that statement in front of you?---Yes, I do.

PN1042

Have you read that statement recently?---Yes I have.

PN1043

Do you agree that the contents of your statement are true and correct to your knowledge and belief?---Yes, I do.

PN1044

Is there anything in the statement you wish to correct?---No.

PN1045

I tender the statement.

PN1046

JUSTICE HATCHER: The witness statement of Katherine Shakespeare dated 14 October 2025, will be marked Exhibit HPSS138. Thank you.

**EXHIBIT #HPSS138 WITNESS STATEMENT OF KATHERINE SHAKESPEARE DATED 14/10/2025.**

\*\*\* KATHERINE MARY SHAKESPEARE

XN MS SCHREIER-JOFFE

PN1047

MS SCHREIER-JOFFE: Thank you. No further questions.

PN1048

JUSTICE HATCHER: All right. Mr Seck?

PN1049

MR SECK: May it please, Your Honour.

**CROSS-EXAMINATION BY MR SECK**

**[2.53 PM]**

PN1050

MR SECK: Ms Shakespeare. In your supplementary statement, which you gave, you set out your employment history. Am I right in saying you haven't practiced as a dental assistant since 1992?---Yes, I have.

PN1051

So just so I understand it, you say you worked as a dental assistant at paragraph 7 from 1984 to 1986 with Dr Chandler. That's correct?---Yes.

PN1052

And then from 1986 to 1992, you worked as a dental assistant with Dr Maurice Rogers. That's correct?---Yes, that's correct.

PN1053

Did you then work with the Technical and Further Education New South Wales, that is TAFE, as a trainer, from 2008 to – sorry, from 19 - sorry. I'll go back a step. From 1992 to 2008, you worked as a teacher with Open Training Education Network; that's right?---Yes.

PN1054

Was that in a full-time role?---No, that was part-time.

PN1055

Right. Were you working part-time as a dental assistant during that period?---Not at that stage.

PN1056

Now from 2008 to 2014, you worked as a trainer teaching Certificate III and Certificate IV to dental assistant trainees with TAFE. That's correct?---That's correct.

PN1057

Was that full-time or part-time?---That was full-time.

PN1058

Were you working as a dental assistant during that period?---No, I was not.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1059

And then from 2014 onwards, you worked at the Dental Assistant Professional Association as a trainer; that's correct?---That's correct.

PN1060

And were you working full-time or part-time in that role?---Part-time.

PN1061

Were you also working as a dental assistant for any of that period?---I was. In order to upgrade my qualifications, I originally had a proficiency certificate. I think you'll have the dates there in front of you, and I wanted to upgrade to a qualification that was more recent, and in order to do that, I had to be gaining practical experience like all the dental assistants who are gaining their Certificate III. And so I was working casually in a dental practice at Gymea.

PN1062

Right. Now looking at your witness statement, Ms Shakespeare, paragraph 4(a), you refer to, I think, the qualification that you just identified, Certificate III in Dental Assisting, in 2015; that's correct?---Yes. Yes.

PN1063

And the casual work you undertook as a dental assistant at Gynea, was that the 300 hours that are required to be undertaken as part of obtaining Certificate III?---Sorry, I'll have to get you to repeat that. I was just trying to find the part on my submission that you're talking about. Could you just read the paragraph number again?

PN1064

Yes, paragraph 4, subparagraph (a) of your statement you refer to - - -?---Yes.

PN1065

- - - a Certificate III in Dental Assisting. Is that the qualification to which you were referring earlier on in your answer?---Yes.

PN1066

And you said you did some casual work as a dental assistant to update your qualifications to obtain a Certificate III, that's correct?---Yes.

PN1067

And the work that you did as a casual dental assistant was that part of the 300 hours practical experience that you needed to have in order to get your Certificate III?---I believe it was. It wasn't done purely like a - I don't know how to say - answer the question exactly. I wanted to work casually to keep my hand in, but it was necessary to have that practical experience to operate to upgrade.

PN1068

When was that - - -?---If that - - -

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1069

No, that makes sense. When you wanted to keep your hand in in performing as a dental assistant, what was the period of time that you worked as a dental assistant to keep your hand in?---It was only for a three-month period. I don't have that information with me at the moment.

PN1070

Would it be fair to say - - -?---I'm away from home at the moment, so I do have a statement from the dentist that I was working at that time, but I'm - I'm not at home at the moment, so I don't have access to that.

PN1071

Paragraph 4(a) says you obtained a certificate in 2015?---M'mm.

PN1072

Would it be fair to say that the practical experience you did as part of obtaining your Certificate III would have been around the same time period?---Absolutely, yes.

PN1073

Yes?---Yes.

PN1074

So it would have been around 2015 based on your statement?---That's correct.

PN1075

And can I infer from that the last time you actually performed any work as a dental assistant was back in 2015?---In an earning capacity?

PN1076

Yes?---Yes.

PN1077

And when you say in an earning capacity, I infer from that that you don't mean as a dental assistant in a voluntary capacity since 2015?---No.

PN1078

Right?---No.

PN1079

So when you say in an earning capacity, there's been no other work you've been doing as a dental assistant in any capacity since 2015?---No, except for if I was training a dental assistant and I was out of practice, for instance, if there was a procedure where an additional person might have helped and I - and the dentist was happy for me to assist, then I have.

PN1080

Right. So it's really, it's part of assisting or incidental to the training of a dental assistant that you would have worked as a dental assistant?---Yes. Yes.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1081

Now, just looking at your work history, Ms Shakespeare, it would seem that between 1984 and 1986, when you worked as a dental assistant for Dr Chandler, that was as an unqualified dental assistant. Would that be fair?---That's correct.

PN1082

And that's because you didn't actually obtain your qualifications as by completing a Certificate of Proficiency until 1987?---That's correct.

PN1083

And Dr Chandler would have been responsible in giving you on-the-job training and practical experience as a dental assistant. Correct?---Correct.

PN1084

And would it be fair to say that the foundational skills that you acquired as a dental assistant was done initially during your time working for Dr Chandler?---Yes.

PN1085

And that would have been enhanced over time when you worked for Dr Maurice Rogers?---Correct.

