

## NOTICE OF MOTION

### COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	General
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

### PERSON AFFECTED BY ORDERS SOUGHT

**STATE OF NEW SOUTH WALES** Defendant

### HEARING DETAILS

This motion is listed at

**ORDERS SOUGHT**

- 1 This motion be listed for hearing before Garling J on 16 March 2023.
- 2 The plaintiff be granted leave to file and serve a Further Amended Statement of claim in the form of Annexure A to this Notice of Motion on or before 17 March 2023.
- 3 By 4pm on 11 April 2023 the defendant file and serve any defence to the further amended statement of claim.
- 4 By 4pm on 25 April the plaintiff file and serve any reply to the defence to the further amended statement of claim.

**SIGNATURE**

Signature of legal representative



Name

Rory Walsh

Capacity

Solicitor

Date of signature

01 / 03 / 2023

**NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT**

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

**REGISTRY ADDRESS**

Street address

Supreme Court of NSW, Level 5, Law Courts Building,  
Queens Square, 184  
Phillip Street, Sydney NSW 2000

Postal address

Supreme Court of NSW, GPO Box 3, Sydney NSW 2001

Telephone

1300 679 272

# Annexure A

Form 3A (version 7)  
UCPR 6.2

## FURTHER AMENDED STATEMENT OF CLAIM

(Filed pursuant to orders made by Garling J on [REDACTED] 2023)

### 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
Legal representative	Slater and Gordon Lawyers
Legal representative reference	M616559
Contact name and telephone	Rory Walsh (03) 8539 8362
Contact email	rory.walsh@slatertgordon.com.au

### TYPE OF CLAIM

Trespass – Trespass to Person – Assault Battery

False Imprisonment

Representative proceeding pursuant to Part 10 *Civil Procedure Act 2005*

## RELIEF CLAIMED

- a) Damages;
- b) Aggravated damages;
- c) Exemplary damages;
- d) Costs; and
- e) Interest, including interest on costs.

## PLEADINGS AND PARTICULARS

### PARTIES

1. At all material times the Police Officers who conducted searches and gave directions (collectively “the Police Officers”) were members of and employed by the New South Wales Police Force.
2. The Police Officers were, at all material times, pursuant to section 6 of the *Law Reform (Vicarious Liability) Act 1983*, deemed to be persons in the service of the Crown.
3. Pursuant to section 8 of the *Law Reform (Vicarious Liability) Act 1983*, and the *Crown Proceedings Act 1988*, the Defendant is vicariously liable for torts committed by persons in the service of the Crown.
4. The Defendant is properly sued pursuant to section 5 of the *Crown Proceedings Act 1988*.

### THE PLAINTIFF AND GROUP MEMBERS

5. The Plaintiff is a natural person entitled to sue the Defendant pursuant to section 5 of the *Crown Proceedings Act 1988*.
6. As at 20 July 2018, the Plaintiff was a 27 year old female.
7. The Plaintiff brings this proceeding pursuant to section 157 of the *Civil Procedure Act 2005 (NSW)* on their own behalf and on behalf of those persons (**Group Members**) who:
  - 7.1 attended a music festival within New South Wales held on or from 22 July 2016 (**Festival**);
  - 7.2 while on the Festival grounds or surrounds, were stopped and directed by Police Officers to an area where searches were conducted;

- 7.3 were subjected to a search by Police Officers which included one or more of the following:
- 7.3.1 being asked to remove some or all of their items of clothing, other than a coat or jacket or similar article of outer clothing or any gloves, shoes, socks or hat;
  - 7.3.2 Police Officers looking under a person's clothing at that person's body; and/or
  - 7.3.3 Police Officers placing their hand/s or finger/s under a person's clothing,
- (hereafter, a **strip search**); and
- 7.4 that person was told by Police Officers or otherwise understood the strip search was conducted on the basis of a suspicion of possession of a prohibited plant or drug.
8. As at the date of commencing this proceeding, there are seven or more persons who have claims against the Defendant arising from the actions of Police Officers at a Festival.
9. The claims of the Plaintiff and Group Members give rise to substantial common issues of law and fact which are identified in Annexure A to this Statement of Claim.

#### **GROUP MEMBERS WHO WERE "VULNERABLE PEOPLE"**

10. At all material times, some Group Members were vulnerable people pursuant to Clause 28 of the *Law Enforcement (Powers & Responsibilities) Regulation 2016*.

