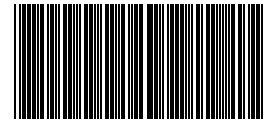




Filed: 13 March 2025 5:39 PM



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Form 7A/B  
UCPR 14.3

## DEFENCE

### COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	Common Law General
Registry	Supreme Court Sydney
Case number	2024/00300823

### TITLE OF PROCEEDINGS

First Plaintiff	BAIADA PTY LTD ABN 47000426808
First Defendant	BLENNER'S TRANSPORT QLD PTY LTD ABN 36169008495
Second Defendant	The Trustee for THE BLENNERHASSETT FAMILY TRUST
Number of defendants	3

### FILING DETAILS

Filed for	BLENNER'S TRANSPORT QLD PTY LTD, Defendant 1 The Trustee for THE BLENNERHASSETT FAMILY TRUST, Defendant 2
Legal representative	Simon Michael Black
Legal representative reference	
Telephone	0280312605
Your reference	MB:MXC:118465-19

### NOTICE OF LISTING

This matter has been listed for Directions at Supreme Court Sydney on 11 April 2025 at 09:30 AM

### AFFIDAVIT

Deponent Name	Leslie John Blennerhasset
Sworn/Affirmed on	13 March 2025

### ATTACHMENT DETAILS

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

Defence (UCPR 7A/7B) (12.03.2025 - Defence.pdf)

[attach.]

Form 7A (version 5)  
UCPR 14.3

## DEFENCE

### COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	General List
Registry	Sydney
Case number	2024/00300823

### TITLE OF PROCEEDINGS

Plaintiff	<b>Baiada Pty Ltd</b> (ABN 47 000 426 808)
First defendant	<b>Blenner's Transport Pty Ltd</b> (ACN 052 473 051)
Second defendant	<b>Blenner's Truck Hire Pty Ltd</b> (ACN 155 324 735)

### FILING DETAILS

Filed for	<b>Blenner's Transport Pty Ltd</b> , First Defendant; and <b>Blenner's Truck Hire Pty Ltd</b> , Second Defendant.
Filed in relation to	Plaintiff's Claim
Legal representative	Simon Black, Barry Nilsson
Legal representative reference	SMB:MXC:118464-19
Contact name and telephone	Michael Chen, (02) 8031 2673
Contact email	michael.chen@bnlaw.com.au

### PLEADINGS AND PARTICULARS

For convenience, the Defendants adopt the same definitions and headings as in the Plaintiff's Amended Statement of Claim filed on 6 February 2025 (**ASOC**). For the avoidance of any doubt, the Defendants do not admit any facts or matters by adopting the same definitions or headings as in the ASOC.

### REPRESENTATIVE PROCEEDINGS

- 1 The Defendants note what is stated in paragraph 1 of the ASOC and otherwise do not admit the paragraph.
- 2 The Defendants note what is stated in paragraph 2 of the ASOC and otherwise do not admit the paragraph.
- 3 The Defendants note what is stated in paragraph 3 of the ASOC and otherwise do not admit the paragraph.

**COMMON QUESTION OF FACT OR LAW**

- 4 The Defendants note what is stated in paragraph 4 of the ASOC and otherwise do not admit the paragraph.

**PLAINTIFF'S CLAIM**

- 5 The Defendants admit paragraph 5 of the ASOC.
- 6 The Defendants admit paragraph 6 of the ASOC.
- 7 The Defendants admit paragraph 7 of the ASOC.
- 8 The First Defendant admits paragraph 8 of the ASOC.
- 9 In respect of paragraph 9 of the ASOC, the First Defendant:
- (a) admits paragraph 9(a) and (b) of the ASOC;
  - (b) says it employed the Truck Driver in the position of Line Haul, Shuttle and/or Top End Driver; and
  - (c) otherwise does not admit the balance of the paragraph.
- 10 The Defendants do not admit paragraph 10 of the ASOC.
- 11 The Defendants do not admit paragraph 11 of the ASOC.
- 12 The Defendants do not admit paragraph 12 of the ASOC.
- 13 The Defendants do not admit paragraph 13 of the ASOC.
- 14 The Defendants admit paragraph 14 of the ASOC.
- 15 The Defendants admit paragraph 15 of the ASOC.
- 16 The Defendants admit paragraph 16 of the ASOC.
- 17 With respect to paragraph 17 of the ASOC the Defendants:
- (a) admit that Train 7SP5 collided with one of the FTE3A model refrigerated semi-trailers connected to the 2018 Kenworth T659 prime mover; and
  - (b) otherwise does not admit paragraph 17 of the ASOC.
- 18 With respect to paragraph 18 of the ASOC, the First and Second Defendant:
- (a) admits the Collision caused Train 7SP5 to derail; and
  - (b) otherwise does not admit the balance of the paragraph.
- 19 The Defendants admit paragraph 19 of the ASOC.
- 20 In answer to paragraph 20 of the ASOC, the Defendants:
- (a) admit that the Truck did not stop before reaching the Crossing; and

