

OUTCOME DETAILS

Supreme Court - Civil
at Supreme Court Sydney
on 26 November 2021

2019/00232749-013 / Notice of Motion Civil - WSP Structures Pty Ltd v Icon Co (NSW) Pty Ltd

2019/00232749-007, 2019/00232749-001, 2019/00232749-005, 2019/00232749-003, 2019/00232749-004, 2019/00232749-006, 2019/00232749-010, 2019/00232749-002 / Cross Summons 006: EVOLUTION PRECAST SYSTEMS PTY LTD v WSP Structures Pty Ltd, Summons: Terry Walter Williamson v SYDNEY OLYMPIC PARK AUTHORITY trading as Sydney Olympic Park Authority, Cross Summons 004: Icon Co (NSW) Pty Ltd v EVOLUTION PRECAST SYSTEMS PTY LTD, Cross Summons 002: Icon Co (NSW) Pty Ltd v WSP Structures Pty Ltd, Cross Summons 003: WSP Structures Pty Ltd v EVOLUTION PRECAST SYSTEMS PTY LTD, Cross Summons 005: Australia Avenue Developments Pty Ltd v Icon Co (NSW) Pty Ltd, Cross Summons 007: SYDNEY OLYMPIC PARK AUTHORITY trading as Sydney Olympic Park Authority v AUSTRALIA AVENUE DEVELOPMENTS PTY LIMITED, Cross Summons 001: SYDNEY OLYMPIC PARK AUTHORITY trading as Sydney Olympic Park Authority v Australia Avenue Developments Pty Ltd

HH makes orders in terms of paragraphs 1 and 2 of WSP Structures Pty Limited's notice of motion dated on 10 November 2021.

HH gives the parties leave generally to issue subpoenas.

Costs of the motion be costs in the cause.

Notice of Motion

1. Pursuant to UCPR 21.2, order that Icon give discovery, within 7 days, of the following classes of documents:

a. In relation to the Material Damage Contract Works Policy (No 02IK700617) (CW Policy) underwritten by ACE Insurance Ltd (now Chubb Insurance Australia Ltd (ABN 23 001 642 020)) and Mitsui Sumitomo Insurance Company Limited (ABN 49 000 525 637) (CW Insurers):

i. All claims (including all supporting documentation) for indemnity made by Icon or any other entity on the CW Policy including, without limitation, claims for rectification costs, associated with the damage to Opal Tower which occurred on 24 December 2018;

ii. All responses to those claims by the CW Insurers or their agents;

iii. All documents disclosing payments made by the CW Insurers in relation to those claims;

iv. All documentation from the CW Insurers or their agents relating to the CW Insurers' position on indemnity in relation to any claims made;

v. All documentation from the CW Insurers or their agents recording any offers by the CW Insurers to pay money to Icon or any other entity in relation to the claims; and

vi. All responses from Icon or their agents in relation to any such offers.

b. in relation to the Third Party Liability Policy (No 438396) (Liability Policy) underwritten by Liberty Mutual Insurance Company Australia Branch (ABN 61 086 083 605) trading as Liberty Speciality Markets (Liberty):

i. All documentation (created in the period 20 July 2021 to date) from Liberty or its agents relating to Liberty's position on indemnity in relation to any claims made on the Liability Policy concerning the damage to Opal Tower which occurred on 24 December 2018; and

ii. All file notes of any conversations (in the period 20 July 2021 to date) between Icon and/or its agents and Liberty and/or its agents relating to Liberty's position on indemnity in relation to any claims made on the Liability Policy concerning the damage to Opal Tower which occurred on 24 December 2018.

2 To the extent that any of the documents referred to in paragraph 1 above wholly came into existence after the commencement of these proceedings, a declaration, pursuant to UCPR 21.1, that such documents are not to be 'excluded documents', for the purposes of these proceedings.

3. Not made.

4. Not made.

5. Not made.

6. Not made.

7. Not made.

Justice M Ball

Signed

Date