

1 HIS HONOUR: Please call the matter for trial.

2 MR MIGHELL: If Your Honour pleases I appear with Mr Chancellor  
3 on behalf of the plaintiff.

4 HIS HONOUR: I won't be taking your appearance, Mr Mighell,  
5 I'll be raising the reason why in a moment. You can sit  
6 down if you don't mind.

7 MR MIGHELL: Your Honour, if it's - - -

8 HIS HONOUR: I beg your pardon, Mr Mighell, just sit down I'll  
9 speak to the others. Who is here for the defendants?

10 MR SCANLON: If Your Honour pleases, I appear for the first  
11 named defendant with my learned friend Mr Clarke.

12 HIS HONOUR: Yes, I won't be taking your appearance either,  
13 Mr Scanlon.

14 MR SCANLON: If Your Honour pleases.

15 HIS HONOUR: You can sit down.

16 MS MAGEE: Your Honour, I appear on behalf of the second named  
17 defendant with Mr Hamilton.

18 HIS HONOUR: Ms Magee, I won't be taking your appearance  
19 either, I'll explain why.

20 MS MAGEE: Yes, Your Honour.

21 HIS HONOUR: Mr Mighell, the Chief Justice - if you would  
22 please stand - the Chief Justice has directed that judges  
23 of this court are not to wig unless the circumstances are  
24 exceptional. You are not showing, and neither are your  
25 colleagues, showing the respect that I expect of the  
26 Chief Justice from you and I want to record my profound  
27 disappointment that one, two, three, four, five members  
28 of this Bar table have wigs on, though I applaud the  
29 strength of character of your junior who does not.

30 MR MIGHELL: Your Honour, we - I think I speak on behalf of all  
31 of the members of the Bar table - we mean Your Honour no

1           disrespect in wearing wigs and we will remove our wigs.

2   HIS HONOUR: Well I want to make it clear to you that it's not  
3           a question of respect for me, though I do feel  
4           disrespected. Whether you intend that disrespect or not,  
5           and I accept the fact that you do not intend it and that  
6           you are wearing wigs by reason of principle, but I  
7           experience disrespect. But the more important question  
8           is how this treats the Chief Justice, not only of this  
9           court, but this State.

10   MR MIGHELL: Yes, Your Honour.

11   HIS HONOUR: She is the constitutional chief of the judicial  
12           system of Victoria and has directed that judges not wear  
13           wigs, and you five stand there wearing wigs, it's  
14           untenable. Now the course I will adopt in this case, and  
15           the course I will adopt in every case where this happens,  
16           is to ask for an explanation. I won't ask that of you,  
17           Mr Mighell, because you've already indicated that the  
18           wigs will be taken off at my request, and I so request.  
19           I'll give you time to do that in a moment. They will  
20           need to be put away as well; I don't want them to be seen  
21           by the jury at all.

22   MR MIGHELL: We understand that, Your Honour.

23   HIS HONOUR: But I make it absolutely clear that if this  
24           happens again and there is resistance to a request then I  
25           will hear counsel as to why it is that I ought not to  
26           direct as a matter of law that the wigs be taken off and  
27           I will so rule.

28   MR MIGHELL: Yes, Your Honour.

29   HIS HONOUR: I make it absolutely clear to you and to the rest  
30           of the Common Law Bar that I am of the preliminary view  
31           that I have the power to direct that wigs not be worn

1           because the judge controls matters of practice and  
2           procedure in this court, but that's a preliminary view  
3           and I will hear counsel in relation to that matter. Now  
4           in order that I can come back and commence this case in a  
5           judicial manner I will go off the Bench and come back  
6           shortly whereupon I will take the appearances.

7 MR MIGHELL: If Your Honour please.

8           (Short adjournment.)

9 HIS HONOUR: Please recall the matter for hearing. I'll take  
10          the appearances.

11 MR MIGHELL: If Your Honour please. I appear with  
12          Mr Chancellor for the plaintiff.

13 HIS HONOUR: Mr Mighell.

14 MR SCANLON: If Your Honour please. I appear with my learned  
15          friend, Mr Clarke, on behalf of the - - -

16 HIS HONOUR: Thank you, Mr Scanlon.

17 MR SCANLON: - - - first named defendant.

18 MS MAGEE: If Your Honour please. I appear with Mr Hamilton  
19          for the second named defendant.

20 HIS HONOUR: Ms Magee. Thank you. Mr Mighell, where are we  
21          at?

22 MR MIGHELL: Your Honour, there's going to be an application by  
23          the second defendant, or by us, to amend the name of the  
24          second defendant, which will be done by consent.

25 HIS HONOUR: Yes.

26 MR MIGHELL: So instead of, "Amcor Flexibles Group Pty Ltd" it  
27          becomes - excuse me for one moment - "Amcor Flexibles  
28          (Australia) Pty Ltd."

29 HIS HONOUR: There being - that happening by consent I will  
30          grant that leave.

31 MR MIGHELL: Your Honour, we would like some time as we

1           understand that the jury panel, I don't think, is - - -  
2   HIS HONOUR:   No.  
3   MR MIGHELL:   - - - presenting itself to the court until midday.  
4   HIS HONOUR:   No, it's not. I've directed that the jury not be  
5           presented before 12 o'clock and I'm prepared to give  
6           counsel what reasonable time they need in order to engage  
7           in discussions.  
8   MR MIGHELL:   Thank you, Your Honour.  
9   HIS HONOUR:   Would it be suitable simply for me to go off the  
10           Bench and you can indicate when you want me to come back?  
11   MR MIGHELL:   Yes. I - - -  
12   HIS HONOUR:   Yes. I'll be in chambers.  
13   MR MIGHELL:   - - - as long as that's not of inconvenience to  
14           Your Honour.  
15   HIS HONOUR:   No. It's not. No. I'm working on a judgment and  
16           it's - - -  
17   MR MIGHELL:   We - it's only an hour and a quarter. We think we  
18           could use that time, Your Honour.  
19   HIS HONOUR:   Yes. Thank you. Well, I'll simply go off the  
20           Bench and allow counsel the time that they've requested.  
21   MR MIGHELL:   Thank you, Your Honour.  
22           (Short adjournment.)  
23                                                           - - -