(b) otherwise do not admit the paragraph.

21 The Defendants do not admit paragraph 21 of the ASOC.

#### **NEGLIGENCE**

22 The Defendants do not admit paragraph 22 of the ASOC.

23 The Defendants do not admit paragraph 23 of the ASOC.

24 The Defendants do not admit paragraph 24 of the ASOC.

25 The Defendants do not admit paragraph 25 of the ASOC.

26 The Defendants do not admit paragraph 26 of the ASOC.

27 The Defendants do not admit paragraph 27 of the ASOC.

28 [Not used].

#### **VICARIOUS LIABILITY**

29 In answer to paragraph 29 of the ASOC, the Defendants:

- (a) admit the Truck Driver was in the employ of the First Defendant on or about 31 December 2023;
- (b) admit the operation of the Truck by the Truck Driver on or about 31 December 2023 was in the course of his employment with the First Defendant; and
- (c) otherwise do not admit the paragraph.

30 In answer to paragraph 30 of the ASOC, the Defendants:

- (a) refer to and repeat their answers to paragraphs 26 and 29 of the ASOC; and
- (b) otherwise do not admit the paragraph.

31 In answer to paragraph 31 of the ASOC, the Defendants:

- (a) refer to and repeat their answers to paragraphs 22 to 29 inclusive of the ASOC;
- (b) admit that if the Collision was caused by negligence by the Truck Driver in breach of a duty of care owed to the Plaintiff and Group Members, which is not admitted, then the First Defendant will be vicariously liable for any damages for which the Truck Driver would have been liable to the Plaintiff and Group Members; and
- (c) otherwise do not admit the paragraph.

- 32 The Defendants note what is stated in paragraph 32 of the ASOC and otherwise do not admit the paragraph.

### AGENCY

- 33 The Defendant do not admit paragraph 33 of the ASOC.
- 34 The Defendants do not admit paragraph 34 of the ASOC.
- 35 The Defendants do not admit paragraph 35 of the ASOC.
- 36 In answer to paragraph 36 of the ASOC, the Defendants:
- (a) refer to and repeat their answers to paragraphs 22 to 27 inclusive, 33 and 34 of the ASOC; and
  - (b) otherwise do not admit the paragraph.
- 37 In answer to paragraph 37 of the ASOC, the Defendants:
- (a) refer to and repeat their answer to paragraphs 36 of the ASOC; and
  - (b) otherwise do not admit the paragraph.
- 38 The Defendants note what is stated in paragraph 38 of the ASOC and otherwise do not admit 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 defence to the claim for damages in these proceedings has reasonable prospects of success.

Signature



Capacity

Solicitor

Date of signature

13 March 2025

**AFFIDAVIT VERIFYING**

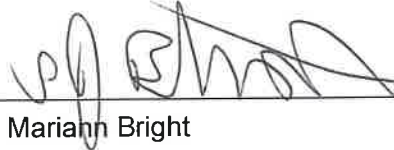
Name Leslie John Blennerhasset  
 Address Locked Bag 3, Tully QLD 4854  
 Occupation Director  
 Date 13 March 2025

I affirm:

- 1 I am a director of the First and Second Defendant and am authorised to make this affidavit on its behalf.
- 2 I believe that the allegations of fact contained in the defence are true.
- 3 I believe that the allegations of fact that are denied in the defence are untrue.
- 4 After reasonable inquiry, I do not know whether or not the allegations of fact that are not admitted in the defence are true.

Affirmed at Tully

Signature of deponent



Name of witness

Mariann Bright

Address of witness

20 Bell Street, Tully QLD 4854

Capacity of witness

Justice of the peace (qualified)

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have confirmed the deponent's identity using the following identification document:

Drivers License

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

