

MEDIATION AGREEMENT

Between:



**The persons identified in Schedule 1 hereto (“the Plaintiffs”) and
Brisbane Grammar School (“the Defendant”)**

The parties agree:

- 1 To hold mediations of all the matters in which Shine Roche McGowan act for Plaintiffs against Brisbane Grammar School in legal proceedings relating to Kevin Lynch.
- 2 Ian Hanger QC be appointed as mediator for the mediations.
- 3 The Defendant pay the mediator’s costs of and incidental to the mediations and confirm to Shine Roche McGowan it has reached an agreement in respect of those fees within seven days of the date of the signing of this Agreement.
- 4 The Defendant will, by open correspondence, treat each of the Statements of Claim in each of the matters listed in Schedule 1, other than matters in which Statements of Claim have already been served, as served on the date this agreement is signed on behalf of each of the parties.
- 5 Subject to paragraph 10 hereof, the Defendant will not file Notices of Intention to Defend or Defences in any of the actions.
- 6 Within 28 days of the date of signing this Agreement by each of the parties, the Plaintiffs will provide signed Statements of Loss and Damage to the Defendant in each action.
- 7 The Plaintiff will provide, upon payment of appropriate photocopying fees, copies of all documents listed in the Statements of Loss and Damage.
- 8 After provision of the Statements of Loss and Damage, the Defendant will provide a list:-
 - 8.1 setting out each of the matters in which they require no further material, prior to the mediations;
 - 8.2 setting out which of the matters in which they require further reasonable material, specifying that material, and requesting the solicitors for the Plaintiff to obtain it.



- 9 As soon as possible after receiving the notice set out in paragraph 8.2, the solicitors for the Plaintiff will provide the reasonable material sought by the Defendant.
- 10 If at the conclusion of the step set out in paragraph 9 all documents sought have not been provided to the parties in any particular action or actions, the parties agree, solely for the purpose of the closure of the pleadings in such action or actions, that the defendant will enter a Notice of Intention to Defend and Defence to the Statement of Claim in such action or actions and thereafter issue any necessary Notices of Non-Party Disclosure or bring any necessary applications for further disclosure by the plaintiff.
- 11 Each Plaintiff attend the mediation of his own claim, save and except where an agreement is reached between the parties that it is unnecessary for him to do so, such agreement not to be unreasonably withheld by the Defendant.
- 12 Pending the conclusion of the mediations of all the claims specified in Schedule 1 the parties by their servants, agents, solicitors or otherwise agree not to make any statement to the media in relation to the proceedings or the facts, matters and circumstances which gave rise to the proceedings.
- 13 It will be a term of any settlement reached during the mediation process that the facts, matters and circumstances giving rise to the proceedings between the parties, the proceedings and the terms of any settlement of the proceedings shall remain confidential between the parties and shall not be disclosed save by written agreement between the parties, order of the court or as required by law. This term does not preclude disclosure by a Plaintiff to his spouse, medical practitioners or financial advisers provided the Plaintiff at the time of any such disclosure shall impose a like confidentiality requirement on the person to whom disclosure is made.
- 14 All psychiatric examinations, by a psychiatrist agreed between the parties, will be concluded by 30 June 2002. Prior to each examination the appointed psychiatrist will be provided with any relevant material including documents referred to in paragraphs 6 to 10 hereof, the parties hereby giving an undertaking to use their best endeavours to ensure all such documents are available prior to examination. In the event any such document is not available prior to examination, such documents are to be provided as and when received by either party, but before the commencement of the mediations, for the psychiatrist's comment and for the purposes of an addendum to the individual plaintiff's medical report if appropriate, such addendum to be provided before 30 September 2002.

- 15 The letter of instruction to the psychiatrist will be sent as a joint letter of instruction by the solicitors for the Plaintiff in terms agreed upon between the Plaintiff and the Defendant.
- 16 Each party reserves the right to:-
- 16.1 place before the examining psychiatrist any additional material which they consider appropriate; and
- 16.2 request the psychiatrist address any additional issues which that party considers relevant by 30 September 2002.
- 17 Should a party provide further material or questions to the psychiatrist in accordance with paragraphs 16.1 and 16.2 hereof, a copy of that correspondence will, at the same time, be forwarded to the solicitors for the other party.
- 18 The Defendant agrees to meet the costs of and incidental to the psychiatric examination and supply of a report in respect of each of the Plaintiffs, such costs to include travel and accommodation expense for each of the Plaintiffs where appropriate, provided arrangements are agreed prior to the incurrence of the expenses. Should a matter not settle during the mediation process, then such costs in respect of the examination of that Plaintiff will be costs in the cause in the action by that Plaintiff
- 19 The matters be set down for mediation for three weeks commencing 30 September 2002, or for such further period as the parties and the mediator may agree as necessary to conclude mediation of all matters.
- 20 No later than fourteen days prior to 30 September 2002:-
- 20.1 the Plaintiffs provide the Defendant with a quantum schedule and an offer of settlement in respect of each claim;
- 20.2 the parties agree an order in which the claims are to be mediated, failing agreement the matters to be mediated in alphabetical order.
- 21 No later than seven days prior to 30 September 2002 the Defendant provide a quantum schedule and an offer of settlement in respect of each claim.

22 At the commencement of the mediations, the Plaintiff's representatives make their submissions on issues common to all claims in respect of liability and limitation of time issues.

23 The Defendant's representatives thereafter follow with their submissions in reply.

24 Day one of the mediation process be set aside to accommodate these respective party's submissions.

25 The balance of the three week period, following discharge of the matters referred to in paragraphs 22, 23, 24 hereof be allocated to the mediation of the damages and any individual issues in each of the claims in the order determined in accordance with paragraph 20.2 hereof.

26 If any claim is not settled, the mediation costs of each party to that proceeding including the mediators fees, for which the defendant has agreed to be responsible pursuant to paragraph 3, will be costs in the cause in that proceeding.

SIGNED by _____ in the presence of: _____)
_____)

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Witness

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Name of Witness (print)