

FILE NO :	2022/214157
PARTIES :	Raya MEREDITH v State NSW

Garling J makes the following orders:

Plaintiff's Notice of Motion dated 18 March 2025

1. The subpoena served by the Defendant on Services Australia on 5 March 2025 be set aside.
2. The Defendant pay the Plaintiff's costs of and in relation to prayer 1 of her notice of motion dated 18 March 2025 and the costs of the motion be otherwise costs in the cause.
3. The following material filed in relation to this motion:
 - a) the affidavit of Raya Meredith affirmed on 17 March 2025;
 - b) the affidavit of William Zerno affirmed on 18 March 2025 and its exhibit; and
 - c) the submissions of the Plaintiff served on 20 March 2025,
 - d) be subject to a non-publication order to prohibit or restrict the publication or other disclosure to the public in accordance with s 7 of the *Court Suppression and Non-Publication Orders Act 2010* (the Act) on the basis that:
 - e) the order is necessary to prevent prejudice to the proper administration of justice (section 8(a) of the Act); and
 - f) the order is necessary to protect the safety of the plaintiff (section 8(c) of the Act).
4. Further to order 3, the following material at the trial of these proceedings:
 - a) paragraph 45 of the statement of Raya Meredith dated 21 November 2023; and
 - b) any further evidence adduced in cross examination or any oral or written submission or transcript concerning the subject matter of that paragraph,

be subject to a non-publication order to prohibit or restrict the publication or other disclosure to the public in accordance with s 7 of the Act on the basis that:

 - c) the order is necessary to prevent prejudice to the proper administration of justice (section 8(a) of the Act); and
 - d) the order is necessary to protect the safety of the plaintiff (section 8(c) of the Act).
5. Orders 3 and 4 are to operate until the conclusion of the proceeding, subject to further order.
6. Orders 3 to 4 are to apply throughout the Commonwealth of Australia.
7. The Plaintiff be granted leave to include the following particular to paragraph 73 "PARTICULARS OF AGGRAVATED DAMAGES" of the Further Amended Statement of Claim filed on 30 March 2023:

73.10 the conduct of the State in the proceedings with respect to the Plaintiff, limited to:

 - a) the issue of a subpoena for production to Services Australia on 5 March 2025;*
 - b) the matters traversed in the affidavits served with the Plaintiff's notice of motion dated 18 March 2025; and*
 - c) the maintenance of a factual challenge to the Plaintiff's claim until the service of the Defendant's motion to amend its Defence on 18 March 2025.*

Defendant's notice of motion dated 18 March 2025

8. The Defendant be granted leave to file and serve the proposed Amended Defence to the Further Amended Statement of Claim in the form annexed to its notice of motion dated 18 March 2025, save for any amendments confirmed no longer pressed, on or before 28 March 2025.

9. On or before 28 March 2025, the Defendant inform the Plaintiff of those witnesses for whom it has served a statement or affidavit that it intends to call at trial.
10. The Defendant pay the Plaintiff's costs thrown away by reason of the Amended Defence.

Common questions

11. Pursuant to r 28.2 of the *Uniform Civil Procedure Rules 2005*, until further order, the following questions be heard, and subject to any direction by the trial Judge pursuant to Part 10 of the *Civil Procedure Act 2005*, be determined, at the initial hearing, and before any further trial in the proceedings:
 - a) all questions arising in the proceedings insofar as those questions determine all causes of action brought by the Plaintiff in her individual capacity, and all such relief, by way of damages, as she claims, as an individual, as set out in the Further Amended Statement of Claim filed on 30 March 2023; and
 - b) the questions set out in the Annexure to these orders.
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ANNEXURE: Common questions

In these questions:

“31(b) strip search” means a strip search of the kind described in s 31(b) of LEPR.

“LEPRA” means the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).

“ordinary search” means a search of the kind described in s 21 of LEPR.

Interpretation of LEPR

1. In order to form the necessary state of mind to conduct a 31(b) strip search, does a police officer need to consider s 21 first before considering the criteria in s 31(b) of LEPR?
2. Are the necessary criteria in s 31(b) of LEPR for carrying out a 31(b) strip search the following:
 - (a) the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search; and
 - (b) the police officer suspects on reasonable grounds that the seriousness of the circumstances make the strip search necessary; and
 - (c) the police officer suspects on reasonable grounds that the urgency of the circumstances make the strip search necessary.
3. In determining whether a “*strip search is necessary for the purposes of the search*”, does a police officer need to conclude that an ordinary search is insufficient in order to form the reasonable suspicion required for the exercise of the power to conduct the 31(b) strip search?
4. Assuming reasonable grounds for suspicion of the existence of a circumstance in LEPR s 21(1)(d), is an officer's state of mind that any contravention of the *Drug Misuse and Trafficking Act 1985* is ‘serious’ capable of also providing reasonable grounds for suspicion of the state/s of mind required to perform a 31(b) strip search?
5. Does failure by a Police Officer to have the required state/s of mind identified in s 31(b) of LEPR render a 31(b) strip search purportedly undertaken pursuant to that provision unlawful?

6. Does non-compliance by a Police Officer with a provision contained in s 32 of LEPR in conducting a 31(b) strip search make that search unlawful?
7. Does non-compliance by a Police Officer with a provision contained in s 33 of LEPR in conducting a 31(b) strip search make that search unlawful?

Directions concerning a person's body

8. Does "genital area" in the meaning of s 32(6) of LEPR include a person's anal area?
9. To what extent did ss 31, 32 or 33 of LEPR empower a police officer to ask or direct that a Group Member bend over or otherwise move his or her body to facilitate visual inspection of the genital area during the course of a 31(b) strip search?
10. Did LEPR otherwise empower a police officer to direct or force a Group Member to bend over or otherwise move his or her body to facilitate visual inspection of the genital area in the course of a 31(b) strip search, and in what circumstances?
11. To what extent did ss 31, 32 or 33 of LEPR empower a police officer to ask or direct a Group Member to lift their breasts or otherwise touch or interact with his or her naked body to facilitate visual inspection during the course of a 31(b) strip search?
12. Did LEPR otherwise empower a police officer to direct or force a Group Member to lift their breasts or otherwise touch or interact with his or her naked body to facilitate visual inspection during the course of a 31(b) strip search, and in what circumstances?
13. To what extent did ss 31, 32 or 33 of LEPR empower a police officer to ask or direct that a Group Member interact with a tampon or other item inserted into a body cavity during the course of a 31(b) strip search?
14. Does LEPR otherwise empower a police officer to direct or force a Group Member to interact with a tampon or other item inserted into a body cavity during the course of a 31(b) strip search, and in what circumstances?

Damages

15. Could non-compliance by a Police Officer with a safeguard contained in ss 32 and/or 33 of LEPR be an aggravating factor in the Court's assessment of damages of false imprisonment / assault / battery of a person the subject of an unlawful strip search?

Conduct of the State relevant to exemplary damages

16. Were the matters pleaded at paragraph 68A.1 to 68A.3 the case as at July 2018?
17. If so, was the State aware of those matters as at July 2018?
18. In the period between 2016 and July 2018, 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?
19. If so, was the State aware or ought reasonably to have been aware of such a practice or pattern of conduct as at July 2018?
20. Was the State aware that the performance of strip searches was the subject of training given to and supervision of police officers as at July 2018?
21. Did the State exercise reasonable care and skill to ensure the training of the training and supervision of police officers in respect of the correct observance of ss 21 and 31-33 of LEPR at music festivals was adequate as at July 2018?