#### **MATERIAL FACTS**

11. The Plaintiff and Group Members each attended one or more of the Festivals.
12. Police Officers, including uniformed and/or plain-clothed officers, were present at the Festival and patrolled the Festival grounds and/or surrounds, including the entrances to the Festival grounds and/or inside the Festival grounds.
13. The Plaintiff and Group Members were:
- 13.1 stopped by Police Officers when entering or moving around the Festival;
  - 13.2 directed by Police Officers to an area for the purpose of conducting a search on the person;

- 13.3 touched by Police Officers while being stopped or directed to the search area; and/or
  - 13.4 directed by Police Officers to remove some or all of their clothing, or to otherwise expose under their clothing, or had Police Officers touch under their clothing.
14. The Plaintiff and Group Members were strip searched by Police Officers while on the Festival Grounds and surrounds.
  15. The strip searches were not lawfully authorised by s 31 of LEPRA in that:
    - 15.1 the Police Officers did not have reasonable grounds to suspect that the strip searches were necessary for the purposes of the search; and
    - 15.2 there was no seriousness and urgency of the circumstances which made the strip searches necessary.
  16. The strip searches were conducted by Police Officers without compliance with s 34A LEPRA in that the Police Officers did not carry out the strip searches with the Plaintiff's or Group Members' consent.
  17. The strip searches were conducted without compliance with the safeguards in ss 32 and 202 of LEPRA.

#### Particulars

- 17.1 The Plaintiff and Group Members were:
  - 17.1.1 not informed prior to the strip search of the name of the police officer and their place of duty;
  - 17.1.2 not informed prior to the strip search of the reason for the exercise of the power to strip search;
  - 17.1.3 not informed prior to the strip search that they would be required to remove their clothing or why it was necessary to remove their clothing; and/or
  - 17.1.4 not asked for their co-operation.
- 17.2 The strip searches of the Plaintiff and Group Members had one or more of the following characteristics:
  - 17.2.1 they were conducted in an area that did not provide reasonable privacy for them during the strip search;

17.2.2 they were not the least invasive kind of search practicable in the circumstances;

17.2.3 they involved a search of the person's genital area or breasts in circumstances where the Police Officers did not have reasonable grounds to suspect that it was necessary for the purposes of the search;

17.2.4 questioning was conducted during the strip search.

18. The strip searches were conducted in contravention of the rules in s 33 of LEPR.

Particulars

18.1 The strip searches of the Plaintiff and Group Members had one or more of the following characteristics:

18.1.1 they were not conducted in a private area;

18.1.2 they were conducted in the presence of persons of the opposite gender;

18.1.3 they were conducted in the presence or view of a person whose presence was not necessary for the purposes of the search;

18.1.4 they were conducted on people under the age of 18 without a parent or guardian present;

18.1.5 they involved an examination of the body by touch;

18.1.6 they involved a search of a person's body cavities;

18.1.7 the Police Officer conducting the search did not have reasonable grounds to believe that the removal of the amount of clothes was necessary for the purposes of the search;

18.1.8 the Police Officer conducting the search did not have reasonable grounds to believe that the type and length of the visual inspection of the person was necessary for the purposes of the search.

**CONDUCT IN RELATION TO THE PLAINTIFF**

19. On and from about 20 July 2018 to 22 July 2018, a music festival called "Splendour in the Grass" was held at North Byron Parklands in New South Wales (**Splendour Festival**).

20. The Festival was a ticketed event held across three days on private property (**Splendour Grounds**) and operated by a third party entertainment company. The Splendour Grounds were fenced off and could only be accessed at entry gates by ticket holders or other people authorised by the third party.
21. The Plaintiff was a person authorised to attend the Splendour Festival as a ticket holder.
22. Police Officers were present at the Splendour Festival as part of an organised NSW Police Force operation involving Police from Tweed Byron Local Area Command, General Duties officers from across the Northern Region, The Dog Unit, the Public Order and Riot Squad, Operations Support Group and the Traffic and Highway Patrol Command.
23. Police Officers patrolled the Splendour Grounds and surrounds, including the entrances to the Splendour Grounds and inside the Splendour Grounds.
24. On or about 20 July 2018, the first day of the Splendour Festival, the Plaintiff was approaching the entrance gates to the Splendour Grounds.
25. The Plaintiff, whilst walking towards the entrance with a group of friends, was approached by a Police Officer handling a police dog.
26. The police dog sniffed towards the Plaintiff but the dog then moved away from the Plaintiff and to the next person.
27. Shortly thereafter, the Plaintiff was stopped from continuing to walk towards the entrance by the Police Officer handling the police dog.