PN1086

And what you describe in your statement is that your training was in part through the mentoring and supervision that both of those dentists provided you during the time you worked with them?---Yes.

PN1087

And I think you speak positively of the on-the-job training and experience that you received in particular with Dr Rogers?---Yes, that's correct.

PN1088

And it'd be fair to say that he took a very active role in giving you experiences to improve your skills and competence whilst you worked with him?---Absolutely.

PN1089

And you describe him making an initial investment in time, which gave you a strong sense of purpose and direction in your career in paragraph 8 of your statement?---M'mm.

PN1090

When you talk about investment of time, am I right in saying what you're referring to there is that Dr Rogers was a very active teacher when you worked with him?---Absolutely. As he was the - it was a single dentist practice. So for me to be able to work to the best of my ability, that's what he needed to do. So he did invest the time to teach me as much as he could.

PN1091

And that would include the skills in performing the role of a dental assistant?---Yes.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1092

Including invisible or soft skills such as (indistinct) patience, correct?---Yes. Yes.

PN1093

And would you consider the practical experience and on-the-job training you received in working for Dr Rogers as being essential to becoming a competent dental assistant?---Absolutely.

PN1094

And that was complemented in part by him encouraging you to obtain a certificate in dental assisting proficiency; correct?---Yes.

PN1095

And so both of the qualifications you obtained enhanced the practical experience and on the job training that you acquired?---Yes.

PN1096

And both went hand in hand?---Yes.

PN1097

And over time, would it be fair to say that your skills improved?---Absolutely.

PN1098

Your proficiency was enhanced as a dental assistant?---Yes.

PN1099

You could do things more quickly over time?---Yes.

PN1100

And you could work more autonomously as you gained more experience?---Yes.

PN1101

And would you agree with me, Ms Shakespeare, that an essential aspect of you becoming a better dental assistant was that on the job and practical experience?---Yes.

PN1102

And if you just simply performed a certificate or you obtained your qualifications by themselves that wouldn't have got you to the quality and the standard of proficiency that you ultimately acquired?---Sorry, I'm going to have to get you to clarify that one for me.

PN1103

That's okay, I expressed that poorly, I apologise. But let me put it to you differently: it's not just the qualifications that you obtained which led to you becoming a proficient and competent dental assistant, it was also the on-the-job training and practical experience that you obtained?---Yes. The combination.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1104

And it's the combination of both which led you to become, in your mind, a high-quality dental assistant?---Yes. However, I would consider that I was a proficient dental assistant when I was working for Dr Chandler, even though I didn't have a qualification at the time.

PN1105

Right. And does that suggest that you don't necessarily need to be a qualified dental assistant to be a quality and competent – a high-quality and competent dental assistant?---I agree with that.

PN1106

Yes. What a qualification will help you with is understanding the reasons why you might be doing something; correct?---Correct. It gives you the underpinning knowledge.

PN1107

But that underpinning knowledge can also be acquired through the dentist explaining to you why you're undertaking each step?---Yes, it can. But it depends on whether the dentist is prepared to put the time in to do that. In my experience, it – that's mostly a duty given to a senior dental assistant or a practice manager. And so the quality of that mentoring has a big impact on the ability of the dental assistant.

PN1108

And, at least in your experience through working as a dental assistant, you've always been fortunate enough to have the benefit of high-quality mentoring and teaching from the dentist (indistinct)?---I have. I was very lucky.

PN1109

The point you're making is that everyone may not be as lucky as you were during your career; would that be fair?---Yes, that's fair, unfortunately.

PN1110

Would it also be fair to say that over time, the more you actually did perform as a dental assistant, and the more experience you acquired, incrementally, the better you became?---Yes.

PN1111

You refer to the classification structure, Ms Shakespeare, at paragraph 23 of your statement, and you say that as it currently stands – this is about six lines down – 'Dental assistants are often stuck at classification 2, 3 and 4, despite them having significant experience and performing tasks.' Do you see that?---I do.

PN1112

And is the concern you're expressing there that dental assistants, the more experience they obtain the better they become and the more complex tasks they can perform, but they're not able – at least under classification scale – to ascend to a higher level; correct?---Correct.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1113

And so is the position you're advocating that there should be more levels within the classification scale for dental assistants which are linked to the level of experience that a dental assistant has?---No.

PN1114

So when you say they're stuck at that particular level, despite them having significant experience, am I not right in saying that you're saying it's stuck because the levels do not increase based on experience increasing over time?---Yes. That is correct.

PN1115

And so would it be fair to say then what you're at least implicitly suggesting at paragraph 23 is that to have a progression there needs to be a linkage between years of experience as a dental assistant and progression through the classification structure?---I would agree with that. I think I'm – if I'm understanding what you're asking, I think there should be two ways to progress: one for people who don't have formal qualifications and then the ones that do have formal qualification, that should be recognised as well. But I think the experience should count for as – for as much as the formal. If that's – is that what you're asking me? I'm not a - - -

PN1116

Yes, I am. So let me just explore that with you, Ms Shakespeare, because that makes perfect sense to me. What you're saying is that there should be two ways of escalating through the classifications scale, one is through years of experience and one is linked to qualifications; correct?---Yes.

PN1117

Would it be fair to say you're not saying that qualifications by themselves should be a pathway for escalating through the classification scale but it needs to also be linked to obtaining on-the-job training and practical experience?---No. I think if you've gained the qualification you should – that should be part of the classification, you should automatically go to the next level if you've made the effort to get that qualification.

PN1118

Right?---I'm just saying that experience counts for as much as that formal qualification.

PN1119

And just so I can explore that with you, Ms Shakespeare, let's use an example: if a person has a Certificate III qualification, and they've got, I think, according to you, 300 hours of practical experience, are you suggesting that they're at the same level, in terms of work value or in terms of what they should be paid, as someone with a number of years of experience?---Sorry, can you ask me that again, I was – I was thinking you were asking me something different to what I think you are.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1120

That's okay. No, that's all right. In saying that someone – let's assume there's a new entrant into the profession as a dental assistant and they've completed a Certificate III qualification, and as part of that, they've obtained 300 hours practical experience, are you suggesting that someone who has only a 300 hours practical experience and a Certificate III should be treated at the equivalent level to someone who might, for example, have five years' experience?---I think they should both be considered that after five years' experience, that person should have gone up the classification scale because of the experience. And I think the dental assistant with the qualification should be given the appropriate level because of doing the 300 hours and getting their formal qualification.

