

## REPLY

### COURT DETAILS

Court	SUPREME COURT OF NEW SOUTH WALES
Division	Common Law
List	General List
Registry	Sydney
Case number	2022/00214157

### TITLE OF PROCEEDINGS

Plaintiff	<b>RAYA MEREDITH</b>
Defendant	<b>STATE OF NEW SOUTH WALES</b>

### FILING DETAILS

Filed for	Plaintiff
Filed in relation to	Plaintiff's claim
Legal representative	Slater and Gordon Lawyers
Legal representative reference	M616559
Contact name and telephone	Rory Walsh (03) 8539 8362
Contact email	fss@slatergordon.com.au

### PLEADINGS AND PARTICULARS

1. For purposes of this Reply to the Defence to the Amended Statement of Claim dated 23 November 2022 (**Amended Defence**), capitalised terms used but not defined in this Reply have the same meaning as in the Amended Statement of Claim (**ASOC**) dated 2 November 2022 or Amended Defence, unless the context indicates otherwise.
2. In response to the Amended Defence, the Plaintiff says as follows and otherwise joins issue with the Defence in accordance with r 14.27 of the *Uniform Civil Procedure Act Rules 2005*, save for any admissions made therein:

## CONDUCT IN RESPECT OF THE PLAINTIFF

### Section 21 **LEPRA**

3. In answer to sub-paragraph 27(d) of the Amended Defence, the Plaintiff:
  - 3.1 denies that the grounds subjectively relied upon by SC Jarnet to stop and detain her as particularised to that sub-paragraph were reasonable; and
  - 3.2 says that the circumstance of the Plaintiff's presence at a large musical festival in the mid North Coast of New South Wales as a geographic location associated with relatively common recreational drug use could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged;
  - 3.3 says that the circumstance of a warrant being issued for use of a drug detection dog could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged;
  - 3.4 says that the circumstance of a "positive indication by a drug detection dog that there was a prohibited substance in the airspace" around the Plaintiff could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged;
  - 3.5 says that even in combination, the circumstances set out in Particulars (i) to (iii) to paragraph [27(d)] of the Amended Defence could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged; and
  - 3.6 otherwise denies the sub-paragraph.
4. In answer to sub-paragraph 27(f) of the Amended Defence, the Plaintiff:
  - 4.1 denies that the grounds subjectively relied upon by SC Petrie to stop and detain her as particularised to that paragraph were reasonable;
  - 4.2 says that the circumstance of the festival being attended by a "younger demographic" that was alleged to be an "environment where it was common for people to possess and supply prohibited drugs" could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged;
  - 4.3 repeats sub-paragraph 3.4 of this Reply; and
  - 4.4 says that even in combination, the circumstances set out in Particulars (ii) to (iii) under paragraph [27(h)] of the Amended Defence could not constitute

reasonable grounds to exercise the powers contained in s 21 of **LEPRA** as alleged; and

4.5 otherwise denies the sub-paragraph.

5. In answer to sub-paragraph 31(e) of the Amended Defence, the Plaintiff:

5.1 denies that the grounds subjectively relied upon by SC George to stop and detain her as particularised to that paragraph were reasonable;

5.2 says that the circumstances of the plaintiff's presence at a music festival "known for supply and possess offences" and attracting a "younger demographic" which in the officer's "experience attracted drugs of several kinds, including pills, cannabis, cookies and LSD" could not constitute reasonable grounds to exercise the powers contained in s21 of **LEPRA** as alleged;

5.3 repeats sub-paragraph 3.4 of this Reply;

5.4 says that information supplied by other officers who had interacted with the plaintiff could not constitute reasonable grounds to exercise the powers contained in s 21 of **LEPRA** if that information did not constitute reasonable grounds for those officers to exercise the powers contained in s 21;

5.5 says that even in combination, the circumstances set out in Particulars (ii) to (iv) under paragraph [31(e)] of the Amended Defence could not constitute reasonable grounds to exercise the powers contained in s21 of **LEPRA** as alleged; and

5.6 otherwise denies the sub-paragraph.

### Section 31 **LEPRA**

6. In answer to sub-paragraph 39(a) of the Amended Defence, the Plaintiff:

6.1 denies that the grounds subjectively relied upon by SC George to conduct a strip search of her person as particularised to that sub-paragraph:

6.1.2 were reasonable grounds to suspect that a strip search was necessary for the purposes of the search; or

6.1.3 were reasonable grounds to suspect that the seriousness and urgency of the circumstances made the strip search necessary; and

6.2 otherwise denies the sub-paragraph.

**LIMITATION DEFENCE**Satisfaction of s 50A(1)

7. The Plaintiff admits paragraph 75 of the Amended Defence.
8. In answer to paragraph 76 of the Amended Defence, the Plaintiff:
  - 8.1 denies that by sub-paragraph 71.1 of the ASOC she seeks damages for embarrassment and humiliation;
  - 8.2 admits that by sub-paragraph 71.2 of the ASOC she seeks aggravated damages for the matters particularised at paragraph 73;
  - 8.3 admits that by sub-paragraph 71.3 of the ASOC she seeks exemplary damages for the matters particularised at paragraph 74; and
  - 8.4 otherwise denies the paragraph.
9. In answer to paragraphs 77 and 78 of the Amended Defence, the Plaintiff:
  - 9.1 repeats paragraph 69 of the ASOC;
  - 9.2 says that damages for false imprisonment on account of deprivation of liberty and loss of dignity for assault and battery on account of interference with the person are not damages that “relate to the ... personal injury of a person” within the meaning of s 11(1) of the Limitation Act;
  - 9.3 says that exemplary damages are not damages that “relate to the ... personal injury of a person” within the meaning of s 11(1) of the Limitation Act; and
  - 9.4 otherwise denies the paragraphs.