#### Particulars

- 27.1 The Police Officer tapped the Plaintiff on her shoulder.
  - 27.2 The Police Officer said words to the Plaintiff to the effect of "*The dog has detected something on you. If you follow me we need to conduct a search*".
  - 27.3 The Plaintiff does not recall whether the Police Officer identified himself by name.
  - 27.4 The Plaintiff does not recall the name on the Police Officer's badge or if he was wearing a badge.
28. After being stopped by the Police Officer, the Officer directed the Plaintiff to a makeshift area which was off to the side of the entrance to the Splendour Grounds (**Police Inspection Area**).



Particulars

The Police Inspection Area contained a temporary structure (the **Search Area**) which:

- 28.1 comprised of a number of open makeshift cubicles;
  - 28.2 each cubicle was defined by three walls and was open in the direction of a screen;
  - 28.3 the screen was made of a tarpaulin-like material;
  - 28.4 the screen was approximately 1.5 metres high;
  - 28.5 between the open side of the cubicles and the screen there was a walkway used to lead people in and out of the cubicles.
29. The Police Inspection Area did not allow privacy or dignity between those inside the Search Area and between persons approaching the entrance to the Splendour Grounds.

Particulars

- 29.1 Taller persons were able to see over the top of the screen into the cubicles.
30. The cubicles did not allow privacy or dignity between those inside the cubicles and those within the rest of the Search Area.

Particulars

- 30.1 Each cubicle opened on to the walkway between the cubicles and the tarpaulin-like screen.
  - 30.2 The design of the Search Area meant that Police Officers and/or other persons being searched were required to walk past the open cubicles and therefore, Police Officers and/or other persons being searched were walking in and out of the Search Area along the walkway.
  - 30.3 Police Officers and other persons being searched could hear what was going on in the other cubicles including the strip search being carried out on the Plaintiff in the Search Area.
31. After being led to the Police Inspection Area, the Plaintiff was directed to go into the Search Area.
32. The Plaintiff was directed to hand her bag over to a Police Officer who took it out of her sight.

33. The Plaintiff was directed into one of the cubicles and after the Plaintiff entered the cubicle, a female Police Officer entered.

Particulars

- 33.1 The Plaintiff does not recall the female Police Officer identifying herself by name.
- 33.2 The Plaintiff does not recall the name on the female Police Officer's badge or whether the officer was wearing the badge.
34. The female Police Officer said words to the following effect to the Plaintiff:
- 34.1 *"Do you have any drugs on you?"*
- 34.2 *"If you have anything on you, now is the chance to hand it over."*
35. The Plaintiff said to the female Police Officer words to the effect of *"I don't have anything"*.
36. The female Police Officer directed the Plaintiff to lift her arms up and straight out from her torso.
37. The female Police Officer patted down the Plaintiff by running her hands along the Plaintiff's outstretched arms along the outside of her arms, then along the inside of the Plaintiff's arms and then down the Plaintiff's torso, down the outside of her thighs and lower legs and then up the inside of her legs and thighs.
38. The female Police Officer directed the Plaintiff to remove her shoes. The Plaintiff removed her shoes.
39. The female Police Officer directed the Plaintiff to pull down her top. The Plaintiff pulled down her top.
40. The Plaintiff was not wearing a bra so her breasts were exposed when her top was pulled down.
41. The female Police Officer then directed the Plaintiff to lift her breasts up and lean forward and then to let go of her breasts. As she did so, the female Police Officer inspected the Plaintiff's breasts and the area underneath her breasts.
42. The Plaintiff then stood up and pulled her straps back on and her top back up.
43. The female Police Officer said words to the following effect to the Plaintiff *"Have you inserted anything?"* to which the Plaintiff responded *"No. I have a tampon in"*.
44. The female Police Officer then said words to the following effect to the Plaintiff *"If you are lying, you will get kicked out of the Festival"*.

45. The female Police Officer then directed the Plaintiff to remove her clothing on the lower half of her body. The Plaintiff removed that clothing. The Plaintiff's shorts then remained around her ankles.
46. The female Police Officer then directed the Plaintiff to remove her underwear. The Plaintiff then pulled down her underpants. The Plaintiff's underpants then remained around her ankles.
47. The female Police Officer then directed the Plaintiff to pull out the tampon and show it to the female Police Officer.
48. The Plaintiff then pulled slightly on the string of the tampon.
49. The female Police Officer bent down and inspected the Plaintiff's vagina as she pulled on the string of the tampon.
50. Whilst the Plaintiff's underpants were removed, the female Police Officer directed the Plaintiff to turn around so that the Plaintiff's back was to the female officer. The Plaintiff turned around.
51. The female Police Officer then directed the Plaintiff to bend over. The Plaintiff then started to bend over with her buttocks facing the female Police Officer.
52. Whilst the Plaintiff was in the course of bending over, a male Police Officer entered the cubicle, without warning, and was holding the Plaintiff's bag. He gave the bag to the female Police Officer and said words to the effect of "*Nothing found in the bag*".