PN1121

And you use the word, that a Certificate III should be at the appropriate level, when you use the word 'appropriate', you're not suggesting, are you, that someone with only 300 hours practical experience plus a certificate is equivalent to someone who's had five years on the job training as a dental assistant, are you?---I'm suggesting whatever the scale is, it should be appropriate to those two different scenarios. I'm not the one making that decision, I don't think.

PN1122

And so what you're really saying is that there should be some recognition of the fact that someone has Certificate III, but you're not making any judgment as to

how many years' experience as an unqualified dental assistant someone might have to equate them?---No. I'm saying that those should be recognised.

PN1123

In some way. You're not saying they should be treated equally?---It would depend on what the classification scale is for that.

PN1124

If you go to paragraph 27 of your supplementary statement - or, sorry, your statement, Ms Shakespeare - - -

PN1125

DEPUTY PRESIDENT SLEVIN: Before you do, Mr Seck - - -

PN1126

MR SECK: Sorry.

PN1127

DEPUTY PRESIDENT SLEVIN: Ms Shakespeare, Deputy President Slevin. You probably can't see me on the Bench?---No, I can't, but that's okay.

PN1128

That's okay. You described people getting stuck at levels 2 and levels 3. That's levels 2 and levels 3 of the current award, is it?---Yes.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1129

Can you just describe to me how people progress from level 1 to level 2 to level 3?---I believe that would be based on the dentist's understanding of where they feel that dental assistant is on the - on that scale, whether they feel with their performance.

PN1130

So just on a discretion - - -?---That they're at - that they're - yeah, yep. Whereas, perhaps this is what I'm trying to make clear. I think the experience should automatically be considered within the classification for however many years' experience, rather than it just being at the discretion of the employer.

PN1131

Thank you.

PN1132

MR SECK: Is your understanding that the way that the classification structure works at the moment, Ms Shakespeare, is that the employer has a discretion as to whether or not someone is classified at level 2, level 3 or level 4?---I thought that was the case. That's just my understanding.

PN1133

And what's the basis for your understanding of that?---Just basically what I had read within that classification.

PN1134

Paragraph 27 of your statement, Ms Shakespeare, refers to soft skills of dental assistants, and you say in summary that people who - sorry, students who obtain a Certificate III or Certificate IV as a dental assistant are taught these soft skills. Do you see that?---They're included within the units of competency, but they may already have some of those subskills. It's not a standalone thing. They could be coming into that profession with soft skills already.

PN1135

And when you say that people may already have those soft skills, that's because some people might have - at least in your experience naturally already have those soft skills as part of their personality traits, such as empathy or communication?---Yes.

PN1136

And some people may not have those skills when they undertake the course, correct?---They may not, but it is something that can be taught, and it's something that can be practiced.

PN1137

And to pick up the last point, when someone is taught those skills, they may not necessarily be able to - excel at those skills until they have the opportunity to practice those skills over a period of time. Would you agree?---I would say that they're practicing those skills every day in the occupation. So that's how they improve them. So - - -

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1138

And when you say in the occupation, that's through doing the job as a dental assistant, correct?---Yes.

PN1139

And in your opinion and experience, would you say that people's soft skills generally are enhanced the more they actually practice as a dental assistant?---The more you do something, the better you become at it. So yes.

PN1140

Paragraph 30 of your statement, you say it is not correct to say and suggest that dental assistants do not work independently. You see that?---I can.

PN1141

You mean by that that they're not - that they can't do tasks without the physical presence of a dentist looking over them. Is that what you mean by that?---Yes.

PN1142

You would agree, ultimately, that, for example, in relation to work health and safety - well, health and safety, the dentist is the one ultimately responsible?---Yes.

PN1143

And that the dental assistants are accountable to the dentists for the work they do?---Yes.

PN1144

And whilst there may not be some - a dentist or some other senior person looking over the shoulder of a dental assistant, there is a - in your experience, a level of supervision that dentists generally exercise over the work done by dental assistants?---Well, there's no supervision while a dentist isn't watching someone in, for instance, the reprocessing room. Once that dental assistant has learnt the duties within that room, they're doing them without supervision.

PN1145

Now, in your statement, Ms Shakespeare, you also refer to a paragraph 46 to having read the witness statements of Ms Hayes, Ms Rebecca Van Sutsen and Ms Gomez which were filed as part of the first phase of the proceedings. That's right?---Correct.

PN1146

Have you read their statements recently?---No, I haven't. When you say recently, I read them over a week ago. It's not utmost in my mind.

PN1147

Would it be fair to say that when you read those statements, you agreed with the propositions contained in each of those statements?---Yes.

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1148

You recall Ms Hayes said in her statement that as a general proposition, dental assistants should have their pay increased based on their experience as a dental assistant?---I can only take your word for that.

PN1149

No, I'm sorry. Do you recall that?---I don't recall it, but if that's what she said, then I would believe that to be true.

PN1150

And do you agree with that proposition?---Yes, I do.

PN1151

And, Ms Van Sutsen, in her statement, makes a number of propositions, and I just want to take you to some of them to be clear on them. Apologies whilst I go through it. At paragraph 70, she says, 'Access to clinical training for dental assistants can be limited especially in areas like chairside assistance where hands-on real-world experience is critical'. Now, do you agree with that proposition?---Sorry. You'll have to read that to me again.

PN1152

Okay, sorry. She says, 'Access to clinical training for dental assistants can be limited especially in areas like chairside assistance where hands-on real-world experience is critical'?---I'm not sure what she means by limited. If someone was

working in the job of a dental assistant, chairside assisting is, you know, usually a large portion of that.

PN1153

And if I said to you what she meant was that in order to acquire the skills of being a competent dental assistant in providing chairside assistance, you need hands-on real-world experience. Is that a proposition you agree with?---That is a proposition I agree with.

