

IN THE SUPREME COURT OF NEW SOUTH WALES

SYDNEY REGISTRY
COMMON LAW DIVISION

No: 17585 OF 1993 TO
17830 OF 1993 INCLUSIVE

EK AND THE OTHER
PLAINTIFFS NAMED AS AA
TO JC INCLUSIVE

Plaintiffs

TRUSTEES OF THE
CHRISTIAN BROTHERS AND
THE 2ND TO 21ST
DEFENDANTS NAMED IN
THE ATTACHED SCHEDULE
OF DEFENDANTS

Defendants

AFFIDAVIT

Deponent: Howard Gerard
Harrison

Sworn:

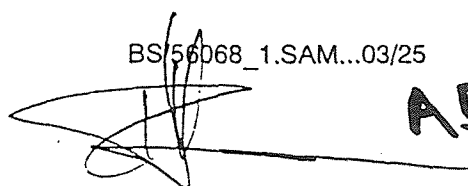
CARROLL & O'DEA
Solicitors
111 Elizabeth Street
SYDNEY NSW 2000
DX 183 SYDNEY
Tel: 232 2133
Ref: HGH:VV

On 25th March 1994

I, Howard Gerard Harrison of Level 19 111
Elizabeth Street Sydney in the State of New
South Wales Solicitor say on oath:-

1. I am a Partner in the firm of Carroll & O'Dea Solicitors and as such have the conduct of the within proceedings on behalf of the First Defendant, The Trustees of the Christian Brothers.
2. In September 1993, I became aware of press reports indicating that a large number of damages actions had been filed in the Sydney Supreme Court against the Christian Brothers Order by Slater & Gordon Solicitors in respect of events alleged to have occurred in the four institutes operated by the Brothers in Western Australia.
3. I then undertook on behalf of the Brothers in New South Wales preliminary telephone enquiries of Slater & Gordon, Solicitors and the Supreme Court in respect of these reports.
4. In early September 1993 I had a conversation with a clerk employed by the Supreme Court in which it was confirmed that a number of actions had been filed by

BS56068_1.SAM...03/25

A58

- 2 -

Slater & Gordon, Solicitors against the Christian Brothers. I was advised that access to the Court files was not possible at that time nor could the Court provide copies of the pleadings or any other information. I was advised to contact the solicitors for the Plaintiffs.

5. In early September 1993 I was able to speak to Mr Peter Gordon of Slater & Gordon, Solicitors by telephone. I enquired of him as to the claims apparently initiated in Sydney against the Order explaining to him that my firm acted on behalf of the Order in New South Wales.

Mr Gordon confirmed that proceedings had been filed on behalf of a significant number of Plaintiffs against the Brothers. I said to him words to the effect:

"These cases are very old and a great deal of harm has already been done as a result of the media reports. We need information about the identity of your clients and the nature of their allegations as a matter of urgency. We need copies of the pleadings inter alia to see who the Defendants are as we only have instructions from the Christian Brothers."

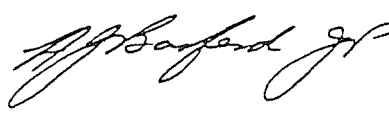
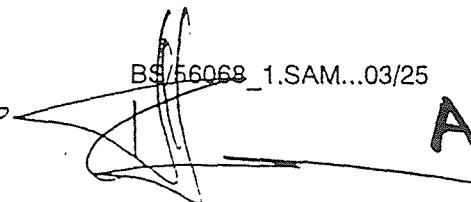
Mr Gordon said words to the effect:

"We cannot provide that information at this stage. We would like to have a general discussion about these matters soon."

He indicated that for administrative and other reasons copies of the pleadings could not yet be provided. He advised me to contact Ms Farrell of the Sydney office if and when we had instructions to accept service of initiating process.