#### Particulars

- 52.1 The Plaintiff does not recall whether the male Police Officer identified himself by name.
- 52.2 The Plaintiff does not recall the name on the Police Officer's badge or whether he was wearing a badge.
53. The Plaintiff then bent down to quickly pull her underpants and shorts back on.
54. The Plaintiff said words to the following effect to the female Police Officer "*Can I go now? Since you haven't found anything and I've got nothing on me?*"
55. The female Police Officer responded in words to the effect of "*Not yet. We have to take your details in case you get pulled aside for another search, which wouldn't look good for you if that happened*".
56. The Plaintiff was then walked out of the cubicle to the hallway of the Search Area where she was directed to provide her driver's licence to a Police Officer who recorded her details on a notepad.

57. The Plaintiff was then directed to leave the Police Inspection Area. The Plaintiff did so and then entered the Splendour Grounds.
58. The Plaintiff had been detained by the Police for approximately thirty (30) minutes.
59. No drugs or other prohibited items were found on the Plaintiff as a result of the strip search.
60. No drugs or other prohibited items were found in the Plaintiff's bag as a result of the search of her bag.

### **ASSAULT AND BATTERY**

61. On 20 July 2018, in the absence of any lawful justification and in the absence of the Plaintiff's consent, the Police Officers performed acts upon the Plaintiff which constituted battery.

#### Particulars

- 61.1 The Police Officer with the police dog tapping the Plaintiff on the shoulder.
  - 61.2 The female Police Officer patting down the Plaintiff when she was in the cubicle in the Search Area.
62. On about 20 July 2018, in the absence of any lawful justification and in the absence of consent to carrying out any of the directions given to her, the Police Officers performed acts upon the Plaintiff which constituted assault.

#### Particulars

- 62.1 being forced to go into the Search Area within the Police Inspection Area;
- 62.2 being forced to remove her top, expose her breasts and lift up her breasts for inspection by the female Police Officer;
- 62.3 being forced to remove her outer clothes and underpants for inspection of her lower body by the female Police Officer;
- 62.4 being forced to remove (or partially remove) a tampon from her vagina for inspection by the female Police Officer;
- 62.5 being forced to turn around and expose her back and bare buttocks for inspection by the female Police Officer;
- 62.6 being forced to bend over for inspection by the female Police Officer;

- 62.7 by the male Police Officer entering the cubicle while the Plaintiff was partially bent over;
- 62.8 being forced to dress herself in front of the female Police Officer;
- 62.9 having her bag removed from her and taken out of her sight;
- 62.10 being subjected to the strip search at the same time as she believed her bag was searched;
- 62.11 being forced to provide her driver's licence to the Police and have those details recorded.

63. In respect of each of the actions particularised in the immediately preceding paragraph, the Plaintiff was in imminent fear that if she did not comply with the Police Officers' directions, that Police Officer (and/or other Police Officers) would forcibly carry out the directions.

#### **FALSE IMPRISONMENT**

- 64. By reason of the matters pleaded in paragraphs 24 to 58 above, in the absence of any lawful justification and in the absence of the Plaintiff's consent, the Police Officers falsely imprisoned, or caused to be imprisoned, the Plaintiff.
- 65. In falsely imprisoning the Plaintiff, or causing the Plaintiff to be imprisoned, the Police Officers completely deprived the Plaintiff of her liberty.
- 66. The Plaintiff was completely deprived of her liberty on the following occasions:

##### Particulars

- 66.1 for the duration of the period commencing with the Plaintiff being directed to the Police Inspection Area by the Police Officer with the police dog to the time at which she was forced to go into the cubicle; and
- 66.2 whilst the Plaintiff:
  - 66.2.1 was deprived of the possession of her bag;
  - 66.2.2 was being subjected to an ordinary search;
  - 66.2.3 was being strip searched.
- 66.3 for the period during which the Plaintiff was forced to provide (and have recorded) her driver's licence details until the time that she was directed to leave the Police Inspection Area.