PN1154

And just, really, for the benefit of everyone, it's following paragraph 80, Ms Van Sutsen says:

PN1155

*Many practices are hesitant to hire inexperienced dental assistants because of the time and cost involved in training combined with the risk the assistant might leave after a short time. This further emphasises the need to retain skilled dental assistants who are already familiar with the practice and its operations.*

PN1156

Do you agree with that proposition?---Yes, I do.

PN1157

And at paragraph 82, Ms van Sopkin says:

\*\*\* KATHERINE MARY SHAKESPEARE

XXN MR SECK

PN1158

*Recognising dental assistants' years of experience with commensurate pay increases is another crucial step in retention.*

PN1159

Do you agree with that proposition?---Yes, I do.

PN1160

When you worked as a dental assistant, were you familiar with the - this is in the 1980s - were you familiar with the relevant award that applied to dental assistants in New South Wales?---I - I - yes, I was familiar with the award.

PN1161

And were you familiar with the classification scale used in the New South Wales state award at the time?---Not back then. I just knew there was an award.

PN1162

No further questions.

PN1163

JUSTICE HATCHER: Anything from you, Ms Campbell? Ms Schreier-Joffe, any re-examination?

PN1164

MS SCHREIER-JOFFE: Just one question.

**RE-EXAMINATION BY MS SCHREIER-JOFFE**

**[3.24 PM]**

PN1165

Ms Shakespeare, we've talked a lot about this idea of experience, and my learned friend used the expression 'over time' - you will acquire skills, and more skills, and more experience. This idea of 'over time' hasn't been quantified, so I will ask you, in your experience, how long does it take for a dental assistant to become a competent dental assistant - and taking into account, there is variation in training, and I appreciate that. But in your experience, how long does it take, on average, for a dental assistant, from entering into the industry, without having the benefit of a Certificate III qualification, to become a competent dental assistant? And I do want to say that I understand that everybody gets more experience - might get better at what they do. But from a perspective of being competent at the majority of tasks required of a dental assistant, how long, in your experience, does that take?---Yep. In my opinion, at the three-month mark, a dental assistant is making a difference to a practice, in that they can assist with procedures, they can set up the treatment room, they can break down the treatment room afterwards, and clean and sterilise the instruments. They've had enough time on the job, at three months, to make a difference and be proficient. From that point onwards, they just get better at what they do. They - they become able to anticipate what the dentist needs, what the patient needs. And, you know, they - they're - by the 12-month mark, I've certainly seen dental assistants being able to assist with all of the areas within a practice, including the admin as well as the chairside part.

\*\*\* KATHERINE MARY SHAKESPEARE

RXN MS SCHREIER-JOFFE

PN1166

Thank you. No further questions.

PN1167

JUSTICE HATCHER: All right. Thank you very much, Ms Shakespeare. You're excused, and you're free to disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW**

**[3.26 PM]**

PN1168

JUSTICE HATCHER: It's going to be a long afternoon, so we might take a short 10-minute break until we proceed with the next witness.

**SHORT ADJOURNMENT**

**[3.26 PM]**

**RESUMED**

**[3.33 PM]**

PN1169

JUSTICE HATCHER: All right, so who's the next witness?

PN1170

MR SECK: The next witness is Dr Nauvneel Kashyap. I understand he might be waiting in the lobby.

PN1171

JUSTICE HATCHER: Mark, let him in? How do you pronounce it?

PN1172

MR SECK: I think it's Dr Kashyap. I'm not sure about the first name.

PN1173

JUSTICE HATCHER: Kashyap, all right. Apparently he's dropped out.

PN1174

MR SECK: We'll make contact with him again. I understood he was waiting.

PN1175

JUSTICE HATCHER: Mr Seck, while we're waiting, is it anticipated that there will be more documents tomorrow to be covered by a confidentiality order?

PN1176

MR SECK: Yes, I think there have been some which have been produced by agreement, so in terms of the order, what we had in mind, your Honour – I think we've sent a draft copy – to do it by either reference to the nature of the documents, or we can do it by reference to the exhibit number.

PN1177

JUSTICE HATCHER: Probably easier if we do it by the exhibit number. We might wait until tomorrow if there's nothing urgent, and then we'll do a rolled-up order

\*\*\* KATHERINE MARY SHAKESPEARE

RXN MS SCHREIER-JOFFE

PN1178

MR SECK: May it please your Honour.

PN1179

THE ASSOCIATE: Dr Kashyap, can you hear me? This is the associate speaking from the Sydney hearing room.

PN1180

DR KASHYAP: Yeah, fine, I can hear you, yeah. Sorry, just like I was in the waiting room and it's all good now.

PN1181

THE ASSOCIATE: That's okay. Thank you. In a moment, before you give your evidence, I'm going to ask you to state your name and address for the record, and then I'll ask you whether you agree with the affirmation I will read out. When we get to that, if you agree, please say 'I do'.

PN1182

Please state your full name and address.

PN1183

DR KASHYAP: It's Nauvneel Kashyap, (address supplied).

<NAUVNEEL KASHYAP, AFFIRMED

[3.44 PM]

EXAMINATION-IN-CHIEF BY MR SECK

[3.44 PM]

PN1184

JUSTICE HATCHER: Mr Seck.

PN1185

MR SECK: May it please, your Honour.

PN1186

Dr Kashyap, my name's Michael Seck and I'm the counsel for the Australian Dental Association. I'm just going to ask you a few questions. Would you please again state your full name?---Nauvneel Kashyap.

PN1187

What is your current work address?---I own a number of practices. I can give you my home address.

PN1188

That's fine. Yes, give us your home address?---(Address supplied.)

PN1189

What is your current occupation?---I own and operate dental practices.

\*\*\* NAUVNEEL KASHYAP

XN MR SECK

PN1190

Dr Kashyap, you have made a statement in these proceedings dated 9 September 2025; that's correct?---Yep.

PN1191

Do you have a copy of your statement with you at the moment?---Yeah, I do.

PN1192

Have you read that statement recently?---Yeah, I've read it, and I've obviously made it as well, yep.

