

**IN THE SUPREME COURT OF
NEW SOUTH WALES
SYDNEY REGISTRY
COMMON LAW DIVISION**

SUBPOENA TO PRODUCE

(Part 37, rule 3(1))

FILE NO: 20308 of 2004

**TO: THE PARTNERSHIP OF BAKER &
McKENZIE LAWYERS, SYDNEY**

SUBPOENA TO PRODUCE

**AT: BAKER & McKENZIE, LEVEL 26, AMP
CENTRE, 50 BRIDGE STREET, SYDNEY
NSW 2000**

Filed for: First & Second Defendants

**ATTENTION: MR DAVID NATHAN, MANAGING
PARTNER**

JOHN ANDREW ELLIS
Plaintiff

YOU ARE ORDERED to produce this subpoena or
a copy of it and the documents or things specified in
the Schedule.

**HIS EMINENCE CARDINAL PELL
ARCHBISHOP OF SYDNEY FOR
AND ON BEHALF OF THE
ROMAN CATHOLIC CHURCH IN
THE ARCHDIOCESE OF SYDNEY**
First Defendant

**Failure to comply with this subpoena without
lawful excuse is a contempt of court and may
result in your arrest.**

**THE TRUSTEES OF THE ROMAN
CATHOLIC CHURCH FOR THE
ARCHDIOCESE OF SYDNEY**
Second Defendant

The last date for service of this subpoena is
(*See Note 1*)

**REVERAND AIDAN DUGGAN
OSB**

**Please read Notes I to 15 at the end of this
subpoena.**

Third Defendant

[Seal or Stamp of the Court]

CORRS CHAMBERS WESTGARTH
Lawyers
Level 32, Governor Phillip Tower
1 Farrer Place
SYDNEY NSW 2000
AUSTRALIA
Tel: (02) 9210 6500
Fax: (02) 9210 6611
Ref: PRM:JD/9006837

Date:

Issued at the request of the First & Second
Defendants, whose address for service is care of Corrs
Chambers Westgarth, Level 32, Governor Phillip

Tower, 1 Farrer Place, Sydney, solicitors for the First & Second Defendants.

B DETAILS OF SUBPOENA TO PRODUCE ONLY

You must comply with this subpoena:

- (a) By attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) By delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below so that they are received not less than 2 clear days before the date specified for attendance and production. (*See Notes 5 – 11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things:

Date:

Time: 9:00am

Place: Level 16, Law Courts Building, Queens Square, Sydney in the State of New South Wales

Address to which the subpoena (or copy) and documents or things may be delivered or posted:

The Exhibits Office
Level 5, Supreme Court of New South Wales
GPO Box 3, Sydney NSW 2001.

SCHEDULE

The documents and things you must produce are as follows:

- 1 All documents that you hold relating to Mr John Andrew Ellis including, but not limited to, the following:

Mr Ellis' termination;

Performance and peer reviews conducted in relation to Mr Ellis from 1992 to 2004;

Documents recording or referring to psychological and psychiatric assessments or counselling sessions involving Mr Ellis;

Reprimands, cautions, admonishments or warnings involving Mr Willis;

Documents recording or referring to behaviour by Mr Ellis perceived to be detrimental or negative behaviour by employees, partners or clients of Baker & McKenzie;

Promotion reviews, promotion applications and promotion determinations involving Mr Ellis; and

- 2 The criteria for promotion to senior associate, salaried partner and equity partner at Baker & McKenzie Lawyers.

NOTES

Last day for service

- 1 You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

Informal service

- 2 Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Addressee a corporation

- 3 If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

Conduct money

- 4 You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

Production of subpoena or copy of it and documents or things by delivery or post

- 5 In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose so that they are received not less than 2 clear days before the date specified in the subpoena for attendance and production.
- 6 If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
- 7 Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

- 8 If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

Production of copy instead of original

- 9 You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Return or destruction of documents or copies

- 10 You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.

- 11 If you have so informed the Court, the Registrar may destroy the document or copy instead of return it to you.

Applications in relation to subpoena

- 12 You have the right to apply to the Court:
- (a) For an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
 - (b) For an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

Loss or expense of compliance

- 13 If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

Contempt of court – arrest

- 14 Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
- 15 Instruction 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.