67. The Plaintiff was deprived of her liberty for approximately thirty (30) minutes.
68. In the alternative, if it is found that the search of the Plaintiff was lawful, the Plaintiff was falsely imprisoned by being detained in the Police Inspection Area for an excessive, unreasonable and/or unlawful length of time.

### **CONDUCT OF STATE RELEVANT TO EXEMPLARY DAMAGES**

68A. At all material times, it was the case that:

68A.1 most music festivals conducted in NSW in the period from 22 July 2016 to 21 July 2022 were policed by substantial detachments from New South Wales Police for the purpose of, amongst other things, detecting prohibited substances in the possession of attendees;

68A.2 strip searches were one of the primary means Police Officers were directed to use to carry out the purpose described in subparagraph 68A.1;

68A.3 strip searches were an extremely intrusive police procedure that:

- (a) were likely to be humiliating for the person searched;
- (b) could give rise to both lasting and immediate traumatic responses; and
- (c) could result in the commission of the torts of assault, battery, and false imprisonment;

68A.4 in the period between at least 2016 and 2019, there developed a practice or pattern of conduct by Police Officers of carrying out strip searches of attendees at music festivals as a matter of routine and not in circumstances lawfully justified by the provisions of LEPRA concerning strip searches pleaded in this Further Amended Statement of Claim (**Strip Search Provisions**).

#### Particulars

The Plaintiff relies upon:

- (a) the Law Enforcement Conduct Commission (LECC) report on Operation Brugge dated 8 May 2020.
- (b) the LECC report on Operation Gennaker dated 8 May 2020.
- (c) the LECC report on Strike Force Blackford dated 21 July 2020
- (d) the LECC's report on the "Inquiry into NSW Police Force strip search practices" dated 15 December 2020; and

(e) the NSW Coroner's report on the "Inquest into the death of six patrons of NSW music festivals" dated 8 November 2019.

Further particulars will be provided following discovery and evidence.

68B. The State, by the senior officers of the New South Wales Police Force responsible for authorising the use of strip searches at music festivals (**Senior Officers**):

68B.1 at all material times referred to in the preceding paragraph – was aware of each of the circumstances in sub-paragraphs 68A.1 to 68A.3; and

68B.2 from no later than October 2018 – was or ought reasonably to have been aware of the circumstances in sub-paragraph 68A.4.

Particulars

(a) as to sub-paragraphs 68A.1 to 68A.3, these matters were within the actual knowledge of the New South Wales Police Force at all material times;

(b) as to sub-paragraphs 68A.4, the Senior Officers ought reasonably to have been aware of the said circumstances by reason that the said practice:

- i. was the subject of training given to police officers;
- ii. was the subject of widespread media commentary;
- iii. was the subject of complaints by members of the public;
- iv. at a time known to the State but not to the Plaintiffs – was identified by the State as a sufficiently serious matter that a review or enquiry (of the kind that ultimately ensued as the LECC inquiry into strip searches in October 2018) might be in prospect or was under consideration.

Further particulars will be provided following discovery and evidence.

68C. Despite the awareness pleaded in the preceding paragraph, at the material times the State, by its Senior Officers:

68C.1 failed to exercise reasonable skill and care to ensure that training delivered to the Police Officers tasked to police music festivals was adequate to ensure the Officers:

(a) correctly observed the Strip Search Provisions:

(b) implemented strip searches without committing assault, battery or false imprisonment;

68C.2 failed to exercise reasonable skill and care to ensure that the said Police Officers were adequately supervised in connection with operations at music festivals to ensure they:

(a) correctly observed the Strip Search Provisions;

(b) implemented strip searches without committing assault, battery or false imprisonment.

#### Particulars

The Plaintiff relies upon the LECC's report on its "Inquiry into NSW Police Force strip search practices" dated 15 December 2020.

68D. The matters set out in the preceding paragraph were a cause of the said Police Officers:

68D.1 failing correctly to observe the Strip Search Provisions; and

68D.2 tortiously assaulting, battering and false imprisoning the Plaintiff and group members as alleged herein.

### **LOSS AND DAMAGE**

69. The Plaintiff does not claim personal injury damages within the meaning of Part 2 of the *Civil Liability Act 2002*.

70. By the acts of the Defendant through the Police Officers, the Plaintiff and Group Members suffered loss of liberty, embarrassment, and have been the subject of assault and battery.

71. The Plaintiff claims on behalf of herself and on behalf of Group Members:

71.1 damages;

71.2 aggravated damages;

71.3 exemplary damages;

71.4 interest; and

71.5 costs.