PN1193

Did you wish to make any changes to your statement?---Yeah, look, there was just something really minor on point 3. It said:

PN1194

*I initially practised as a dentist in Browns Plains, Queensland for one year, then began practising in Raceview, Queensland.*

PN1195

I actually was just – like I began practising in Browns Plains, but it was almost simultaneous. I then dropped Browns Plains after a year and just continued at Raceview. So it's a minor thing, but if we're under oath, I guess that needs to be stated.

PN1196

Would the statement in paragraph 3 be correct if we crossed out the word 'for one year' after 'Browns Plains, Queensland', so it would read:

PN1197

*I initially practised as a dentist in Browns Plains, Queensland, then began practising in Raceview, Queensland.*

PN1198

?---Yes.

PN1199

Besides that change, Dr Kashyap, were there any other changes you wished to make to your statement?---No.

PN1200

Subject to that change, are the contents of your statement true and correct to the best of your knowledge and belief?---Yes.

PN1201

I tender the witness statement of Dr Navneel Kashyap dated 9 September 2025.

PN1202

JUSTICE HATCHER: The witness statement of Dr Navneel Kashyap dated 9 September 2025 will be marked exhibit HPSS139.

\*\*\*

NAUVNEEL KASHYAP

XN MR SECK

**EXHIBIT #HPSS139 WITNESS STATEMENT OF NAUVNEEL KASHYAP DATED 09/09/2025**

PN1203

MR SECK: May it please. No further questions in chief, your Honour.

PN1204

JUSTICE HATCHER: Mr Lettau.

**CROSS-EXAMINATION BY MR LETTAU**

**[3.47 PM]**

PN1205

Good afternoon, Mr Kashyap. Can you hear me clearly?---yes.

PN1206

Excellent. You are an owner and operator of 15 dental practices; is that right?---Yeah, I – yes. Some of them I own exclusively and some I own in partnerships or in corporate structures.

**CONFIDENTIAL TRANSCRIPT PN 1207**

PN1208

POC. You say in your evidence that POC consults with over 100 dental practices per year?---Yeah, it could be more than that. Like we consult with a lot of

individual people that are looking to buy dental practices, so they give us evidence – they give us all the numbers of the dental practices they're wishing to buy, and sometimes they go ahead with purchase, sometimes they don't, but, yeah, I think two a week is a pretty good conservative guess.

PN1209

Two per week. When you were preparing your evidence – and in your evidence, you give figures, which I will come to in a minute – but when you were preparing this evidence, you based that evidence on your experience working with POC and giving advice to dentists, dentist practices?---Yeah, as well as – I also run a group of 3,300 practice owners. It's a Facebook group. You have to be a practice owner to be on that. There's many discussions on that group along similar lines. So, yeah, it's consulting with dentists in a professional capacity, but also lots of conversations with many dentists every week.

PN1210

Okay. So you based your evidence not only on the experience but also on, for example, chats within the Facebook group?---Yes.

\*\*\* NAUVNEEL KASHYAP

XXN MR LETTAU

PN1211

What's the nature of those chats in the Facebook group?---You know, people will ask all kinds of questions. You have to be an owner to be on there. A question could be, 'Hey, guys, got my financials back from my accountants. What is the range of wages that people are looking at in metro Melbourne?', as an example. It could be, 'I'm struggling to find a staff member. Where do you guys advertise? Is there any tips?' It could be, you know, 'My X-ray machine's broken down, the dental supply company has quoted me X. I feel like that's a rip off. What do others think?' That kind of stuff.

PN1212

Thank you. When you were preparing your evidence, did you put any, you know, specific questions into the Facebook chat group, or do you base the evidence on a general impression of the various conversations you've had within that group?---No. No, I didn't put specific questions in there. I did look over the group, though, but I didn't ask anything specifically to get any answers to – yeah, to form any of this.

PN1213

So you would agree that it was based more on a general impression of the conversations you've had within that group?---In that group, yes.

PN1214

I imagine that in your work with dentist practices at the POC, that work includes reviewing financial data of those practices?---Yeah, almost always. I can't think of any engagements where we don't look at P&Ls.

PN1215

The same would apply for your 15 practices that you are an owner/operator, co-owner, et cetera, of?---Yeah. Look, I look at my own profit statements less. I

can go into why, but, yeah, like I'd be looking at other P&Ls a lot more than I look at my own, but I mean I've got good knowledge.

PN1216

You give in your statement – I won't go through everything, but I'll give you a couple of examples of some numbers or figures you give in your evidence. For example, at paragraph 10, you say the average break even point for dental practices is between 800,000 and 900,000 per annum. You say at paragraph 12 that, today, a dental practice has auxiliary staffing costs of approximately 21 to 27 per cent of total expenses?---Yep.

PN1217

When you were preparing your evidence for this proceeding, did you or anyone else on your behalf review and analyse the underlying financial data of even your 15 practices or the various other practices you consult with?---No. If you're talking did we put all the practices into – like all the data into some sort of programming and get averages like that, no, definitely not.

PN1218

I just have a few more questions about one more part of your evidence. It's at paragraph 13?---M'mm.

\*\*\* NAUVNEEL KASHYAP

XXN MR LETTAU

PN1219

It's at the top of page 3 of your statement. I will just read out what you say. You say:

PN1220

*This proposal is going to come at a huge cost to businesses without the reciprocation of an increase in productivity. In my view, one possible implication of the proposed changes in the draft determination may be that dental practices start turning over unqualified dental assistants more quickly after the initial three-month period, particularly if dental assistants are not working at an acceptable level of productivity to warrant being paid at a level 5 rate of pay. This then has a further flow-on...*

PN1221

I will stop there. Are you suggesting that in order to avoid those increases to level 5, dental practices will, in effect, churn more quickly through their dental assistants in order to keep the dental assistants at the level 1 entry level rate?---Not just that. Certainly I think people will be a lot more, I guess, ruthless in whether they keep a staff member on or not during the probation period. That could be six months or 12 months, depending on the size of the practice - sorry, it could be three months or six months. I don't know the exact probation rules, but also I think what it will result in is people looking at cutting costs - I think I say that further down - around, you know, less staffing, switching to AI.

