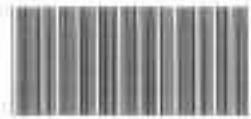




Filed: 30 October 2018 3:14 PM



D000125094

Form 20
UCPR 6.2

NOTICE OF MOTION

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2018/00263134

TITLE OF PROCEEDINGS

First Plaintiff	Garfield Mario Fernandez
Second Plaintiff	Apikali Fotu
First Defendant	STATE OF NSW ABN 15122850033
Second Defendant	Western Sydney Local Health District
Number of Defendants	16

FILING DETAILS

Filed for	STATE OF NSW, Defendant 1 Western Sydney Local Health District, Defendant 2 SOUTH WESTERN SYDNEY LOCAL HEALTH DISTRICT, Defendant 3 Sydney Local Health District, Defendant 4 Northern Sydney Local Health District, Defendant 5 Nepean Blue Mountains Local Health District trading as Nepean Hospital, Defendant 6 Illawarra Shoalhaven Local Health District, Defendant 7 Central Coast Local Health District, Defendant 8 Far West Local Health District, Defendant 9 Hunter New England Local Health District, Defendant 10 Mid North Coast Local Health District, Defendant 11 Murrumbidgee Local Health District, Defendant 12 Northern NSW Local Health District, Defendant 13 SOUTHERN NSW LOCAL HEALTH DISTRICT trading as QUEANBEYAN DISTRICT HOSPITAL, Defendant 14 WESTERN NSW LOCAL HEALTH DISTRICT trading as PARKES HOSPITAL, Defendant 15
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Filed in relation to Plaintiff's claim

Legal representative Wen-Ts'ai Lim

Legal representative reference

Telephone 02 9258 6000

NOTICE OF LISTING

If this Notice of Motion has been listed, a Notice of Listing must be attached and served with the Notice of Motion.

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Notice of Motions (Chambers) (e-Services), along with any other documents listed below, were filed by the Court.

Notice of Motion (UCPR 20) (253503304_1_Defendants_ Notice of Motion dated 30 October 2018.PDF)

[attach.]

Form 20 (version 3)
UCPR 18.1 and 18.3

NOTICE OF MOTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law Division
List	General
Registry	Sydney
Case number	2018/263134

TITLE OF PROCEEDINGS

First plaintiff	Garfield Mario Fernandez
Second plaintiff	Apikali Fotu
First defendant	State of New South Wales
Number of defendants	16

FILING DETAILS

Person seeking orders	State of New South Wales, First Defendant, and the Second to Sixteenth Defendants
Filed in relation to	Plaintiffs' claim
Legal representative	Wen-Ts'ai Lim, Ashurst Australia
Legal representative reference	1000 029 740
Contact name and telephone	Michael O'Haire +61 3 9679 3110
Contact email	wentsai.lim@ashurst.com / michael.o'haire@ashurst.com

PERSON AFFECTED BY ORDERS SOUGHT

Garfield Mario Fernandez, First Plaintiff

Apikali Fotu, Second Plaintiff

HEARING DETAILS

This motion is listed at 2pm, 16 November 2018, Supreme Court of New South Wales.

ORDERS SOUGHT


- 1 An order pursuant to s 61 and/or 64 of the *Civil Procedure Act 2005* (NSW) (**CPA**) and/or rule 14.28 of the *Uniform Civil Procedure Rules 2005* (NSW) (**UCRP**) that the following paragraphs of the Amended Statement of Claim filed on 17 October 2018 be struck out:
 - a. paragraph 3;
 - b. paragraphs 12-32 and 70-71, and Annexure B;
 - c. paragraphs 36 and 42-49;
 - d. paragraphs 53-56 and 60-67;
- 2 The plaintiffs have leave to replead their case, subject to order 3 below.
- 3 The leave granted in order 2 above be confined to the repleading of the individual claims asserted by the plaintiffs.
- 4 In the alternative to order 3 above, an order pursuant to s 166 of the CPA that the proceedings, to the extent that they make claims on behalf of the sub-group that is referred to at paragraph 3 of the Amended Statement of Claim, no longer continue under Part 10 of the CPA.
- 5 In the alternative to orders 1-4 above, the plaintiffs are to provide further and better particulars of paragraph 3(b) of the Amended Statement of Claim by 30 November 2018.
- 6 An order pursuant to rule 13.4 of the *Uniform Civil Procedure Rules 2005* (NSW) that the claims for relief in the Amended Statement of Claim as against the Fourth to Sixteenth Defendants be summarily dismissed.
- 7 Costs,

SIGNATURE

Signature of legal representative

Capacity

Date of signature



Solicitor / *for the defendants*

30 October 2018

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	184 Phillip Street, Sydney
Postal address	GPO Box 3, Sydney, NSW, 2001
Telephone	1300 679 272