#### PARTICULARS OF DAMAGES

72. The Plaintiff and Group Members were:



- 72.1 deprived of liberty;
- 72.2 subject to battery;
- 72.3 assaulted;
- 72.4 put in fear;
- 72.5 subject to a significant loss of dignity.

PARTICULARS OF AGGRAVATED DAMAGES

73. The Plaintiff's and Group Members' hurt and damage was increased by:
- 73.1 the unlawful and unjustifiable actions of the Police Officers being inflicted upon them;
  - 73.2 being frightened of the Police taking them away from their friends and away from the crowd;
  - 73.3 being forced to remove their clothing and be searched without sufficient privacy;
  - 73.4 being directed by Police Officers and being searched within sight and hearing of others;
  - 73.5 being fearful and humiliated that, at any time, someone could walk past or look into the cubicle where they were being strip searched;
  - 73.6 having to find their friends following the strip search, who may have been directed to move on by Police;
  - 73.7 their knowledge that they had not done anything to warrant the Police Officers' behaviour;
  - 73.8 suffering this humiliation, indignity and assault at an event that was supposed to be positive and joyful for them;
  - 73.9 knowing that there were multiple Police Officers who had ostensible authority as Police Officers and/or that they were armed with weapons and that therefore, they had no realistic means of refusing to comply with their directions;
  - 73.10 having no Police Officer or agent of the NSW Police Force apologise for their actions.

PARTICULARS OF EXEMPLARY DAMAGES

74. The conduct complained of:

- 74.1 was performed in contumelious disregard of the Plaintiff's and Group Members' rights and feelings;
- 74.2 involved oppressive use and/or abuse of Police powers;
- 74.3 was undertaken in flagrant disregard for the law;
- 74.4 was intentional;
- 74.5 was unreasonable, excessive and unjustifiable;
- 74.6 was worsened as it was performed by Police Officers, who are paid and entrusted to uphold the law and defend the rights and freedoms of the citizens of New South Wales, who acted in stark indifference to their duties and obligations;
- 74.7 warrants exemplary damages being awarded as it was a repeated and escalating pattern of conduct that was:
- (a) carried out by members of the NSW Police Force over a period of at least four years from 2016 to 2019, as pleaded and particularised at paragraph 68A above;
  - (b) a result of the failures by Senior Officers alleged in paragraph 68C;
- 74.8 warrants exemplary damages being awarded to reflect society's disapprobation of such conduct;
- 74.9 warrants exemplary damages being awarded to mark the Court's condemnation of such behaviour and act as a salutary deterrent to:
- (a) Police Officers;
  - (b) Senior Officers;
- 74.10 warrants exemplary damages to ensure:
- (a) Police Officers in positions of command are not ordering unlawful searches of people attending music festivals;
  - (b) Senior Officers take reasonable care and skill to ensure that Police Officers are adequately trained and supervised in the performance of their duties according to law;
- 74.11 warrants exemplary damages being awarded in sufficient quantity to bring home, to those responsible for the conduct of Police Officers, that Police Officers must be properly trained and directed as pleaded and particularised at paragraphs 68B and 68C and disciplined to ensure abuses of this kind do not occur.

## 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 these proceedings has reasonable prospects of success.

I have advised the Plaintiff that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Solicitor on the record

Date of signature

## NOTICE TO DEFENDANT

**If you do not file a defence within 28 days of being served with this statement of claim:**

- **You will be in default in these proceedings.**
- **The court may enter judgment against you without any further notice to you.**

The judgment may be for the relief claimed in the statement of claim and for the Plaintiff's costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

## HOW TO RESPOND

**Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.**

You can get further information about what you need to do to respond to the claim from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au).
- The court registry for limited procedural information.

You can respond in one of the following ways:

- 1 If you intend to dispute the claim or part of the claim, by filing a defence and/or making a cross-claim.**

**2 If money is claimed, and you believe you owe the money claimed, by:**

- Paying the Plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
- Filing an acknowledgement of the claim.
- Applying to the court for further time to pay the claim.

**3 If money is claimed, and you believe you owe part of the money claimed, by:**

- Paying the Plaintiff that part of the money that is claimed.
- Filing a defence in relation to the part that you do not believe is owed.

Court forms are available on the UCPR website at [www.ucprforms.justice.nsw.gov.au](http://www.ucprforms.justice.nsw.gov.au) or at any NSW court registry.