PN1222

Also what we have done is looked at more junior staff, so we look at people while they're still in school, 15/16 year-olds, yeah, and look to train more junior sort of

trainee staff. I mean, I know you haven't asked, but, like, a level 5 rate of pay after three months of experience in this job is - I was astounded. The reason why I'm part of this whole thing is because I saw that and I just - I was shocked. You know, I don't have a lot of time to do these things, but I have to have my voice heard if they're thinking about level 5 after three months of experience. I mean, I don't know, that seems a bit ludicrous.

PN1223

Would you accept that if you're churning through staff more quickly, that could affect the quality and the productivity of the staff?---It depends what you're replacing them with. So, I mean, like, if you hire someone at the start and after three months they're not good but you have to pay them way more than you would otherwise, you might persist and try to train them a little bit more, but, you know, if you're in a situation where, well, shit, you're going to pay this - sorry, language - you're going to have to pay them this much, you know, what's the choice? You go, 'Well, maybe we do just start again and see if we can get someone with a better - that was more able to take on the training that we provide.'

PN1224

On the point of training, I mean, if you're training the staff you're going to have to invest time, resources and money into getting them up to speed and training them?---Yeah, definitely.

\*\*\* NAUVNEEL KASHYAP

XXN MR LETTAU

PN1225

You say, as well, in your statement that if you're replacing staff, the recruitment costs can be between the vicinity of 3,000 to 5,000 dollars?---Yeah, depending on how you - like, yeah, how you're using - yeah, how you replace them.

PN1226

So, I mean, at the very least would you accept that there are strong financial reasons not to be churning through your staff and to invest in them, and retain them?---A hundred per cent, yeah.

PN1227

Thank you, Mr Kashyap. No further questions.

PN1228

JUSTICE HATCHER: Anything from you, Ms Schreier-Joffe?

PN1229

MS SCHREIER-JOFFE: No, nothing.

PN1230

JUSTICE HATCHER: Any re-examination?

PN1231

MR SECK: No re-examination.

PN1232

JUSTICE HATCHER: Thank you for your evidence, Dr Kashyap. You're free to go, which means you can simply disconnect from the call?---Thank you.

**<THE WITNESS WITHDREW [3.57 PM]**

PN1233

Finally, Ms Medwin, Mr Lettau?

PN1234

MR LETTAU: That's right. I think we may need a few more minutes to be ready.

PN1235

JUSTICE HATCHER: Yes. All right. Just notify my associate when you're ready.

**SHORT ADJOURNMENT [3.57 PM]**

**RESUMED [4.02 PM]**

PN1236

JUSTICE HATCHER: Mr Lettau, Ms Medwin?

PN1237

MR LETTAU: Yes, your Honour. We call Ms Medwin.

\*\*\* NAUVNEEL KASHYAP

XXN MR LETTAU

PN1238

THE ASSOCIATE: Ms Medwin, this is the associate speaking again. In a moment before you give your evidence, I'm going to ask you to state your name and address for the record and then I'll ask you whether you agree with the affirmation I will read out. When we get to that, if you agree, please say, 'I do.' Please state your full name and address.

PN1239

MS MEDWIN: Emmily Medwin, (address supplied).

**<EMMILY MEDWIN, AFFIRMED [4.02 PM]**

**EXAMINATION-IN-CHIEF BY MR LETTAU [4.02 PM]**

PN1240

JUSTICE HATCHER: Mr Lettau.

PN1241

MR LETTAU: Thank you, your Honour. Good afternoon, Ms Medwin. Can you hear me clearly?---Yes.

PN1242

Can you please just restate, for the record, your full name?---Emmily Medwin.

PN1243

Address?---(Address supplied.)

PN1244

And your occupation?---I am a dental assistant, and an aircraft cleaner, and a student paramedic.

PN1245

And have you prepared a statement for use in these proceedings?---Yes.

PN1246

And do you have a copy of that with you?---Yep (indistinct).

PN1247

And it's dated 15 October 2025, and should be nine pages long?---Yes.

PN1248

Have you read the contents of the statement recently?---Yes.

PN1249

And are its contents true and correct?---Yes.

PN1250

Thank you. Your Honour, we tender the 16 - I withdraw that - 15 October 2025 statement of - - -

\*\*\* EMMILY MEDWIN

XN MR LETTAU

PN1251

JUSTICE HATCHER: The supplementary witness statement of Emmily Medwin, dated 15 October 2025, will be marked exhibit 140.

**EXHIBIT #HPSS140 SUPPLEMENTARY WITNESS STATEMENT  
OF EMMILY MEDWIN, DATED 15/10/2025**

PN1252

MR LETTAU: Then, Ms Medwin, can I just confirm that you have a copy of your statement filed in relation to last year's hearing, along with the - - -?---Yes, I've got that here.

PN1253

Just for the benefit of the Bench, that's tab 8 of the hearing book.

PN1254

JUSTICE HATCHER: Thank you. Ms Campbell.

**CROSS-EXAMINATION BY MS CAMPBELL**

**[4.04 PM]**

PN1255

MS CAMPBELL: Ms Medwin, can you hear me okay?---Yes.

PN1256

Thank you. My name is Natalie Campbell. I'm going to ask you some questions. If there's any difficulty in hearing what I'm saying, please just let me know, and we will stop and make sure that you can hear me?---Yep.

PN1257

Ms Medwin, I understand that in your present role as a dental assistant, you work for an organisation called Attention to Dental; is that correct?---Yes.

PN1258

And is Attention to Dental an employment solutions organisation in the dental industry?---It's a temp - temp agency for dental assistants - - -

PN1259

Thank you. Yes, that was my next question to you. So it provides temporary dental assistants to various practices; is that correct?---Yes.

PN1260

And when you're working in this role, you've indicated four different practices that you regularly attend; is that right?---Think I mentioned five.

PN1261

Sorry. I think it may actually be more than four. It's some that are concerning Indigenous health dental practices, at - - -?---Yep. Yep.

PN1262

And then three other practices?---Yep.

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1263

But, of course, there may be more practices that you could be allocated to work to, given the nature of the service that you're providing?---Yes.

PN1264

And previously, you have also had some longer-term roles that were set out in your first statement; is that correct?---Yes, that's correct.

PN1265

Ms Medwin, in terms of how you came into the dental assisting role, would it be right to say that you completed your Certificate III in dental assisting before you had any employment in the industry?---Yes.

