

IN THE COUNTY COURT OF VICTORIA AT MELBOURNE

No. 2000/06167

BETWEEN:

EMMA HAYES


Plaintiff

- and -

KENNETH JOHN SANDILANDS
 NORTHSIDE CHRISTIAN CENTRE INC.
 DENIS VERNON SMITH
 ANN ROSEMARY BROWN

Defendants

TERMS OF SETTLEMENT

1. The plaintiff acknowledges that she may be liable to pay amounts to the Health Insurance Commission as a result of the settlement of this proceeding pursuant to the provisions of the Health and Other Services Act 1995 (Commonwealth), ("the Act").
2. The 1st defendant ("Sandilands") and the 2nd defendant ("Northside") promise to pay to the plaintiff the sum of \$225,000 inclusive of legal costs and interest in full and final settlement of her claim and the plaintiff agrees to accept such promises.
3. The said promises of Sandilands and Northside are **conditional** upon the following matters:
 - (a) Payment by Sandilands of a total sum of \$210,000 to Herbert Geer & Rundle within ~~14 days of this date.~~ *or within 14 January 2002* 
 - (b) Payment of a total sum of \$140,000 by Northside to Herbert Geer & Rundle within 90 days of this date.

(c) Unconditional settlement of each of the following County Court proceedings:

- (i) No. 6167 of 2000 in which Emma Hayes is plaintiff;
- (ii) No. 5157 of 2000 in which is plaintiff;
- (iii) No. 6551 of 2000 in which is plaintiff;
- (iv) No. 7916 of 2000 in which is plaintiff;
- (v) No. 7919 of 2000 in which is plaintiff.

("the 5 proceedings")

4. Herbert Geer & Rundle shall hold the said sums of \$210,000 and \$140,000 until such time as the 5 proceedings are unconditionally settled and, at such time, shall apply those sums in accordance with Terms of Settlement entered into by the parties in each of the 5 proceedings.
5. In the event that one or both of the said sums are paid in accordance with subparagraphs 3(a) or 3(b) hereof but that the 5 proceedings are for any reason not unconditionally settled, Herbert Geer & Rundle shall:
- (a) pay the said sum of \$210,000 to Sandilands by paying that sum to his solicitors, D. S. McKay & Associates of 197 Waverley Road, Malvern East for and on his behalf;
 - (b) pay the said sum of \$140,000 to Northside by paying that sum to its solicitors, Moores Legal of 9 Prospect Street, Box Hill for and on its behalf.

6. Subject to paragraph 7 hereof, upon these Terms of Settlement becoming unconditional, the said sum of \$225,000 shall be paid forthwith by Sandilands and Northside to the plaintiff.
7. The plaintiff acknowledges that Sandilands and Northside, in making any payment pursuant to these Terms of Settlement are obliged to comply with the provisions of the Act and that neither of them shall be obliged to make any payment to the plaintiff that would constitute an offence by either of them under the Act. Any delay in making payment of the said sum to the plaintiff by reason of Northside and Sandilands complying with the provisions of the Act shall not constitute a default in accordance with these Terms.
8. Payment of the said sum of \$225,000 shall be made by Northside and Sandilands, in accordance with these Terms of Settlement:
 - (a) by payment of any amount required to be paid to the Health Insurance Commission pursuant to the Act by reason of this settlement; and
 - (b) the balance to the plaintiff's solicitors, Galbally & O'Bryan of 259 William Street, Melbourne, for and on behalf of the plaintiff.
9. In consideration of the parties entering into these Terms of Settlement, the plaintiff hereby releases and forever discharges each of the defendants together with any present or past servant or agent of Northside from any claim, demand or cause of action she has or may have had arising out of or in connection with:-
 - (a) the matters alleged in the plaintiff's Amended Statement of Claim;

(b) any assault of a physical, sexual or indecent nature by Sandilands or any servant or agent of Northside during the period of the plaintiff's attendance as a student at Northside Christian College at Bundoora.

10. In the event that these Terms of Settlement become unconditional and thereafter Northside and/or Sandilands default in making payment of any part of the said sum of \$225,000, the plaintiff shall be entitled to Judgment against Sandilands and Northside for any amount then outstanding together with Judgment for the amount of legal costs incurred in making application for such Judgment. Production of these Terms of Settlement together with proof of such default shall be sufficient evidence of the consent of both Sandilands and Northside to the entry of such Judgment.

11. The terms of settlement of this proceeding shall be strictly confidential as between the parties to this agreement, their respective legal advisers and their respective insurers (if any).

Dated: 2nd November, 2001.

[Signature]
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Plaintiff

[Signature]
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Solicitor *Callaghan and O'Brien*
Counsel for the plaintiff

[Signature]
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EIG - ANSVAR LTD
Counsel for Northside Christian Centre Inc

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Counsel for Sandilands
[Signature]

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Counsel/Solicitor for
Northside Christian Centre Inc.