Satisfaction of s 50A(2)

10. In answer to paragraph 79 of the Amended Defence, the Plaintiff repeats paragraph 8 of this Reply.
11. In answer to paragraph 80 of the Amended Defence, the Plaintiff:
  - 11.1 repeats paragraph 69 of the ASOC; and
  - 11.2 otherwise denies the paragraph.
12. The Plaintiff admits paragraph 81 of the Amended Defence.
13. In answer to paragraph 82 of the Amended Defence, the Plaintiff admits that that the acts or omissions alleged in the ASOC occurred after the commencement of Division 6 of Part 2 of the Limitation Act but otherwise denies the paragraph.

Satisfaction of s 50C(1)(a)

14. In answer to paragraphs 84 to 89 of the Amended Defence, the Plaintiff:
  - 14.1 repeats paragraph 69 of the ASOC;
  - 14.2 admits her claim was brought by a statement of claim filed on 21 July 2022;  
and
  - 14.3 otherwise does not admit paragraphs 84 to 89.

**DEFENCE BASED ON SECTION 43A OF CIVIL LIABILITY ACT 2002 (NSW)**SC George

15. The Plaintiff does not admit paragraph 91 of the Amended Defence .
16. The Plaintiff does not admit paragraph 92 of the Amended Defence .
17. The Plaintiff does not admit paragraph 93 of the Amended Defence.
18. The Plaintiff does not admit paragraph 94 of the Amended Defence.
19. The Plaintiff does not admit paragraph 95 of the Amended Defence.
20. In answer to paragraph 96 of the Amended Defence, the Plaintiff:
  - 20.1 says that sub-paragraph 27(d) of the Amended Defence alleges that the Plaintiff was stopped and detained by SC Jarnet and SC Petrie, and in the premises any power to stop the Plaintiff was not exercised by SC George;
  - 20.2 says that, if, as alleged by the Plaintiff in her ASOC, the Court finds that the requisite reasonable grounds were not met to establish that the acts alleged to have been committed by the police officers against the plaintiff were lawfully justified, no authority having the special statutory powers contained in ss 21 and 31(b) of **LEPRA** could properly consider the search, strip search and detention of the Plaintiff by SC George as alleged in the ASOC to be a reasonable exercise of those powers; and
  - 20.3 otherwise denies the paragraph.

SC Jarnet

21. The Plaintiff does not admit paragraph 98 of the Amended Defence.
22. The Plaintiff does not admit paragraph 99 of the Amended Defence.
23. The Plaintiff does not admit paragraph 100 of the Amended Defence.
24. The Plaintiff does not admit paragraph 101 of the Amended Defence.
25. The Plaintiff does not admit paragraph 102 of the Amended Defence.

26. In answer to paragraph 103 of the Amended Defence, the Plaintiff:
- 26.1 says that the Plaintiff does not allege any liability of the Defendant on the basis of the exercise of the power to use a dog to carry out general drug detection;
- 26.2 says that, if, as alleged by the Plaintiff in her ASOC, the Court finds that the requisite reasonable grounds were not met to establish that the acts alleged to have been committed by the police officers against the Plaintiff were lawfully justified, no authority having the special statutory powers contained in s 21 **LEPRA** could properly consider the stop and detention of the Plaintiff by SC Jarnet as alleged in the ASOC to be a reasonable exercise of that power; and
- 26.3 otherwise denies the paragraph.

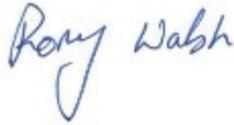
SC Petrie

27. The Plaintiff does not admit paragraph 105 of the Amended Defence.
28. The Plaintiff does not admit paragraph 106 of the Amended Defence.
29. The Plaintiff does not admit paragraph 107 of the Amended Defence.
30. The Plaintiff does not admit paragraph 108 of the Amended Defence.
31. The Plaintiff does not admit paragraph 109 of the Amended Defence.
32. In answer to paragraph 110 of the Amended Defence, the Plaintiff:
- 32.1 says that, if, as alleged by the Plaintiff in her ASOC, the Court finds that the requisite reasonable grounds were not met to establish that the acts alleged to have been committed by the police officers against the Plaintiff were lawfully justified, no authority having the special statutory powers contained in s 21 **LEPRA** could properly consider the stop and detention of the Plaintiff by SC Petrie as alleged in the ASOC to be a reasonable exercise of that power; and
- 32.2 otherwise denies the paragraph.

**SIGNATURE OF LEGAL REPRESENTATIVE**

I certify under clause 4 of Schedule 2 to 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 claim for damages in this reply has reasonable prospects of success.

Signature

A handwritten signature in blue ink that reads "Romy Wash". The signature is written in a cursive style with a large, looped initial 'R'.

Capacity

Solicitor on the record

Date of signature

8 December 2022