PN1266

And you've given some evidence about the course that you undertook. I understand that it was provided by one of the TAFEs; is that correct?---Yes, that's correct.

PN1267

And you have completed your certificate - I believe it was completed in approximately June 2019?---Yes.

PN1268

And as part of that, it appears that at first, you did some theoretical subjects?---Yes.

PN1269

And then you also completed an eight-week training unit that was a practical subject; is that how you would describe the course?---A placement.

PN1270

Placement. Practical placement?---Yep.

PN1271

And I understand, in your case, you were placed in a public dental health clinic to do your placement?---Yes.

PN1272

And was it in that eight weeks that you began to receive the practical on-the-job training for being a dental assistant?---No.

PN1273

So you had had some exposure to practical training before that eight-week placement?---Yes, during TAFE.

PN1274

And that was as part of some of the subjects that you were participating in?---Yes.

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1275

And I understand that you also participated in some simulations; is that correct?---Yes.

PN1276

And by 'simulation' I mean - I understand, it occurs where, sort of, somebody plays the role of a patient - well, somebody might be playing the role of the dentist, and you are practising your dental assisting skills?---Yes.

PN1277

Did those simulations happen as part of the eight weeks' training, or were they in addition, for you?---They were prior to going on placement.

PN1278

Now, it's your evidence in this proceeding that that certificate has enabled you to gain skills very quickly when you started?---Yes.

PN1279

And would you say that you entered your dental assisting role - back in 2020, I believe it was, or - no, 2019 to 2020 - with more skills than somebody who had not undertaken a Certificate III course?---Yes, I do believe so.

PN1280

Would you agree that once you started, you were also able to gain skills more quickly because of that course?---I was able to catch on quickly, yes.

PN1281

And that was because of the previous exposure that you had had as part of your Certificate III?---Yes.

PN1282

As part of that course, I understand that you obtained some explicit training in relation to 'soft skills'. Is that right?---Can you explain this sub-skill? Sorry.

PN1283

So I guess, soft skills - I think you've given some examples about how you interact with a patient: so, for example, greeting patients, making them feel comfortable. I think you've referred to noticing whether or not a patient might be in pain. I'm trying to get a sense from you, though, of whether or not you were exposed to those sorts of things as part of your Certificate III training?---Yes.

PN1284

And explicitly, I think you've mentioned language issues - that you've got some specific training around dealing with patients that may have languages other than English?---Yes.

PN1285

Thank you. Would you agree that your soft skills developed more quickly because of the Certificate III?---Yes.

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1286

Now, I understand that when you first entered the industry, you had approximately 11 months at a Mount Gravatt clinic?---Yes.

PN1287

And you also received on-the-job training during that time?---In terms of on-the-job training, I didn't really need much training: just, like, where everything was in the clinic, and just the way that the dentists performed their procedures.

PN1288

In terms of the way that the dentists performed their procedures, did you mainly work - you worked with more than one dentist in that location at Mount Gravatt?---Yes, in that location.

PN1289

And they explained to you the different procedures that they were doing?---They - like, the appointments were already in the book; it was just how they preferred the setup to be.

PN1290

So they gave you an explanation of what your role would be, in terms of setting up the room, based on particular types of procedures?---Just what things they would use, and how they would go about the procedure.

PN1291

And once that had been explained to you, perhaps once or perhaps a few more times, were you able to build that into your knowledge base for next time?---Confidently, yes.

PN1292

And would you say, by the end of your time at that role, you were relatively proficient in - as a dental assistant?---Yes.

PN1293

Now, in your current position, you work across different practices?---Yes.

PN1294

And every shift, you may be working at a different location?---Yes.

PN1295

I'm assuming there might be some repetition, but there's also a chance that you'll be working with a different practitioner on any given day?---Yes.

PN1296

And you're currently five or six years in, in terms of your experience?---In terms of experience (indistinct) yes.

PN1297

Perhaps I should be saying six or more years in, may be better on the maths. And that level, you are able to work quickly, in terms of what is required of you, with technical skills?---Yes. Efficiently, yes.

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1298

Proficiently. And it's easy for you to work with different practitioners, even if you haven't had a great deal of experience working with them before?---Yes.

PN1299

And in terms of soft skills, I assume you've had a lot of time to develop those skills?---Yes.

PN1300

Would you accept that over the last six years or so, with time, your skills have continued to develop?---The skills have always been there, but they have developed deeper.

PN1301

And as you've gone on, you've become perhaps more proficient at certain aspect of the role; would you accept that?---Sorry, what does 'proficient' - - -

PN1302

Sorry. Effective. You've become more effective in your role, or you've become better at your job?---Yes. I've excelled a lot.

PN1303

And is that the same in sense of soft skills? Have those skills continued to develop for you over the last six years?---I guess. But with soft skills, you do it in everyday life. So it's not just the job; it's everyday life.

PN1304

So there's an aspect of those soft skills that came from you as a person, is that correct?---Yes.

PN1305

And then, has there been an aspect of those skills that have developed through your work over time?---(Indistinct) yes.

PN1306

Thank you. In your current role, I understand that – it may not be your current role, but in your more recent roles, you've had some responsibilities in training other dental assistants yourself, is that correct?---Yes, at NDC.

PN1307

At NDC, did the dental assistants that started out new in the practice, did they generally have previous experience at other practices?---No.

PN1308

So they were sort of fresh to the industry, is that correct?---Yes.

PN1309

Was it common for them to have existing Certificate III or Certificate IV qualifications when they started?---Common – like, required?

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1310

I might rephrase the question. Did any of the people that you trained have Certificate III or Certificate IV qualifications?---No.

PN1311

So you were working with somebody who was very fresh when you were training them, is that correct?---Yes.

PN1312

And I understand that it was your evidence that, for example, on day 1, a new entrant might not be able to hold a suction device, and that that's something that you would have to assist them with; is that correct?---Yes, that's correct.

PN1313

And as somebody who is training a new entrant, you would have been showing them things about the practice, is that correct?---Yes.

PN1314

Teaching them about various procedures and sterilisation responsibilities?---Yes.

PN1315

And also teaching them about specific needs of the dentist that you worked with, is that right?---Specific needs?