**REGISTRY ADDRESS**

Street address:	Law Courts Building 184 Phillip Street Sydney NSW 2000
Postal address:	Supreme Court of NSW GPO Box 3 Sydney NSW 2001
Telephone:	1300 679 272

**PARTY DETAILS****PARTIES TO THE PROCEEDINGS****Plaintiff**

Raya Meredith

**Defendant**

State of New South Wales

**Legal representative for the Plaintiff**

Name	Rory Walsh
Practising certificate number	P0024150
Firm	Slater and Gordon Lawyers
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**DETAILS ABOUT DEFENDANT****Defendant**

Name	State of New South Wales
Address	C/- The Crown Solicitor Crown Solicitor's Office GPO Box 25 SYDNEY NSW 2001

## **ANNEXURE A: COMMON QUESTIONS**

### **QUESTIONS COMMON TO CLAIMS OF ALL GROUP MEMBERS**

#### **Exercise of search powers**

1. In determining whether it is necessary to conduct a strip search (within the meaning of s. 31 of LEPR), does a Police Officer need to conclude that a search within the meaning of s. 21 of LEPR (ordinary search) is insufficient in order to form the reasonable suspicion required for the exercise of the power to conduct the strip search?
2. Is a failure to carry out an ordinary search a factor in determining that a strip search was:
  - 2.1 not objectively necessary for the purposes of the strip search; and/or
  - 2.2 that the circumstances were not sufficiently urgent or serious to make a strip search necessary within the meaning of s. 31 of LEPR?

#### **Circumstances of searches**

3. In determining whether the seriousness and urgency of the circumstances necessitate a strip search being conducted, does the Police Officer have to form a view as to the type, quantity or effect of the prohibited drug or plant that the Police Officer suspects the Plaintiff or Group Member to have concealed?
4. Can suspicion of possession of a non-specified drug or plant alone provide a reasonable basis for a suspicion that there was health risk to the Plaintiff or Group Member?
5. If the answer to question 4 is “yes”, is the risk reasonably characterised as “serious” and “urgent” enough to make a strip search necessary within the meaning of s. 31 of LEPR?
6. Can suspicion of possession of a non-specified drug or plant alone provide a reasonable basis for a suspicion that there was health risk to others?
7. If the answer to question 6 is “yes”, is such a risk “serious” and “urgent” enough to make a strip search necessary within the meaning of s. 31 of LEPR?

#### **False imprisonment, assault and battery**

8. What lawful basis is there to direct (whether verbally or physically) the Plaintiff or a Group Member not under arrest against whom an officer wishes to exercise the power under s 31(b) of LEPR to an inspection area?

10. Is a strip search carried out by a Police Officer otherwise than in compliance with s 31 of LEPRa an assault on the Plaintiff or Group Member who is the subject of the search?
11. Does non-compliance by a Police Officer with a safeguard contained in ss 32 and/or 33 of LEPRa make a strip search carried out by the Police Officer unlawful?

### **Section 43A**

12. Is a Police Officer exercising the power in s 31(b) of LEPRa exercising a special statutory power as a public or other authority in the meaning of ss 41 and 43A of the *Civil Liability Act 2002 (NSW)*?
13. If the answer to question 12 is “yes”, can s 43A operate to prevent civil liability arising for the exercise of the powers under s 21 and 31(b) of LEPRa where it is determined that the Police Officer did not hold the necessary reasonable suspicion?

### **Training and supervision – Senior Officers**

- 13A. In the period between 2016 and 2019, was there a practice or pattern of conduct by Police Officers of carrying out strip searches of attendees at music festivals as a matter of routine and not in circumstances lawfully justified by the provisions of LEPRa concerning strip searches?
- 13B. What was appropriate practice in respect of the training and supervision of Police Officers in respect of the correct observance of the Strip Search Provisions at music festivals on or from 22 July 2016?
- 13C. What training and supervision was delivered or applied to Police Officers in respect of the correct observance of the Strip Search Provisions at music festivals on or from 22 July 2016?
- 13D. How, if at all, was the training and supervision referred to in Question 13C non-compliant with the appropriate practice(s) referred to in Question 13B, during the Period on or from 22 July 2016?
- 13E. If and to the extent that training and supervision referred to in Question 13C was non-compliant with the appropriate practice(s) as found in answering Question 13D, was the said non-compliance a result of a failure or failures by Senior Officers to exercise reasonable care to ensure that the training or supervision was compliant?

### **Damages**

16. Is non-compliance by a Police Officer with a safeguard contained in ss 32 and/or 33 of LEPRa an aggravating factor when assessing damages for any intentional tort alleged by a person the subject of an unlawful strip search?