6. During September 1993 I received instructions from Brother Julian McDonald, Christian Brothers Provincial, to accept service of initiating process.
7. Annexed hereto and marked with the letter "A" is a copy of a letter from Carroll & O'Dea to Turner Freeman, Solicitors dated 11 October 1993.
8. On 14 October 1993 I received a phone call from Miss Anne Marie Farrell solicitor who enquired whether Carroll & O'Dea acted on behalf of the Catholic Church. I explained to her that this was not the case. She confirmed that summonses for extension of time had been filed on 31

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A59

- 3 -

August 1993 pursuant to a special arrangement with the Court on behalf of 241 claimants.

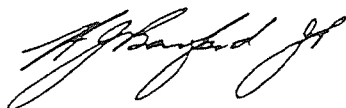
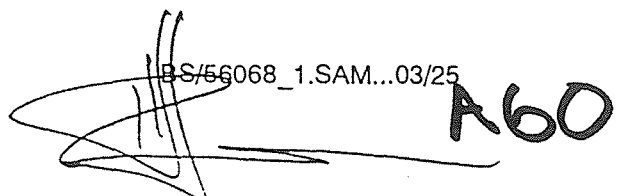
I said to her words to the effect:-

"Could we have at least a sample of the summons and/or Statement of Claim filed on behalf of the particular individuals to enable the Brothers to understand the nature of the allegations made and to enable identification of the Defendants involved."

Miss Farrell replied to the effect:-

"We cannot let you have copies of these documents now but we are writing to you and once you have read this letter the matter might be more fruitfully discussed."

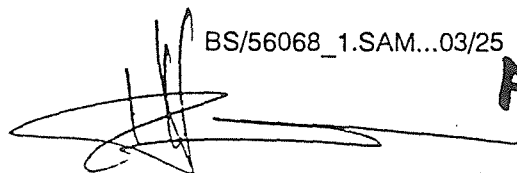
9. Thereafter I received a letter from Slater & Gordon, Solicitors dated 15 October 1993, a copy of which is annexed hereto and marked with the letter "B".
10. Annexed hereto and marked with the letter "C" is a letter from Carroll & O'Dea to Slater & Gordon, Solicitors dated 21 October 1993.
11. On or about 4 November 1993, I met with Mr Peter Gordon at my office and he provided me with a copy of an unsealed draft of the Summons for extension of time which had been relied upon in respect of the Summonses filed on behalf of the various Plaintiffs. A copy of the said unsealed draft Summons is annexed hereto and marked with the letter "D".
12. Annexed hereto and marked with the letter "E" is a copy of a letter from Slater & Gordon to Carroll & O'Dea dated 17 November 1993 in respect of proceedings brought on behalf of Messrs VZ & VY in the Victorian Supreme Court.
13. Annexed hereto and marked with the letter "F" is copy of letter from Carroll & O'Dea to Slater and Gordon solicitors dated 18 November 1993.
14. Annexed hereto and marked with the letter "G" is a copy of a letter forwarded to the Registrar of the Common Law Division dated 25 November 1993.

BS/56068_1.SAM...03/25
A60

- 4 -

15. Annexed hereto and marked with the letter "H" is copy of letter forwarded to Slater and Gordon solicitors dated 25 November 1993.
16. Thereafter I discussed the position of the Brothers with Miss Joanne Harrison of the Supreme Court who, after consultations, agreed to permit a representative from my office to attend at the Court and examine the documents filed by Slater and Gordon.
17. On or about the day of November Mr Michael Coorey of my office attended and inspected the Supreme Court file noting the suppression order made by Carruthers J and preparing a list which list is annexed hereto and marked with the letter "I".
18. Annexed hereto and marked with the letter "J" is copy of letter from Slater and Gordon solicitors to Carroll & O'Dea serving writs on behalf of Taylor and Ready in the Victorian Supreme Court.
19. On 18 February 1994 summonses were served on my office by Slater and Gordon solicitors in respect of Plaintiffs:-
 - (a) DB
 - (b) FL
 - (c) DJ
 - (d) HD
 - (e) B2
20. Annexed hereto and marked with the letter "K" is copy letter Carroll & O'Dea to Slater and Gordon solicitors dated 21 February 1994.
21. Annexed hereto and marked with the letter "L" is copy letter Slater and Gordon Solicitors to Carroll & O'Dea dated 25 February 1994.
22. Annexed hereto and marked with the letter "M" is copy of letter from Slater and Gordon solicitors to Carroll & O'Dea annexing the master Statement of Claim