PN1316

So I guess explaining to them how they could work with the dentists in their dental assisting role?---Yes.

PN1317

Now, you said that it would take most people to become proficient at – so when I say proficient – maybe I'll rephrase that. It takes most people three months to get to the point where they are competent, is that correct?---That's only with the infection control.

PN1318

So does that mean that there would be other things that take a different amount of time to become competent at?---Yes. I did write in my statement, it's equivalent to doing the certification, and the certification goes for a year.

PN1319

So your evidence would be that three months of experience and the certification are about the same, or do you think they're different?---Three months to become competent in infection control. That's what I believe I wrote. Yes. Paragraph 32.

PN1320

Thank you. You've also given some evidence about how the people that you trained may have then progressed. So you've said that after 10 months, they may be able to work with an oral health therapist or an oral hygienist, is that right?---After 10 months? So that's 27. I said:

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1321

*When a new dental assistant is ready to work on their own, they will do so with the oral hygienist or an oral health therapist for about 10 months to a year.*

PN1322

For about 10 months, yes. So then, they would graduate to a dentist at around 10 months; is that what your evidence is?---Yes.

PN1323

And then, at that 10-month mark, their proficiency, or their ability to do their job has increased such that they can do it with a dentist, is that right?

PN1324

DEPUTY PRESIDENT GRAYSON: Wasn't the evidence eight months? Am I -  
- -

PN1325

MS CAMPBELL: Sorry. It may have been eight months.

PN1326

THE WITNESS: Yes, eight months to a year.

PN1327

DEPUTY PRESIDENT GRAYSON: I just wanted to make sure that the foundation of your question is correct.

PN1328

MS CAMPBELL: Apologies. It's eight months, not 10?---Yes. Eight months to a year. And it depends on their level of training, I guess. If they're not ready, like, we make a judgment based on, like, their readiness. If they're not ready, they'll stay with the oral health therapist or hygienist. If they are ready, then they can move on to a dentist.

PN1329

And what are the sorts of things that you're looking for before somebody moves to a dentist?---Infection control is a must. Like, you must know the difference between dirty and clean. It's such a big part of dentistry.

PN1330

Yes?---And obviously, chairside skills, so knowing how to set up for procedures, clean up after procedures; knowing what to get out competently, without any help. And obviously, knowing how to suction, and patient care.

PN1331

And some people will be ready to graduate, as it were, to a dentist at eight months, and some people may take longer than that, depending on their experience?---Yes.

\*\*\* EMMILY MEDWIN

XXN MS CAMPBELL

PN1332

And in your case, you haven't observed anyone with a Certificate III or IV qualification, so you can't really comment on how the Certificate III or IV qualification would impact upon that graduation?---I have come across one person with a certificate, but I did not train her. There was other people who trained her.

PN1333

Thank you. And I gather your estimation would be that, for most people, as certificate would help them progress more quickly?---Yes. In my case, it did.

PN1334

Ms Medwin, I have no further question. Thank you?---Okay.

PN1335

JUSTICE HATCHER: Do you have anything, Mr Seck?

PN1336

MR SECK: No, your Honour.

PN1337

JUSTICE HATCHER: Mr Lettau?

PN1338

MR LETTAU: Just one follow-up question.

**RE-EXAMINATION BY MR LETTAU**

**[4.21 PM]**

PN1339

MR LETTAU: I just want to make sure I've understood correctly something you said. Did I hear correctly that you said you excelled a lot as a dental assistant?---Excelled?

PN1340

Excelled. Did you say?---Yes.

PN1341

Could you give some examples of what you mean by that?---So by having the Certificate III and going into dental, I feel like I excelled a lot in the role much quicker than someone without a certificate would excel, because I already had the skills, rather than having to train for a year. So I – I'm straight into working with the dentist.

PN1342

To what extent, if any, has the Certificate III helped you excel after you started working? So you - sorry. I'll try put that in a less confusing way. Following the initial period, so the first year of employment, to what extent, if any, has your Certificate III helped you excel in that period?---Sorry. What?

PN1343

I'll try phrase it one more time?---Yep.

\*\*\* EMMILY MEDWIN

RXN MR LETTAU

PN1344

So after the initial year, your evidence has been in the first year, the Certificate III helped you learn quickly and excel and get up to speed and those sorts of things, and my question is after that initial period, so after, say, the first year or so of employment, are there ways in which you drew upon your skills and knowledge learned in the Certificate III that helped you excel at your job?---Yes. I still to this day use things that I've learnt from TAFE in dental.

PN1345

Can you give an example?---For example, like, when I am training new people, I go back to how I was trained at TAFE especially with charting and colour coding and just doing all the activities that my teacher done with me to help train new dental assistants. So that's one example.

PN1346

Okay. Thank you, Ms Medwin. No more questions from me?---Yep.

PN1347

JUSTICE HATCHER: All right. Thanks for your evidence, Ms Medwin. You're excused which means you can simply disconnect from the call?---Thank you.

<THE WITNESS WITHDREW

[4.24 PM]

PN1348

JUSTICE HATCHER: All right. Is that all we can deal with today?

PN1349

MR SECK: Yes, your Honour.

PN1350

JUSTICE HATCHER: All right. So we're on track to finish the evidence tomorrow, are we?

PN1351

MR SECK: I think so, yes. In fact, there might be some gaps in the schedule based on witness availability, but I anticipate the evidence will be done by 4.

PN1352

JUSTICE HATCHER: In terms of submissions, are we likely to finish them on Thursday, or should we retain Friday in the program?

PN1353

MR SECK: It might be useful if I have a discussion with the other counsel just to see how much time might be needed by each of them. I understand it probably will be sufficient to have Thursday, but perhaps I can confirm that tomorrow morning once I've had those discussions.

PN1354

JUSTICE HATCHER: All right. Well, we might be able to accommodate a slightly earlier start if that makes the position more secure.

\*\*\* EMMILY MEDWIN

RXN MR LETTAU

PN1355

MR SECK: May it please.

PN1356

JUSTICE HATCHER: All right. We'll now adjourn.

**ADJOURNED UNTIL WEDNESDAY, 22 OCTOBER 2025**

**[4.25 PM]**

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