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

On 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
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
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.

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


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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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  )
Before me:  )

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

F. 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
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

Twelthnamed 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
Shop 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
Minister for Lands
Department of Land Administration

Minister for Community Services
Community Services Department for Western Australia

Twentieth-named Defendant

Twenty-First-named Defendant