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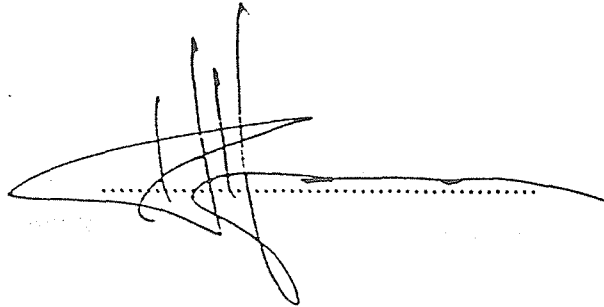
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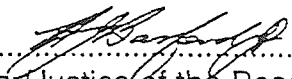
and copy of schedule of Defendants which documents are also annexed hereto and respectively marked "N" and "O".

23. Annexed hereto and marked with the letter "P" is copy of letter from Carroll & O'Dea to Slater and Gordon dated 21 March 1994.

24. At this point in time Statements of Claim in respect of the 5 Plaintiffs whose actions were initially before this Honourable Court on 28 February last and which are now before this Honourable Court have not to my knowledge been served on any party.

SWORN by the)
Deponent)
at Sydney)
Before me:)




.....
Solicitor/Justice of the Peace
111 Elizabeth Street
SYDNEY NSW 2000

~~CONFIDENTIAL~~

SCHEDULE OF DEFENDANTS

Trustees of the Christian Brothers	Firstnamed Defendant
Robert Julian McDonald Provincial Superior for the Time Being Congregation of Christian Brothers St Mary's Province	Secondnamed Defendant
Wald T Faulkner Provincial Superior for the Time Being Congregation of Christian Brothers Holy Spirit Province	Thirdnamed Defendant
Bryan De Paul Noonan Provincial Superior for the Time Being Congregation of Christian Brothers St Patrick's Province	Fourthnamed Defendant
Terry A Kingston Provincial Superior for the Time Being Congregation of Christian Brothers St Francis Xavier's Province	Fifthnamed Defendant
Edward Bede Clancy Archbishop for the Time Being of the Archdiocese of Sydney	Sixthnamed Defendant
Barry James Hickey Archbishop for the Time Being of the Archdiocese of Perth	Seventhnamed Defendant
Sir Thomas Francis Little Archbishop for the Time Being of the Archdiocese of Melbourne	Eighthnamed Defendant

A63

- 2 -

Leonard Anthony Faulkner
Archbishop for the Time Being
of the Archdiocese of Adelaide

Ninthnamed Defendant

John Alexius Batherby
Archbishop for the Time Being
of the Archdiocese of Brisbane

Tenthnamed Defendant

Eric D'Arcy
Archbishop for the Time Being
of the Archdiocese of Hobart

Eleventhnamed Defendant

Francis Patrick Carroll
Archbishop for the Time Being
of the Archdiocese of Canberra and Goulburn

Twelfthnamed Defendant

Peter Quinn
Bishop for the Time Being
of the Archdiocese of Bunbury

Thirteenthnamed Defendant

Alexis Turton
Provincial for the Time Being
of the Marist Brothers of the Schools

Fourteenthnamed Defendant

Joseph Bianchini
Bishop of Geraldton for the Time Being

Fifteenthnamed Defendant

Commonwealth of Australia

Sixteenthnamed Defendant

State of Western Australia

Seventeenthnamed Defendant:

Minister of Education for Western Australia

Eighteenthnamed Defendant

Minister for Health for Western Australia

Nineteenthnamed Defendant

A64

- 3 -

Minister for Lands
Department of Land Administration

Twentiethnamed Defendant

Minister for Community Services
Community Services Department for
Western Australia

Twenty-Firstnamed Defendant

A65