

DEFENCE OF SECOND CROSS-DEFENDANT TO FIRST CROSS-CLAIM STATEMENT OF CROSS-CLAIM

COURT DETAILS

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| Court | Supreme Court of New South Wales |
| Division | Equity |
| Registry | Sydney |
| Case number | 2015/306222 |

TITLE OF PROCEEDINGS

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| Plaintiff | Innes Creighton |
| Defendant | Australian Executor Trustees Limited ACN 007 869 794 |

TITLE OF CROSS-CLAIM

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|------------------------|---|
| First Cross-Claimant | Australian Executor Trustees Limited |
| Second Cross-Claimant | IOOF Holdings Limited |
| First Cross-Defendant | AXIS Speciality Europe SE |
| Second Cross-Defendant | Willis Australia Limited |

FILING DETAILS

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| Filed for | Willis Australia Limited , Second Cross-Defendant |
| Filed in relation to | First Cross-Claimant and Second Cross-Claimant, First Cross-Claim Statement |
| Legal representative | Pamela Madafiglio, Minter Ellison |
| Legal representative reference | PAM:SZMS:1136331 |
| Contact name and telephone | Simone Smith, (02) 9921 4467 |
| Contact email | simone.smith@minterellison.com |

HEARING DETAILS

If the proceedings do not already have a listing date, they are to be listed at

PLEADINGS AND PARTICULARS

The Second Cross-Defendant (**Willis**) pleads as follows to the allegations made by the first cross-claimant (**AET**) and the second cross-claimant (**IOOF**) in the First Cross-Claim Statement of Cross-Claim (**First Cross-Claim Statement**):

1. In answer to paragraph 60 of the First Cross-Claim Statement Willis:
 - (a) admits that it was retained by IOOF as its financial lines insurance broker;

- (b) admits that it received from IOOF a request for tender dated 17 May 2010;
 - (c) admits that it provided IOOF with a tender response dated 9 July 2010;
 - (d) admits that Mr Riordan of IOOF sent an the email dated 25 August 2010 from to Mr Grant of Willis;
 - (e) says that by the express terms of that email, IOOF informed Willis that it had determined that it did not wish to pay for or receive the services that Willis had set out in its tender response, and that it had determined instead to limit the scope of Willis' retainer in the manner set out in that email; and
 - (f) otherwise denies the allegation as particularised.
2. Paragraph 61 of the First Cross-Claim Statement is denied.
 3. In answer to paragraph 62 of the First Cross-Claim Statement Willis admits that it was an implied term of the retainer referred to in paragraph 60 above that it would exercise reasonable care in performing its obligations under that retainer, and otherwise denies paragraph 62.
 4. In answer to paragraph 63 of the First Cross-Claim Statement Willis admits that it owed IOOF a duty of care at common law co-extensive with that pleaded in paragraph 62 above, and otherwise denies paragraph 63.
 5. Paragraph 64 of the First Cross-Claim Statement is admitted.
 6. Paragraph 65 of the First Cross-Claim Statement is admitted.
 7. Paragraph 66 of the First Cross-Claim Statement is admitted.
 8. Paragraph 67 of the First Cross-Claim Statement is denied.
 9. Paragraph 68 of the First Cross-Claim Statement is denied.
 10. Paragraph 69 of the First Cross-Claim Statement is denied.
 11. Paragraph 70 of the First Cross-Claim Statement is denied.
 12. Willis does not admit any other allegation or assumption upon which any one or more of the claims against it is based.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 of the *Legal Profession Uniform Law Application Act 2014* that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the defence to the claim for damages in these proceedings has reasonable prospects of success.

Signature



Capacity

Solicitor for the Second Cross-Defendant

Date of signature

4 July 2016

AFFIDAVIT VERIFYING

Name GREGORY VLACHOS
Address Level 16, 123 PITT ST, SYDNEY
Occupation ACCOUNTANT
Date 4 JULY

I say on oath:

1. I am a DIRECTOR of Willis Australia Limited and am authorised to verify this defence on its behalf.
2. I believe that the allegations of fact contained in the defence are true.
3. I believe that the allegations of fact that are denied in the defence are untrue.
4. After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

SWORN at

Signature of deponent

Name of witness

MARIGOLD MAGNAYE

Address of witness

Level 16, 123 PITT ST, SYD

Capacity of witness

LEGAL COUNSEL

And as a witness, I certify the following matters concerning the making of this affidavit by the person who made this affidavit (**deponent**):

1. I saw the face of the deponent.
2. I have known the deponent for at least 12 months OR I have confirmed the deponent's identity using an identification document:

Identification document relied on (may be original or certified copy)¹

Signature of witness:

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

¹ 'Identification documents' include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.

FURTHER DETAILS ABOUT FILING PARTY

Filing party

Second Cross-Defendant

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| Name | Willis Australia Limited |
| Address | C/- Minter Ellison, Governor Macquarie Tower, Level 40, 1 Farrer Place, Sydney NSW 2000 |
| Frequent user identifier | 246 |

Legal representative for filing party

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| Name | Pamela Madafiglio |
| Practising certificate number | 3509 |
| Firm | Minter Ellison |
| Contact solicitor | Simone Smith |
| Address | Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000 |
| DX address | 117 Sydney |
| Telephone | (02) 9921 4467 |
| Fax | (02) 9921 8314 |
| Email | simone.smith@minterellison.com |
| Electronic service address | Not applicable |