17. Does s 50A of the *Limitation Act 1969* (NSW) apply to a claim for damages or aggravated damages referable to embarrassment, fear, loss of dignity, and humiliation for an intentional tort as a result of an unlawful strip search?
18. Are exemplary damages capable of being characterised as personal injury damages in the meaning the CLA and *Limitation Act*?
- 18A. Are exemplary damages against the State available:
- 18A.1 in the circumstances pleaded above, other than in paragraphs 68A to 68D;
- 18A.2 in the circumstances pleaded above, including paragraphs 68A to 68D?

## **QUESTIONS OF SUBSTANTIAL COMMONALITY**

### **Circumstances of searches**

19. Does the fact that a warrant was issued for the use of drug detection dogs provide reasonable grounds to form the suspicion that a strip search under s 31(b) of LEPR of the Plaintiff or Group Member in the area of the warrant is necessary:
- 19.1 for the purposes of the search; and
- 19.2 because of the seriousness and urgency of that circumstance?
20. Does the fact that that the Plaintiff or a Group Member received a drug dog indication provide reasonable grounds to suspect that a strip search under s 31(b) of LEPR is necessary:
- 20.1 for the purposes of the search; and
- 20.2 because of the seriousness and urgency of that circumstance?
21. Does the fact that that the Plaintiff or a Group Member was entering or at a music festival attended by a younger demographic provide reasonable grounds to suspect that a strip search under s 31(b) of LEPR is necessary:
- 21.1 for the purposes of the search; and
- 21.2 because of the seriousness and urgency of that circumstance?
22. Do the circumstances identified in questions 19, 20 and 21 in combination provide reasonable grounds to suspect that a strip search under s 31(b) of LEPR is necessary:
- 22.1 for the purposes of the search; and
- 22.2 because of the seriousness and urgency of that circumstance?



**False imprisonment and battery**

23. Does a strip search carried out by a Police Officer otherwise than in compliance with s 31 of LEPR constitute false imprisonment of the Plaintiff or Group Member who is the subject of the search if:
- 23.1 the subject does not consent; or
- 23.2 the subject consents but wrongly believes the search to be lawful.
24. Does an examination by a Police Officer of the body of the Plaintiff or Group Member by touch during a strip search constitute a battery?
25. Does LEPR empower a police officer to compel a person to squat, bend over, move their genitals or breasts during a strip search to facilitate visual inspection?
- ~~1. Are the following factors, in combination or separately, leaving aside any other relevant facts peculiar to the Plaintiff or a particular Group Member, reasonable and sufficient grounds for forming a suspicion of possession of a prohibited drug or plant:~~
- ~~a. that a person was entering or at a music festival;~~
- ~~b. that a person received a drug dog indication; and/or~~
- ~~c. that a person looked nervous or anxious.~~
- ~~2. Was there any lawful basis on which to direct the Plaintiff and/or Group Members to the Police Inspection Area or a similar area?~~
- ~~3. Was there any lawful basis on which to touch the Plaintiff and/or Group Members when directing them to the Police Inspection Area or a similar area?~~
- ~~4. Was there any lawful basis on which to direct the Plaintiff and/or Group Members to remove her/their clothes?~~
- ~~5. Were the searches conducted on the Plaintiff and Group Members strip searches within the meaning of s 3 of LEPR?~~
- ~~6. Were the strip searches lawfully undertaken in compliance with Part 4, Division 4 of LEPR in that, did the Police Officer(s) who performed the strip searches of the Plaintiff and Group Members have reasonable grounds to suspect that the strip searches were necessary for the purposes of the search and that the seriousness and urgency of the circumstances made the strip search necessary?~~
- ~~7. Does non-compliance by a Police Officer with a safeguard contained in ss 32 and/or 33 make a strip search unlawful?~~

- ~~8. Were the strip searches an assault of the Plaintiff and Group Members?~~
- ~~9. Did the detention and/or strip searches constitute false imprisonment of the Plaintiff and Group Members?~~
- ~~10. Is non-compliance by a Police Officer with a safeguard contained in ss 32 and/or 33 an aggravating factor when assessing damages?~~
- ~~11. Does an examination of a Group Member's body by touch during a strip search constitute a battery?~~
- ~~12. Was the conduct of Police Officers such as to warrant an award of aggravated damages for the Plaintiff and Group Members?~~
- ~~13. Was the conduct of Police Officers such as to warrant an award of exemplary damages?~~